



Department of Administrative Services
Lead. Empower. Collaborate.

Marijuana, Medical Marijuana and CBD Products

Quarterly Drug Testing Forum

Statewide Substance Abuse Testing Program

Presented by Gail Stowers

HRA - Policy Unit

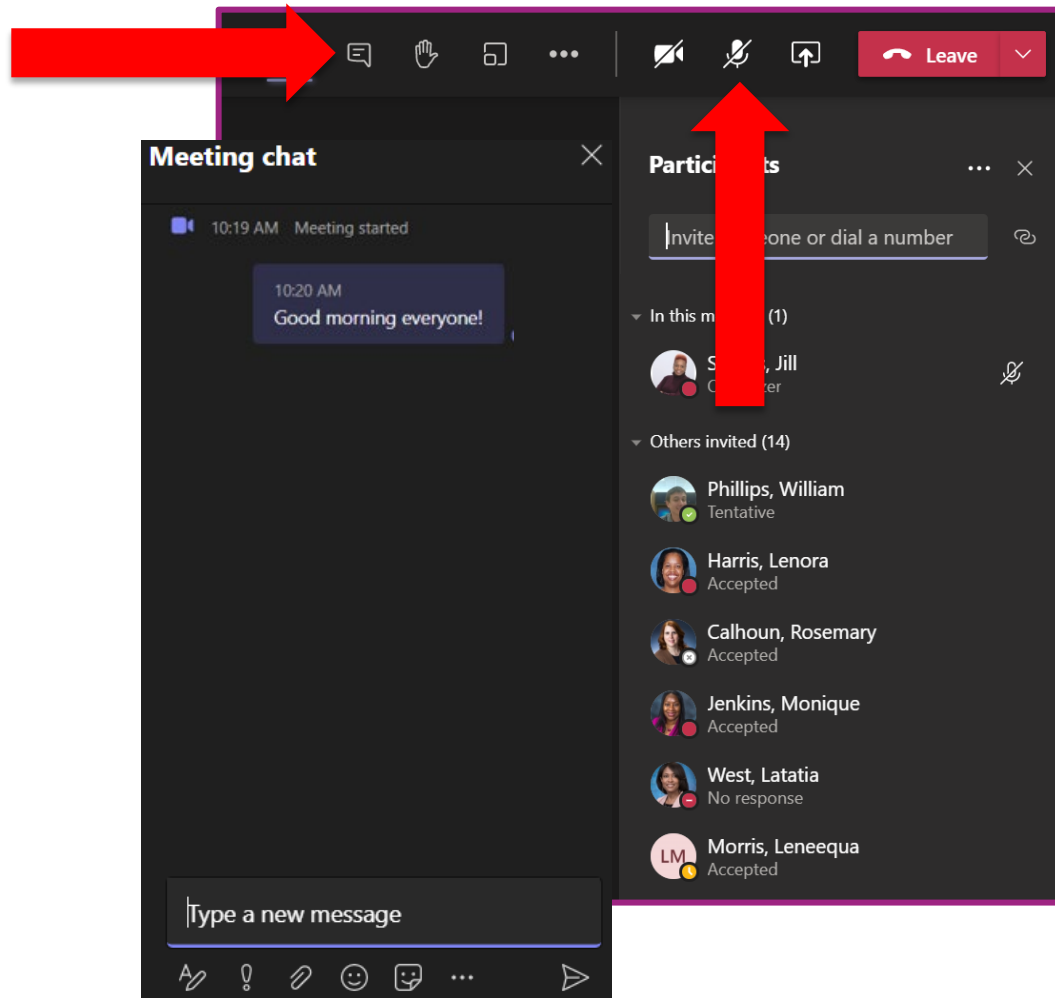
September 17, 2024

Your Presenter:
Gail Stowers



Statewide Substance Abuse Testing Coordinator
Senior Policy Analyst
DOAS HRA-Policy Unit

MS TEAMS Housekeeping: Attendee Participation



Your Participation

- You were automatically muted and cameras disabled when entering our meeting.
- Utilize CHAT for your questions and comments.
- Close out MS Outlook and other internet sites being accessed to support your TEAMS' connectivity.
- Recording link and today's slides will be provided after the session.

