



Presenter
Gust Callas, Esq.

Marijuana

Is It Really That Bad in the Workplace?

Free marijuana to be handed out Inauguration Day





Constitutional Amendment

- **The Ohio Cannabis Rights Amendment**

- **Section 1. Rights.**

In accordance with Article 1: Bill of Rights, Section 1 of the Constitution of the State of Ohio:

- (A) Residents of the State of Ohio, who have **attained the age of majority** and who are **diagnosed with a debilitating medical condition**, shall be eligible residents for the purpose of making **therapeutic use of the genus Cannabis**, also known as medical marijuana or marihuana, currently defined in Section 3719.01 of the Revised Code, hereinafter referred to as Cannabis, to alleviate their suffering. Residents of the State of Ohio, who are under the age of majority and who are diagnosed with a debilitating medical condition, may be eligible residents with the prior written consent of a parent or guardian.
- (B) Eligible residents shall have the right to make therapeutic use of Cannabis to **alleviate their suffering** and to possess an amount of Cannabis sufficient to meet their therapeutic needs.
- (C) Eligible residents shall have the **right to be free of discrimination and interference from the State of Ohio** with regard to their therapeutic use of Cannabis. Persons who are not eligible residents may use medical necessity as an affirmative defense in a court of law.
- (D) Eligible residents shall have the **right to privacy and confidentiality** with respect to their therapeutic use of Cannabis, including, but not limited to, any records kept by the State pertaining to such use.
- (E) Eligible residents who make therapeutic use of Cannabis shall have the **right to produce their own Cannabis**, and to **acquire Cannabis sufficient to alleviate their suffering from state-licensed providers** without fear of arrest, prosecution or undue interference by the State.
- (F) Eligible residents shall have **the right to access goods and services to enable their therapeutic use of Cannabis**.
- (G) Within the State of Ohio, it shall be a legal right for individuals or organizations, deemed eligible by the Ohio Commission of Cannabis Control, to **grow, process, distribute, transport, purchase or sell Cannabis for therapeutic** use in various forms to eligible residents according to rules and regulations as established by the Ohio Commission of Cannabis Control.
- (H) Residents of the State of Ohio, deemed eligible by the Ohio Department of Agriculture under Section 3(E), shall have the **right to produce and sell non-psychoactive Cannabis, also known as hemp**, for industrial use including, but not limited to, paper, fuel, foods, building materials and clothing. With this right, Cannabis for industrial use is hereby removed from any schedule or classification system in the State of Ohio wherein it is listed as a drug.
- (I) These rights shall not be abridged, and the State of Ohio shall support, uphold and defend these rights in accordance with the health and safety of Ohioans and the Ninth and Tenth Amendments of the Constitution of the United States of America.

Constitutional Amendment Cont.

- **Section 2. Limitations.**

- (A) Nothing in this Amendment requires the therapeutic use of Cannabis or the industrial use of Cannabis; nor does this Amendment invalidate existing bans against smoking in public places or places of employment.

- (B) Nothing in this Amendment shall prohibit the **reasonable regulation and control of the commercial production and distribution of Cannabis** for therapeutic use by the Ohio Commission of Cannabis Control as set forth in Section 3.

- (C) Nothing in this Amendment shall prohibit the reasonable regulation and control of **the commercial production and distribution of Cannabis** for industrial use as delegated by the Ohio Commission of Cannabis Control to the Ohio Department of Agriculture as set forth in Section 3.

- (D) Nothing in this Amendment shall prohibit the sale of Cannabis for therapeutic use or for industrial use to eligible residents; nor prevent research or educational institutions from studying the therapeutic properties of Cannabis; nor prevent research or educational institutions from studying the properties of Cannabis for industrial use; nor prohibit the reasonable application of fines or fees pursuant to the regulation and control of Cannabis within the State in accordance with Section 4; nor prohibit the reasonable taxation of Cannabis for therapeutic use or Cannabis for industrial use in a manner similar to other agricultural commodities.

