



## Arizona's Medical Marijuana Act

Now that medical marijuana has become a reality in Arizona, workplace drug-testing programs must be administered with both the cardholder's rights under this statute and workplace safety in mind.

For employers, a strong, clear policy is the cornerstone of any successful drug-free workplace program. A comprehensive policy details which substances are tested for, what workplace behaviors are unacceptable, and what the consequences will be if the policy is violated. Those policies should be amended to include medical marijuana with the following considerations:

- Employers may not discriminate against a legitimate medical marijuana cardholder in hiring, termination, or condition of employment solely based on the person's status as a cardholder or a registered qualifying patient's positive drug test for marijuana.
- The use of medical marijuana outside of work hours and away from the workplace will be treated under the policy in the same manner as prescription drugs.
- Employees who are registered cardholders may not use, possess, or be impaired by marijuana in the workplace or during hours of employment.
- If an employee is observed to be impaired, appropriate actions – such as removal from duty and subsequent drug testing - will be taken in accordance with policy.
- If an employee's drug test is positive for marijuana and the employee is a legitimate medical marijuana cardholder, the employer should get proof of this recommendation from the treating physician in the form of a medical safety clearance letter. The letter should address that the employee is under the care of the physician and can safely perform his/her basic job function with his/her appropriate use of medical marijuana. *(Note: as with fake IDs, there will most likely be fake medical marijuana cards)*
- Define if an exception to this non-discrimination due to federal law or regulations is applicable. The law states that the employer may claim an exception based upon the loss of a monetary or licensing related benefit under federal law or regulations (such as Department of Transportation (DOT) or Federal Drug-Free Workplace Act). Under the DOT's drug testing regulations, the use of medical marijuana by any safety-sensitive employee is not permissible.



Train Supervisors to know the signs of marijuana impairment, and to document the indicators as soon as possible. Optimally, the indicators should be observed by a second supervisor or manager as well. There is no legal standard (level) for marijuana impairment like there is for alcohol. Specifically in looking for marijuana impairment, look for the following:

- Performance indicators
  - Excessive absenteeism or tardiness
  - Impaired ability to concentrate and retain information
  - Increased minor accidents, mistakes, reports of theft
  
- Physical indicators
  - Bloodshot eyes
  - Dry mouth
  - Smell like marijuana