Marijuana, Medical Marijuana and CBD Products



Agenda

Marijuana, Medical Marijuana, and CBD Products

Part I

- *Speaker: Dr. Suzanne Steele*
Senior Director, Medical Review Officer
Vault Health/Sperling Company

Part II

- *Speaker: Gail Stowers*
Senior Policy Analyst & Statewide Drug Testing Coordinator
Medical Marijuana and CBD
-

Agenda

Marijuana, Medical Marijuana and CBD Products

Part I

Speaker: Dr. Suzanne Steele
Senior Director, Medical Review Officer
Vault Health/Sperling Company

Sterling

V▲ULT
a Sterling company

Marijuana in Drug Testing

September 17, 2024



Legal Disclaimer



PLEASE NOTE:

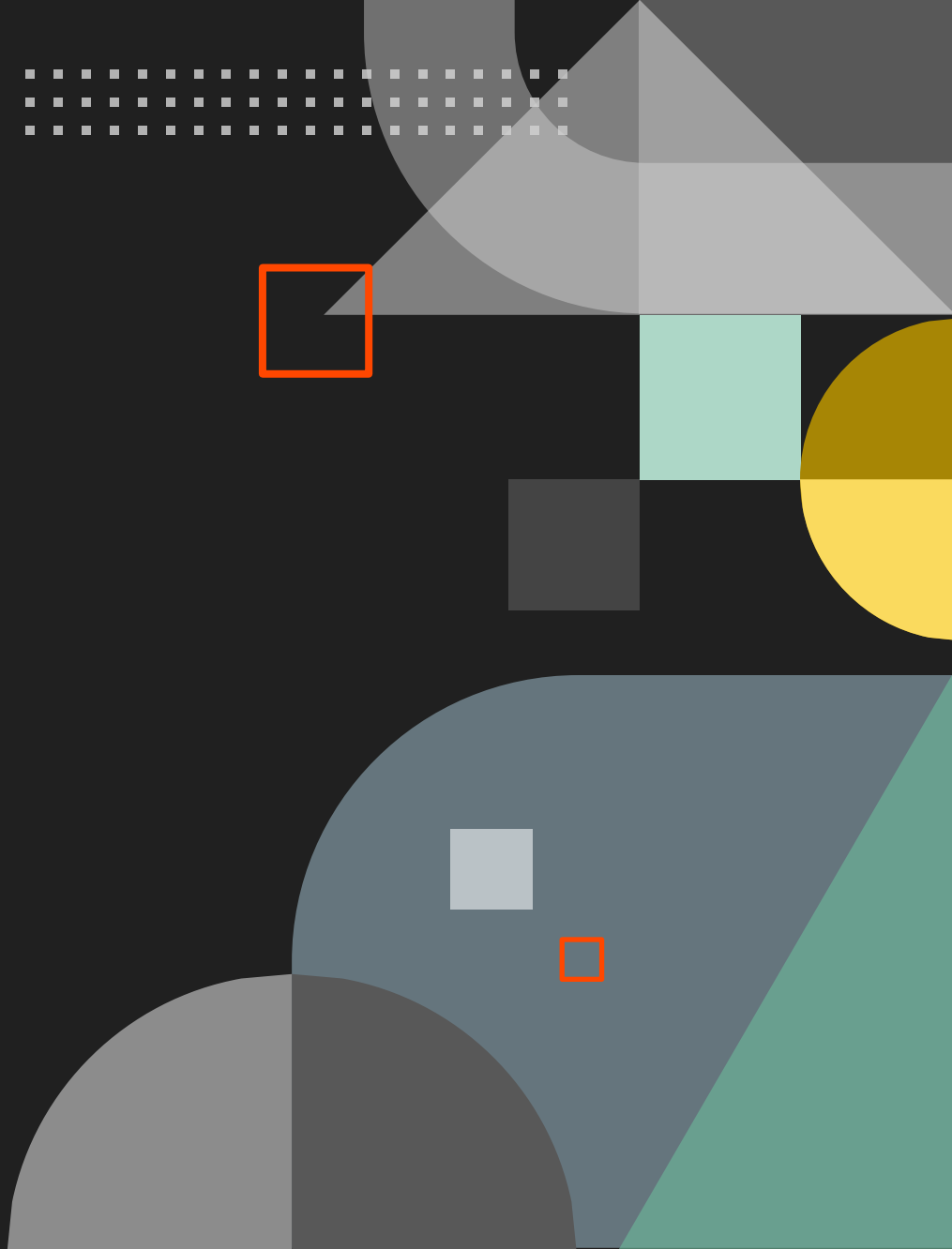
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Agenda