- (E) **Debilitating medical conditions include, but are not limited to, the following diagnoses: glaucoma; multiple congenital cartilaginous exostosis; multiple sclerosis; nail-patella syndrome; positive status for human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS); Alzheimer's disease; amyotrophic lateral sclerosis; cancer; celiac disease; Crohn's disease; hepatitis C; mylomalacia; post traumatic stress; rheumatoid arthritis; sickle cell anemia; injury or disease to the spinal cord, spinal column or vertebra; Tourette's syndrome; a chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome, severe or chronic pain, severe or chronic nausea, seizures, including those characteristic of epilepsy, or severe or persistent muscle spasms; depression; and any additional medical condition or its treatment that may be designated by the Commission or set forth by the General Assembly pursuant to Section 3.**

- (F) Nothing in this Amendment authorizes any person to engage in, nor prohibits the imposition of civil, criminal or other penalties for **undertaking any task under the influence of Cannabis**, when doing so would constitute negligence or professional malpractice; or to operate, navigate or be in actual physical control of any motorized conveyance while under the influence of Cannabis.

- (G) An eligible resident shall not be considered to be under the influence of Cannabis for therapeutic use solely because of the presence of active or inactive metabolites of Cannabis in the eligible resident's urine, blood, tissue, hair or skin or as detectable by any other measure of body chemistry. The legal definition of impairment as a result of the therapeutic use of Cannabis and the applicable testing to determine such impairment shall be based on scientific evidence of impairment.

- **Section 3. The Commission.**

- (A) There is hereby created the Ohio Commission of Cannabis Control, which shall support and uphold the rights enumerated in Section 1; shall serve the public interest; shall license, regulate and control Cannabis for therapeutic use in Ohio; and shall ensure statewide compliance with this Amendment. [* * *]



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MEMORANDUM OF LAW

To: Responsible Ohio

From: Jonathan R. Secrest, Dickinson Wright PLLC

Date: May 4, 2015

Re: Ohio Ballot Initiative - Employer Rights and the Legalization of Marijuana

Although Section 12 proposes to legalize certain uses of marijuana, it contains provisions to protect employers from the use of marijuana in the workplace:

Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, or transportation of medical marijuana, marijuana, homegrown marijuana, marijuana-infused products or marijuana accessories in the workplace or to affect employers' ability to restrict the use of such products by employees, except that a patient with a medical marijuana certification may self-administer the medical marijuana subject to the same conditions applied to administration of prescribed medications.⁶

Section 12 specifically provides that employers have no duty to accommodate the use of marijuana in the workplace, and it contains a provision specifically applicable to users of medical marijuana.⁷ The provision treats medical marijuana like any other prescription drug. As a result, employers may wish to review their current handbooks and drug use policies to evaluate how they treat employee use of prescription drugs.

In addition to the above, Section 12 provides that marijuana cannot be consumed in a public place or in a vehicle, aircraft, train or motorboat.⁸ Further, no person may operate a vehicle, aircraft, train or motorboat while under the influence of marijuana.⁹

WRONG!!!

- Under the Constitutional Amendment, there was an exception whereby a patient could self-administer marijuana like a prescription
 - So long as it does not “impair” their ability to work
 - Contrary to DFWP

DO WE HAVE A PROBLEM?

In the news...

- November 29, 2016: Ohio leads nation in overdose deaths.
- Ohio leads the nation in opioid overdose deaths. One in every 9 heroin-related deaths happened in the State of Ohio. Ohio led heroin deaths in 2014 with 1,208 – a number that is expected to far greater this year.
 - The Columbus Dispatch
- December 6, 2016: Stark County coroner seeks more money as more die from drugs.
- Coroner seeks 27% increase in funding - \$243,000 more per year – to pay for drug screening tests and other expenses associated with drug-related deaths
 - The Canton Repository
- December 5, 2016: Stark surpasses overdose death mark.
- 80 drug-related deaths documented by coroner 's office in 2016. In 2015 there were 75 drug-related deaths. The margin will likely increase as there is still another month to go before the end of this year.
 - The Canton Repository

Health Effects

Marijuana IS Addictive

- Contrary to common belief, marijuana is addictive. Estimates from research suggest that about 9 percent of users become addicted to marijuana; this number increases among those who start young (to about 17 percent, or 1 in 6) and among people who use marijuana daily (to 25-50 percent)”
- The DSM 5 clearly spells out the objective criteria for addition and for the first time “Cannabis Withdraw” is listed as a diagnosis.

