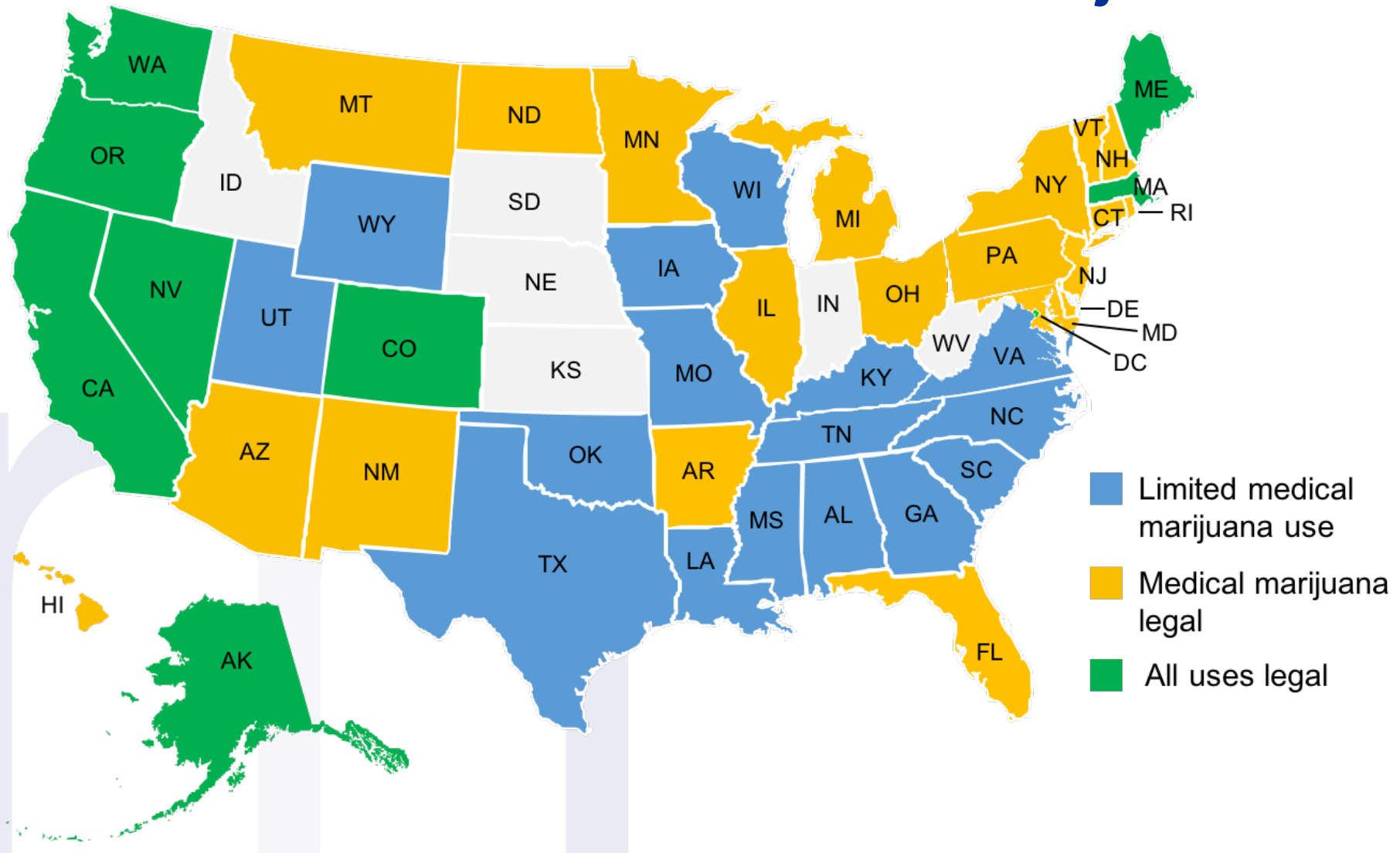




The Workplace Realities of Legalized Marijuana

Jon Hyman

The United States of Marijuana



Ohio's Medical Marijuana Law

Does not:

Require an employer to permit or accommodate an employee's use, possession, or distribution of medical marijuana

Ohio's Medical Marijuana Law

Does not:

Prohibit 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

Ohio's Medical Marijuana Law

Does not:

Prohibits an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy

Ohio's Medical Marijuana Law

Does not:

Interfere with any federal restrictions on employment, including the regulations adopted by the United States department of transportation

Ohio's Medical Marijuana Law

Does not:

Permit a person to sue 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

Ohio's Medical Marijuana Law

Does not:

Affect the authority of the administrator of workers' compensation to grant rebates or discounts on premium rates to employers that participate in a BWC drug-free workplace program

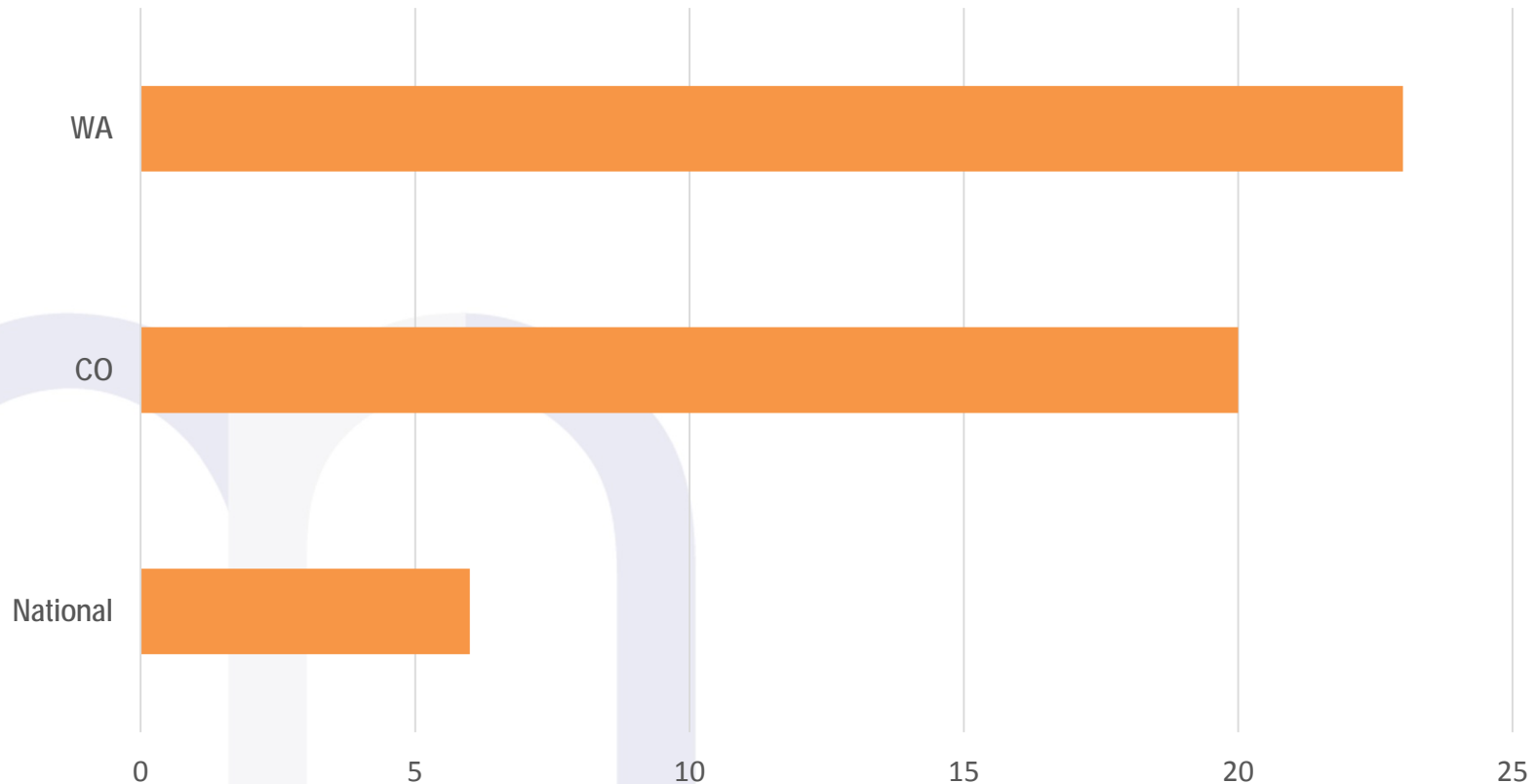
Ohio's Medical Marijuana Law

Does not:

Permit a person discharged from employment because of that person's use of medical marijuana to collect unemployment, provided the employee violated an employer's an employer's drug-free workplace or zero-tolerance policy

Quest Diagnostics Drug Test Index

Workplace Pos MJ Tests: Increase from 2012-2013



<http://www.questdiagnostics.com/home/physicians/health-trends/drug-testing>

Employer Challenges



Employer Challenges





General Duty Safety Clause

- **Section 5(a)(1) of the Act requires that** “Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” The general duty requirement also exists for federal agencies.
- **OSHA further requires that** employers must first try to eliminate or reduce hazards by making feasible engineering or administrative changes in working conditions rather than relying on personal protective equipment such as masks, gloves, or earplugs.



OSHA: Post-Accident Drug Testing

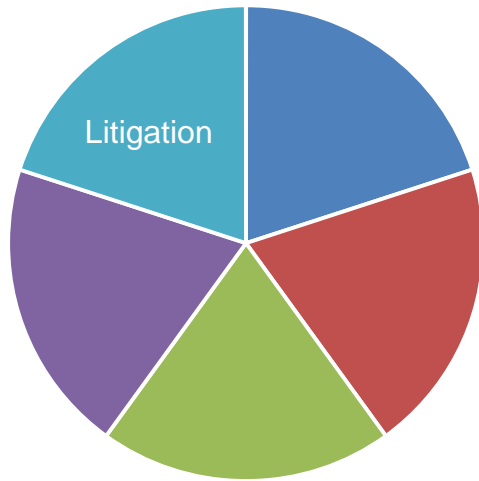


Medical Marijuana and the ADA

What Will Legalized Marijuana Cost Employers?



Employers' litigation costs will rise



Can employers fire an employee for engaging in legal activities off the clock?

Does firing an employee who tests positive for marijuana violate anti-discrimination laws?

Are employees who use marijuana off the clock impaired when they come to work?

Must employers cover medical marijuana costs for employees injured on the job?

Must employers pay unemployment compensation to employees fired for failing a drug test?

Will there be an adequate supply of qualified workers?



Fewer job applicants able to pass a pre-employment drug test

Reduced motivation among marijuana using employees

Increased accidents, injuries, absenteeism

Increased addiction

Impact on brain development, memory, lowered IQ means diminished ability to learn

Increased liability and health insurance costs

Workplace safety threatened



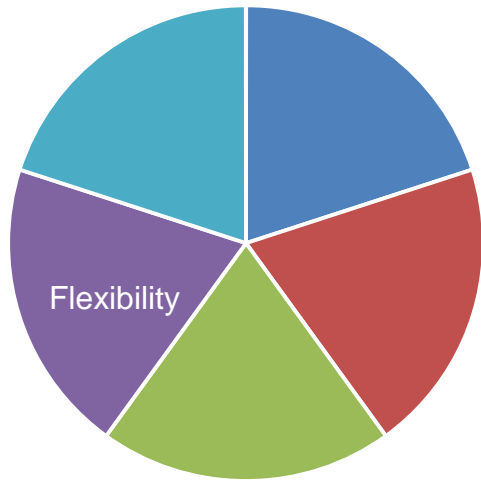
Will employers be able to maintain a drug-free workplace?

How can employers ensure safety if they must show *impairment* rather than the presence of marijuana in the body?

Must employers required by DOT to drug-test workers in safety-sensitive jobs exempt those using medical marijuana?

Legalization advocates challenge drug-free workplace programs

Workplace flexibility imperiled



Will employers be able to shift employees to different jobs in the company?

Will employees still be able to work from home?



How can employers with employees in multiple states comply with marijuana laws that differ from state to state – and with federal law?

To what lengths do employers have to go to comply with marijuana-friendly laws vis-à-vis their employees?

Must employers allow employees to use medical marijuana on the job?

If employers with federal contracts do business in legal marijuana states, how can they comply with federal mandates to maintain drug-free workplaces?



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Questions?



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