- Marijuana
- Medical Marijuana
- CBD Oil

Marijuana



Marijuana

Controlled Substance Act (CSA) Scheduling

- Marijuana is currently a Schedule 1 drug under the Controlled Substances Act.
- Under the CSA schedule 1 drugs, substances, or chemicals are those with no currently accepted medical use and a high potential for abuse.



Marijuana

Words Matter

- Cannabis
 - - the plant used to produce hemp fiber
 - a drug
- Hemp - the fiber of the cannabis plant, extracted from the stem and used to make rope, strong fabrics, fiberboard, and paper.
- Marijuana - the dried flowers, leaves, stems, and seeds of the cannabis plant
- Cannabinoids – group of compounds from the cannabis plant
 - Includes active and non-psychoactive constituents
- Cannabinoids
 - Tetrahydrocannabinol (THC) - a cannabinoid
 - Cannabidiol (CBD) - a cannabinoid
- Metabolite – breakdown product of parent compound
- Analyte – which molecule the panel includes
 - Parent vs. Metabolite
 - Urine and Hair - metabolite
 - Oral Fluid – parent compound

Impairment

Technology

- Today's drug testing can prove an individual has used a drug found on the testing panel
- cannot prove an individual is impaired at the time of the test
- Impairment from THC is affected by several factors:
 - Amount of marijuana consumed
 - Method of consumption
 - Potency of THC consumed
 - Usage frequency
- Marijuana-induced impairment can last for many hours after intoxication (feeling high)



Delta Variations

The delta variation is determined by the position of a double bond on the chain of carbon atoms they structurally share.

Potency varies by delta type

1. Delta 11
2. Delta 9
3. Delta 8
4. Delta 10

All are psychoactive with different effects on the individual

All can cause a positive drug test



Medical Marijuana

“Medical” Marijuana

1. Marijuana not established as a safe & effective per the peer-reviewed studies.
2. Marijuana is not supported as a medication by evidence-based treatment guidelines issued by recognized medical specialty organizations.
3. Some medical organizations issued policies against medical marijuana use. (This is particularly true of hospitals, which jeopardize their federal accreditation and funding if they violate federal law.)
4. Marijuana is not approved for medical use by the Food and Drug Administration.
5. Clinicians cannot prescribe marijuana because prescribing is a federally regulated process and marijuana is illegal under federal law which describes it as without demonstrated therapeutic value and having high abuse potential

“Medical” Marijuana is not Marinol (Dronabinol)

Prescription vs. Recommendation

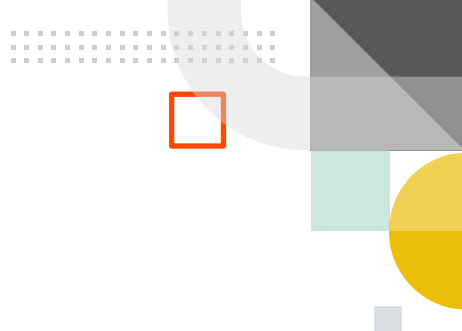
Marinol: man-made form of the active natural substance in marijuana (cannabis)

used to treat nausea and vomiting caused by cancer chemotherapy

used to treat loss of appetite and weight loss in patients with Anorexia / HIV infection

used to treat Glaucoma

Adverse Effects: The most common adverse reactions ($\geq 3\%$) include abdominal pain, dizziness, **euphoria**, nausea, paranoid reaction, somnolence, abnormal thinking, and vomiting.