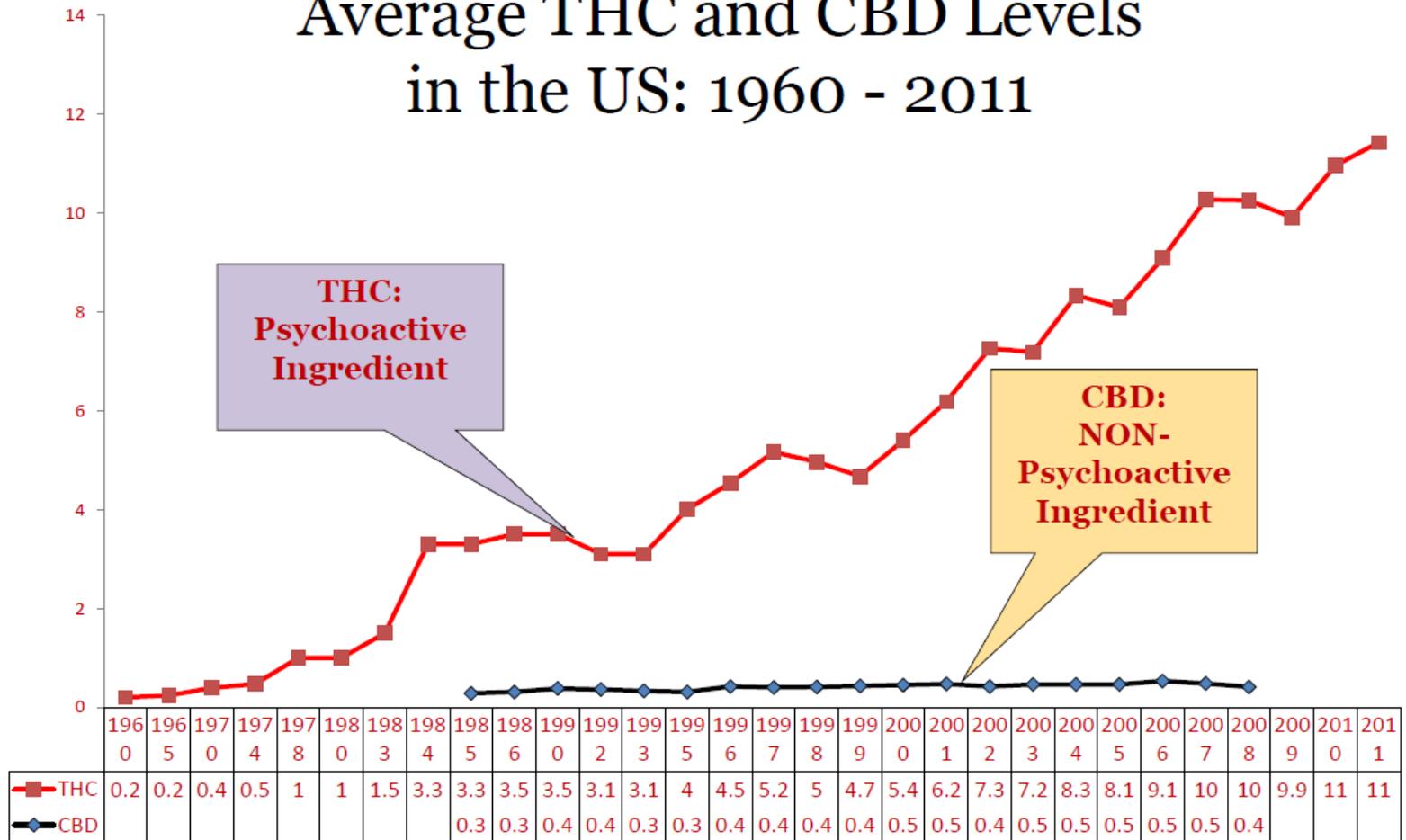
1 in 6 teens become addicted

This study was based on TCH content < 12%

1 in 10 adults and 1 in 6 adolescents who try marijuana will become addicted to it.