The MRO Report to the DER

“Positive” THC or THCA with comment: donor says they have a medical marijuana card.

No reliable way for the MRO to corroborate the “validity” of that card.

The cards can be forged, and it is less clear what makes a medical marijuana card “valid.”

May be considered protected health information under the Health Insurance Portability and Accountability Act (HIPAA).

The donor is free to present the employer with their medical marijuana card.



CBD

FDA - no regulatory attempts have been made to control CBD products for THC content.

CBD labels may not accurately reflect the content of CBD or its “contamination” with THC.

A 2016 study found a wide range of CBD and THC concentrations in 84 CBD products purchased online.

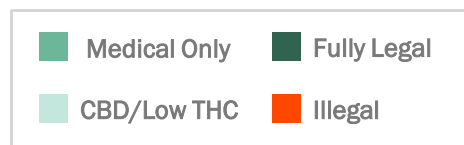
The Department of Defense has prohibited CBD use by service members.

HHS and DOT have advised employees in safety-sensitive positions to exercise caution in the use of CBD products because their consumption can cause THCA-positive results and thereby disqualify them from employment.

HHS and DOT have advised MROs that the use of CBD or other nonprescription products is not a legitimate medical explanation for a THCA-positive drug test.

See [DOT "CBD" Notice | US Department of Transportation](#) Feb 18, 2020

Marijuana by State

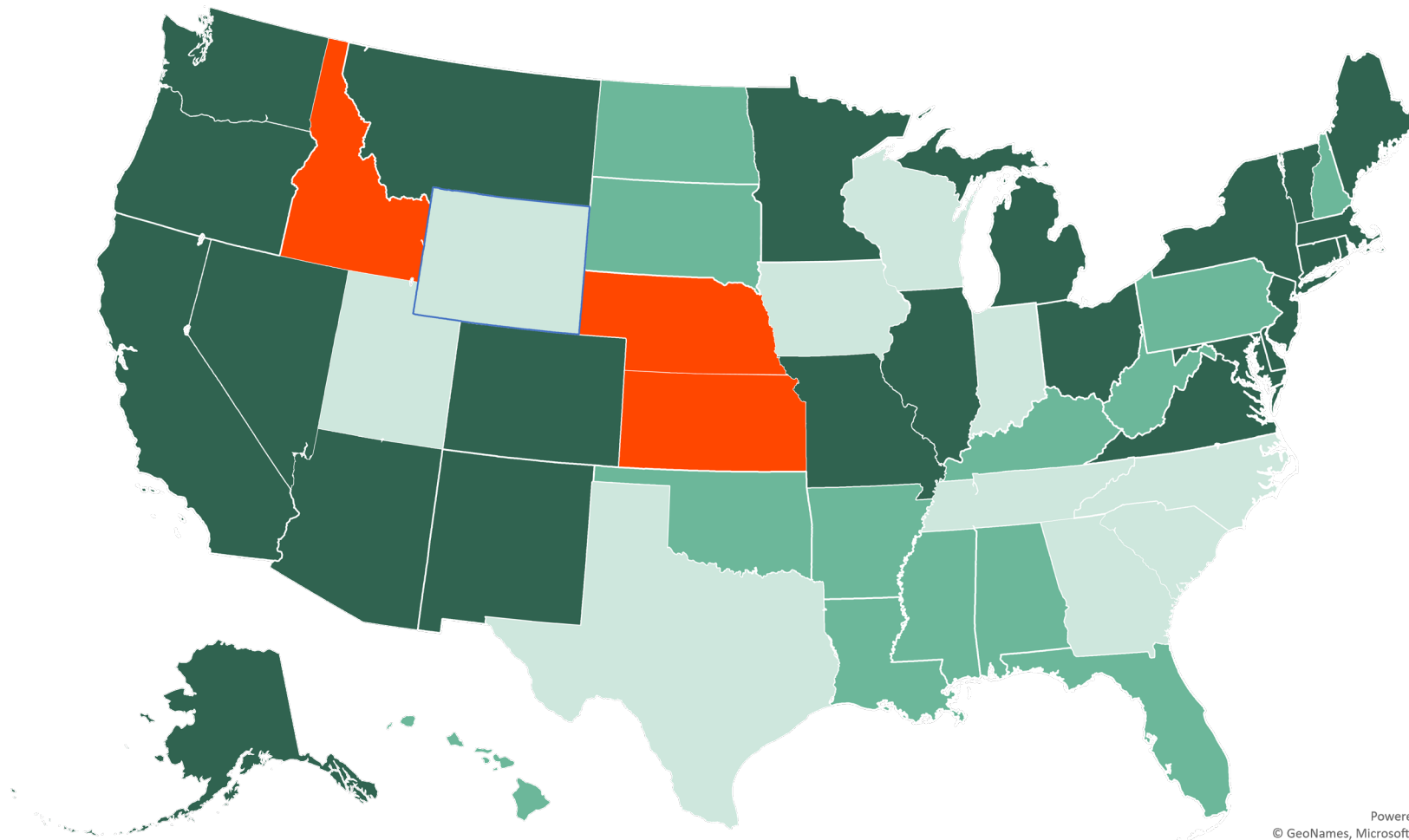


Fully Legal

- Washington, D.C.
- Guam
- Northern Mariana Islands

Medical Only

- Puerto Rico
- US Virgin Islands



Questions?

Suzanne L. Steele, MD, MRO
Vault Workforce Screening, a Sterling Company
Senior Director, Chief Medical Review Officer
Suzanne.Steele@sterlingcheck.com
215-396-5584
MRO@vaulthealth.com

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Agenda

Marijuana, Medical Marijuana and CBD Products

Part II

Speaker: Gail Stowers

Senior Policy Analyst & Statewide Drug Testing Coordinator

DOAS HRA-Policy Unit



Marijuana Continues Upward Climb

Marijuana positivity in the general U.S. workforce increased 4.7% (4.3% in 2022 versus 4.5% in 2023). Over five years, marijuana positivity has increased 45.2%, with 2023 reaching a new peak compared to 2019 (3.1% in 2019 versus 4.5% in 2023).

Marijuana Drug Test Positivity Decreases in Federally Mandated, Safety Sensitive Workforce

In the federally mandated safety-sensitive workforce, marijuana positivity decreased nationally 3.1% year over year (0.98% in 2022 versus 0.95% in 2023).

Positivity Increased in Industries Associated with Office Work

Overall drug workforce positivity increased in industries associated with "office work," such as administrative, managerial, and clerical tasks within office environments. Workforce positivity increased in Real Estate and Lending by 17.0% (4.7% in 2022 versus 5.5% in 2023); Professional,

Our 2024 Quest Diagnostics analysis shows overall workforce drug positivity increased in industries associated with "office work," such as administrative, managerial, and clerical tasks within office environments.

Post-accident Marijuana Positivity Continues to Climb

In 2023, post-accident marijuana positivity of urine drug tests in the general U.S. workforce was 7.5%. The new peak follows a steady increase in post-accident marijuana positivity every year from 2015 to 2023. In that 9-year time frame, post-accident marijuana positivity increased 114.3%.

Drug Testing Index™ and Industry Insights

► A comprehensive analysis of workforce drug use trends

Urine Drug Test Positivity Among Other Drug Types

Cocaine positivity in the general U.S. workforce increased 9.1% (0.22% in 2022 versus 0.24% in 2023). Amphetamines positivity remained flat (1.5% in 2022 and 2023) and 6-AM (heroin metabolite) positivity decreased 16.7% (0.006% in 2022 versus 0.005% in 2023).