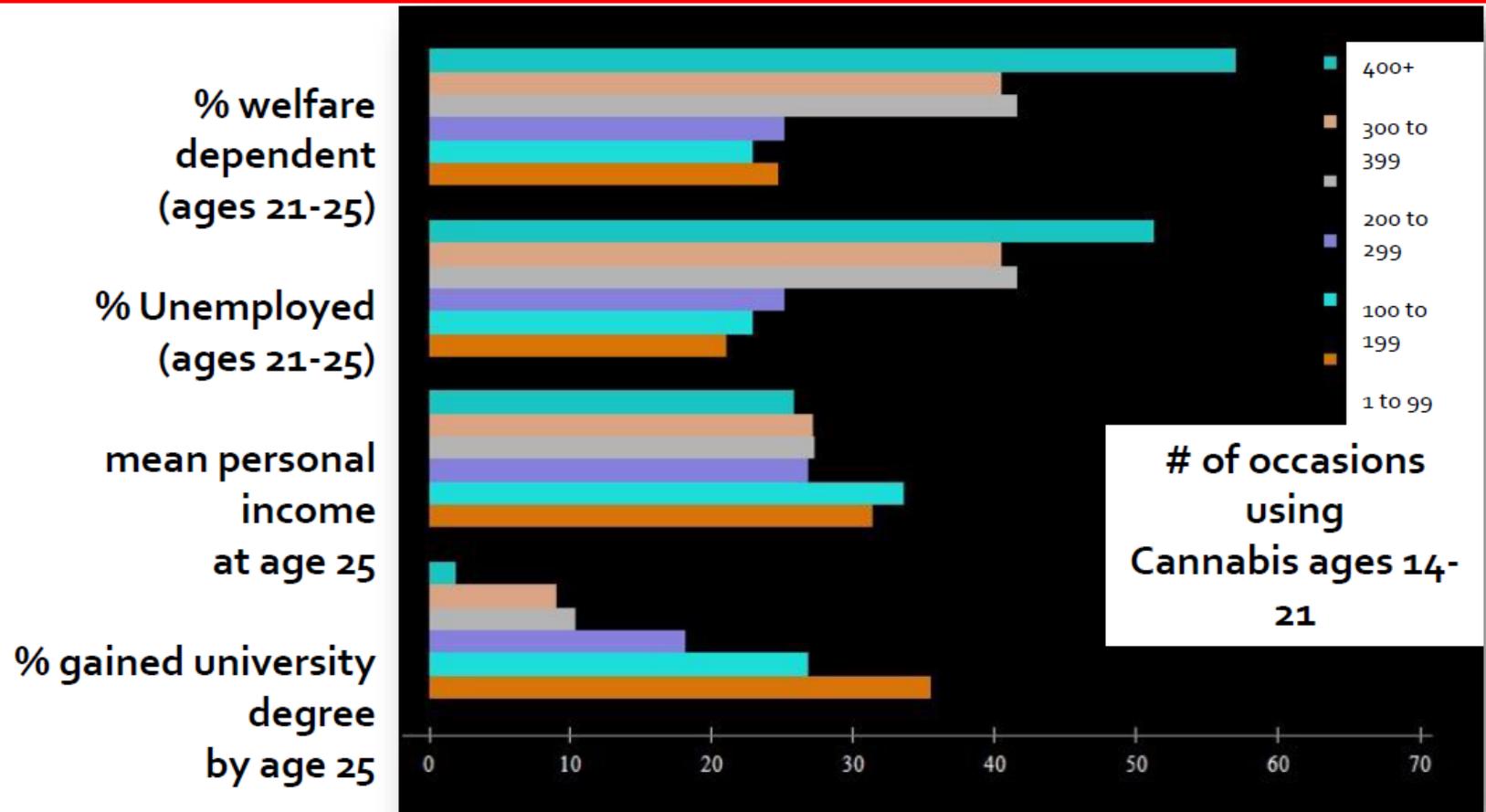
- **The adolescent brain is especially susceptible to marijuana use.**
- **When kids use they have a greater chance of developing addiction.**

Average THC and CBD Levels in the US: 1960 - 2011



Mehmedic et al., 2010

More Use of Cannabis Associated with Worse Social Outcomes at Age 25 (New Zealand Study)



Source: Fergusson and Boden. *Addiction*, 103, pp. 969-976 (2008)

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Harmful Effects on Mental Health

- Increased risk of mental illness
 - Schizophrenia
 - Psychosis
 - Depression
 - Anxiety
 - Contraindicated for almost all mental health conditions

Andréasson S, Allebeck P,
Engström A, Rydberg U. , 1987;
Arseneault, L., 2002

Colorado HIDTA Report- Fatalities

(only 47% operators in fatal crashes are tested for drugs)

- 2007-2012– Traffic fatalities decreased 14%
- 2007-2012– Traffic fatalities involving drivers testing positive for marijuana increased 100%
- In 2007, Colorado traffic fatalities involving operators testing positive for marijuana represented **7.04 percent** of the total traffic fatalities. By 2012, that number more than doubled to **16.53 percent**.