Opiates (codeine/morphine) positivity decreased 12.5% (0.16% in 2022 versus 0.14% in 2023), Opiates (hydrocodone/hydromorphone) decreased 9.4% percent (0.32% in 2022 versus 0.29% in 2023) and Oxycodone (Oxycodone/Oxymorphone) also decreased 3.6% (0.28% in 2022 versus 0.27% in 2023), continuing a downward trend over five years for all three drug categories.

Workforce Drug Test Cheating Surged in 2023, Finds Quest Diagnostics Drug Testing Index Analysis of Nearly 10 Million Drug Tests

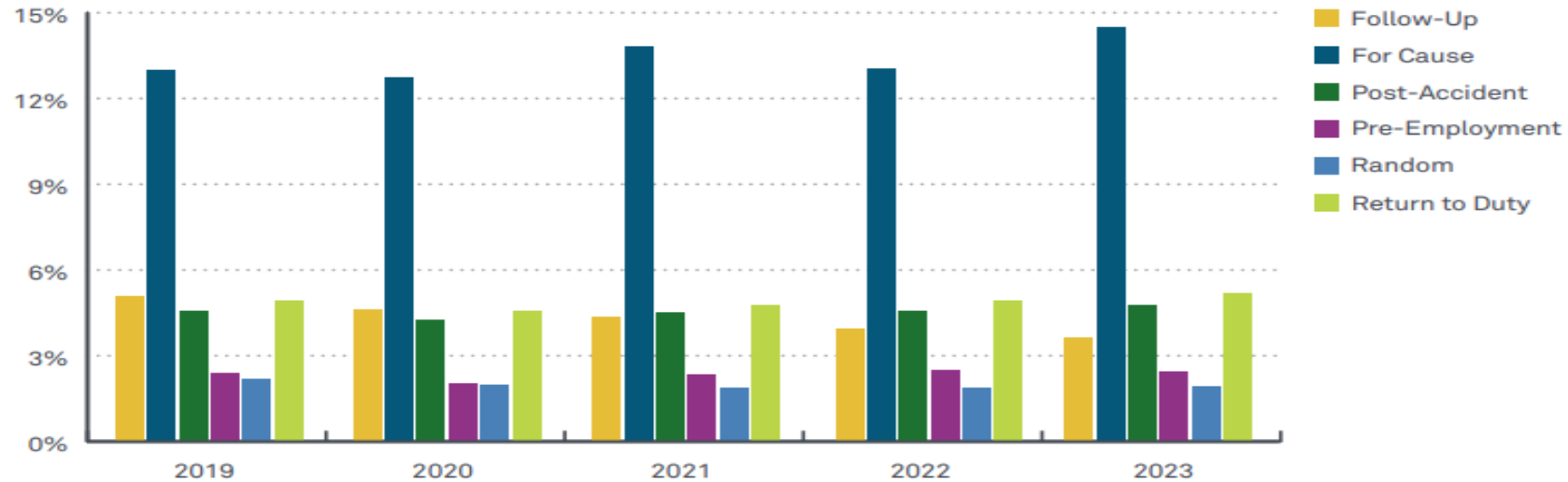


The percentage of employees in the general U.S. workforce whose drug test showed signs of tampering increased by more than six-fold in 2023 versus the prior year, the highest rate ever in more than 30 years of annual reporting. This finding is part of a new analysis of nearly 9.8 million workforce drug tests released today by Quest Diagnostics (NYSE: DGX), a leading provider of diagnostic information services. To view the full report, visit [www.QuestDiagnostics.com/DTI](https://www.questdiagnostics.com/DTI).