Teen Drivers

Liberty Mutual/SADD survey

- 19% admitted to driving after smoking marijuana
- 36% marijuana smoking no distraction while driving
- 34% who admitted to smoking while high said it made them a better driver.

Medical Marijuana Comes to Ohio

- The Ohio Department of Commerce and the State of Ohio Board of Pharmacy are required by law to take all actions necessary to ensure that Ohio's Medical Marijuana Control Program is fully operational **no later than September 2018**. At that time, there will be an established structure for Ohioans with a qualifying medical condition to obtain a recommendation for medical marijuana, purchase medical marijuana from a licensed dispensary, and consume medical marijuana.

Possession of Marijuana

- R.C. 2925.11 Possession of controlled substances.
- (A) No person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog.
- [* * *]
- (C) Whoever violates division (A) of this section is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, cocaine, L.S.D., heroin, hashish, and controlled substance analogs, whoever violates division (A) of this section is guilty of aggravated possession of drugs. The penalty for the offense shall be determined as follows:
 - [* * *]
- (3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:
 - (a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), or (g) of this section, possession of marihuana is **a minor misdemeanor**.
 - (b) If the amount of the drug involved equals or exceeds one hundred grams but is less than two hundred grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (c) If the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, possession of marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.
 - (d) If the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, possession of marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.
 - (e) If the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, possession of marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense.
 - (f) If the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, possession of marihuana is a felony of the second degree, and the court shall impose a mandatory prison term of five, six, seven, or eight years.
 - (g) If the amount of the drug involved equals or exceeds forty thousand grams, possession of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree.

Marijuana Statutes - Registration

- R.C. 3796.08
- (1) A patient seeking to use medical marijuana or a caregiver seeking to assist a patient in the use or administration of medical marijuana shall apply to the state board of pharmacy for registration. The physician who holds a certificate to recommend issued by the state medical board and is treating the patient or the physician's delegate shall submit the application on the patient's or caregiver's behalf in the manner established in rules adopted under section 3796.04 of the Revised Code. [* * *]

Marijuana Statutes - License

- R.C. 3796.09
- (A) An entity that seeks to cultivate or process medical marijuana or to conduct laboratory testing of medical marijuana shall file an application for licensure with the department of commerce. The entity shall file an application for each location from which it seeks to operate. Each application shall be submitted in accordance with rules adopted under section 3796.03 of the Revised Code.
 - Criminal Records
 - No disqualifying offenses
 - Applicant is not affiliated with a laboratory or laboratory testing
 - Not within 500 feet of a school, church, library, playground or park

Marijuana Statutes – Application to Dispense

- R.C. 3796.10
- (A) An entity that seeks to dispense at retail medical marijuana shall file an application for licensure with the state board of pharmacy. The entity shall file an application for each location from which it seeks to operate. Each application shall be submitted in accordance with rules adopted under section 3796.04 of the Revised Code. [* * *]

Marijuana Statutes – Patient’s Rights

- 3796.22 Rights of registered patient.
- (A) Notwithstanding any conflicting provision of the Revised Code, a patient registered under this chapter who obtains medical marijuana from a retail dispensary licensed under this chapter may do both of the following:
 - (1) Use medical marijuana;
 - (2) Possess medical marijuana, subject to division (B) of this section;
 - (3) Possess any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.
- (B) The amount of medical marijuana possessed by a registered patient shall not exceed a ninety-day supply, as specified in rules adopted under section 3796.04 of the Revised Code.
- (C) A registered patient shall not be subject to arrest or criminal prosecution for doing any of the following in accordance with this chapter:
 - (1) Obtaining, using, or possessing medical marijuana;
 - (2) Possessing any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.
- (D) This section does not authorize a registered patient to operate a vehicle, streetcar, trackless trolley, watercraft, or aircraft while under the influence of medical marijuana.