The increase in substituted urine specimens in the general U.S. workforce, a population of over 5.5 million, was 633% (0.015% in 2022 versus 0.11% in 2023). Invalid urine specimens in the general U.S. workforce increased 45.2% (0.31% in 2022 versus 0.45% in 2023). A result of substituted or invalid suggests a specimen has been tampered with in an attempt to conceal drug use.*

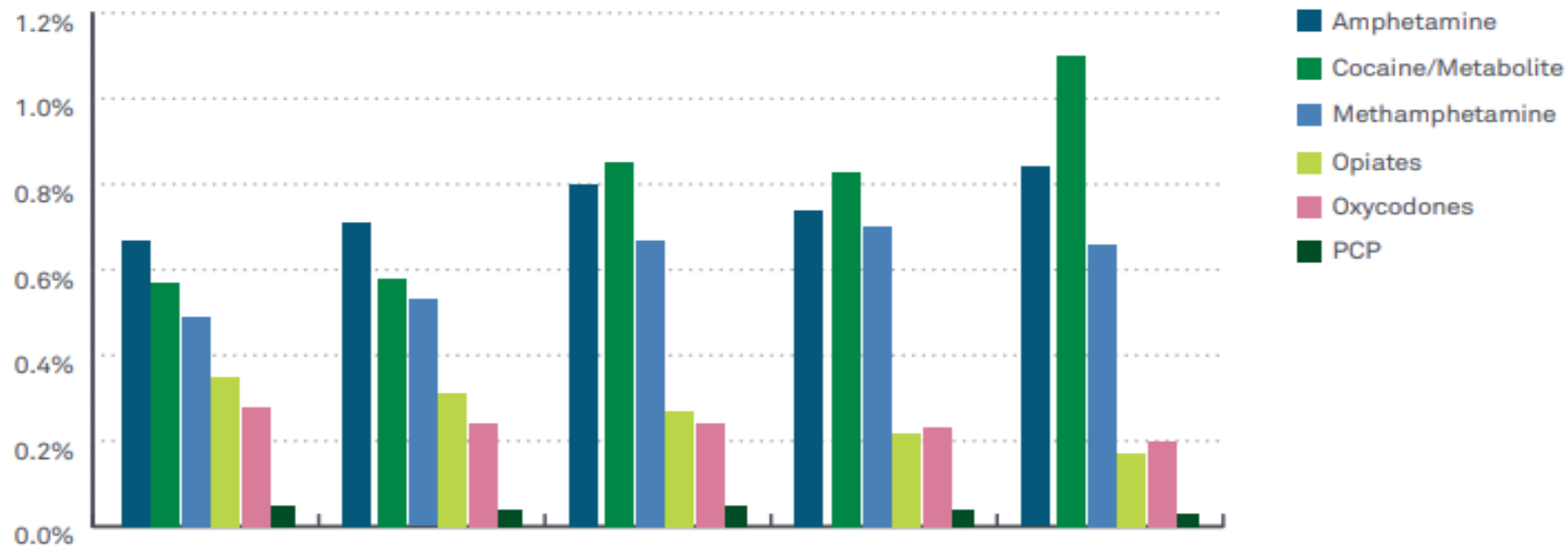
Positivity Rates by Testing Reason | *Annual Report*

Urine Drug Tests – For Federally Mandated, Safety-Sensitive Workforce



More than 2.8 million tests from January to December 2023

Testing Reason	2019	2020	2021	2022	2023
Follow-Up	5.1%	4.6%	4.3%	4.2%	3.8%
For Cause	13.0%	12.7%	13.8%	12.9%	14.5%
Post-Accident	4.5%	4.3%	4.4%	4.5%	4.6%
Pre-Employment	2.4%	2.1%	2.3%	2.5%	2.5%
Random	2.2%	2.0%	1.9%	1.9%	2.0%
Return to Duty	5.0%	4.5%	4.7%	4.9%	5.2%