“Qualifying Medical Condition”

- R.C. 3796.01
- (6) "Qualifying medical condition" means any of the following:
 - (a) Acquired immune deficiency syndrome; (b) Alzheimer's disease; Sub. H. B. No. 523 131st G.A. 14 (c) Amyotrophic lateral sclerosis; (d) Cancer; (e) Chronic traumatic encephalopathy; (f) Crohn's disease; (g) Epilepsy or another seizure disorder; (h) Fibromyalgia; (i) Glaucoma; (j) Hepatitis C; (k) Inflammatory bowel disease; (l) Multiple sclerosis; (m) Pain that is either of the following: (i) Chronic and severe; (ii) Intractable. (n) Parkinson's disease; (o) Positive status for HIV; (p) Post-traumatic stress disorder; (q) Sickle cell anemia; (r) Spinal cord disease or injury; (s) Tourette's syndrome; (t) Traumatic brain injury; (u) Ulcerative colitis; (v) Any other disease or condition added by the state medical board under section 4731.302 of the Revised Code.

Marijuana Statutes – Caregiver’s Rights

- 3796.23 Rights of caregiver.
- (A) Notwithstanding any conflicting provision of the Revised Code, a caregiver registered under this chapter who obtains medical marijuana from a retail dispensary licensed under this chapter may do both of the following:
 - (1) Possess medical marijuana on behalf of a registered patient under the caregiver's care, subject to division (B) of this section;
 - (2) Assist a registered patient under the caregiver's care in the use or administration of medical marijuana;
 - (3) Possess any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.
- (B) The amount of medical marijuana possessed by a registered caregiver on behalf of a registered patient shall not exceed a ninety-day supply, as specified in rules adopted under section 3796.04 of the Revised Code. If a caregiver provides care to more than one registered patient, the caregiver shall maintain separate inventories of medical marijuana for each patient.
- (C) A registered caregiver shall not be subject to arrest or criminal prosecution for doing any of following in accordance with this chapter:
 - (1) Obtaining or possessing medical marijuana on behalf of a registered patient;
 - (2) Assisting a registered patient in the use or administration of medical marijuana;
 - (3) Possessing any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.
- (D) This section does not permit a registered caregiver to personally use medical marijuana, unless the caregiver is also a registered patient.

Marijuana Statutes – Employer’s Rights

- 3796.28 Rights of employer.
- (A) Nothing in this chapter does any of the following:
 - (1) Requires an employer to **permit or accommodate an employee's use, possession, or distribution of medical marijuana;**
 - (2) Prohibits an employer from **refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's use, possession, or distribution of medical marijuana;**
 - (3) Prohibits an employer from **establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy;**
 - (4) Interferes with any federal restrictions on employment, including the regulations adopted by the United States department of transportation in Title 49 of the Code of Federal Regulations, as amended;
 - (5) **Permits a person to commence a cause of action against an employer for refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking an adverse employment action against a person** with respect to hire, tenure, terms, conditions, or privileges of employment related to medical marijuana;
 - (6) Affects the authority of the administrator of workers' compensation to grant rebates or discounts on premium rates to employers that participate in a drug-free workplace program established in accordance with rules adopted by the administrator under Chapter 4123. of the Revised Code.
- (B) A person who is discharged from employment because of that person's use of medical marijuana **shall be considered to have been discharged for just cause for purposes of division (D) of section 4141.29 of the Revised Code if the person's use of medical marijuana was in violation of an employer's drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating the use of medical marijuana.**

Worker's Compensation

- R.C. 4123.54 Compensation in case of injury or death - agreement if work performed in another state.
- (A) Except as otherwise provided in this division or divisions (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever the injury has occurred or occupational disease has been contracted,
- the compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and the amount of funeral expenses in case of death, as are provided by this chapter. The compensation and benefits shall be provided, as applicable, directly from the employee's self-insuring employer as provided in section 4123.35 of the Revised Code or from the state insurance fund. An employee or dependent is not entitled to receive compensation or benefits under this division if the employee's injury or occupational disease is either of the following:
 - [* * *]
 - (2) Caused by the employee being intoxicated, under the influence of a controlled substance not prescribed by a physician, or under the influence of marihuana if being intoxicated, under the influence of a controlled substance not prescribed by a physician, or under the influence of marihuana was the proximate cause of the injury. [* * *]

Worker's Compensation Cont.

- (B) For the purpose of this section, **provided that an employer has posted written notice** to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana and that being intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana is the proximate cause of an injury under either of the following conditions:
 - (1) When any one or more of the following is true:
 - (a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code;
 - (b) The employee, through a qualifying chemical test administered **within thirty-two hours of an injury**, is determined to have one of the following controlled substances not prescribed by the employee's physician or marihuana in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:
 - (i) For amphetamines, one thousand nanograms per milliliter of urine;
 - **(ii) For cannabinoids, fifty nanograms per milliliter of urine;**
 - (iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;
 - (iv) For opiates, two thousand nanograms per milliliter of urine;
 - (v) For phencyclidine, twenty-five nanograms per milliliter of urine.
 - (c) The employee, through a qualifying chemical test administered **within thirty-two hours of an injury**, is determined to have one of the following controlled substances not prescribed by the employee's physician or marihuana in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:
 - (i) For amphetamines, five hundred nanograms per milliliter of urine;
 - **(ii) For cannabinoids, fifteen nanograms per milliliter of urine;**
 - (iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;
 - (iv) For opiates, two thousand nanograms per milliliter of urine;
 - (v) For phencyclidine, twenty-five nanograms per milliliter of urine.
 - (d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.
 - (2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

Worker's Compensation Cont.

- (C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:
- (a) When the employee's employer had **reasonable cause to suspect that the employee may be intoxicated , under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana:**
- (b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;
- (c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.
- (2) As used in division (C)(1)(a) of this section, **"reasonable cause" means,** but is not limited to, evidence that an employee is or was using alcohol , a controlled substance, or marihuana drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:
- **(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol , a controlled substance, or marihuana, or of the physical symptoms of being under the influence of alcohol , a controlled substance, or marihuana, such as but not limited to slurred speech ; dilated pupils ; odor of alcohol , a controlled substance, or marihuana: changes in affect ; or dynamic mood swings;**
- **(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol , a controlled substance, or marihuana, and does not appear to be attributable to other factors;**
- **(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance or marihuana;**
- **(d) A report of use of alcohol , a controlled substance, or marihuana provided by a reliable and credible source;**
- **(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol , a controlled substance, or marihuana and that do not appear attributable to other factors.**
- (D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.
- (E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test results of a qualifying chemical test.
- (F) The written notice required by division (B) of this section shall be the same size or larger than the proof of workers' compensation coverage furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the proof of workers' compensation coverage or the certificate of self-insurance.
- (G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.

Worker's Compensation Drug Free Safety Program

- Basic & Advanced:
 - Written substance policy
 - Employee education
 - Supervisor training
 - Drug and alcohol testing
 - For advanced, must provide same as basic + 15% random
 - Employee assistance
 - Basic must provide list of local assistance resources
 - Advanced must establish working relationship with an employee of assistance professional and pay cost of Employee's assessment
 - Annual report
 - Workplace safety review
 - Accident analysis training
 - Online accident reporting
 - Safety action plan (advanced only)

BWC – DFSP

Basic Level – 4% premium rebate

Advanced Level – 7% premium rebate

Then Come The Lawsuits

- Wrongful death suit filed against a Colorado marijuana confection manufacturer. The suit was brought in name of surviving children of a mother who was murdered by her husband after he consumed some of the manufacturer's confections. The packaging contained no instructions or warnings. The candy — which was roughly the size of a Tootsie Roll — contained 10 servings of THC. THC is the major psychoactive ingredient in marijuana. Colorado has since changed the labeling requirements.
- California State Appellate Court upheld a preliminary injunction against a marijuana delivery service in Los Angeles. The court held that the law regulating marijuana distribution only authorized fixed locations and did not provide for mobile dispensaries.
- Oklahoma and Nebraska requested the Supreme Court hear a challenge to Colorado's marijuana legalization plan. The challenge alleged that Colorado's legalization regime was causing marijuana to flow across the borders into other states creating increased law enforcement-related issues. The Supreme Court declined to hear the case by a 6-2 majority.

Questions