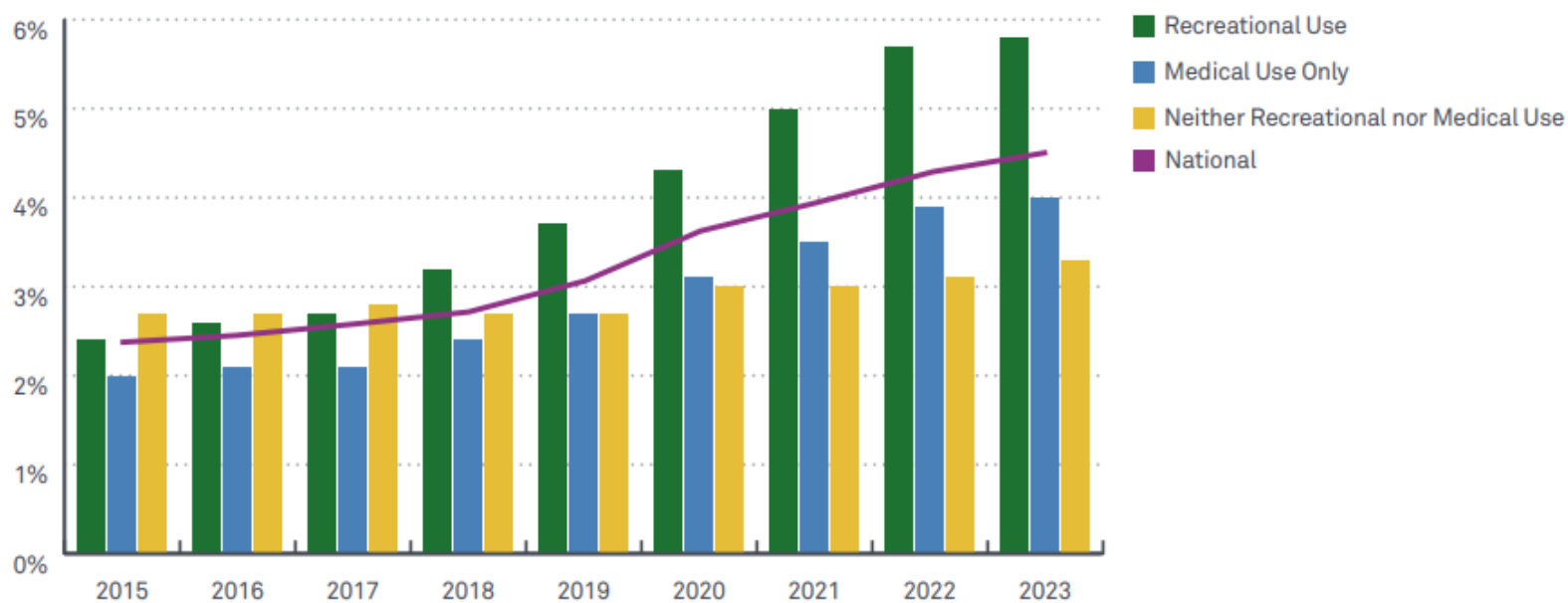


More than 1.3 million tests from January to December 2023

Drug Category	2019	2020	2021	2022	2023
Amphetamine	0.67%	0.71%	0.80%	0.74%	0.84%
Cocaine/Metabolite	0.57%	0.58%	0.85%	0.83%	1.1%
Marijuana	9.1%	12.3%	14.8%	10.4%	9.9%
Methamphetamine	0.49%	0.53%	0.67%	0.70%	0.66%
Opiates	0.35%	0.31%	0.27%	0.22%	0.17%
Oxycodones	0.28%	0.24%	0.24%	0.23%	0.20%
PCP	0.05%	0.04%	0.05%	0.04%	0.03%

Marijuana Positivity by 2023 State Legalized Use Status – Urine Drug Tests | *Annual Report*

For General U.S. Workforce, as a Percentage of All Tests for Marijuana Metabolite



More than 5.5 million tests from January to December 2023

Drug Category	2015	2016	2017	2018	2019	2020	2021	2022	2023
Recreational Use	2.4%	2.6%	2.7%	3.2%	3.7%	4.3%	5.0%	5.7%	5.8%
Medical Use Only	2.0%	2.1%	2.1%	2.4%	2.7%	3.1%	3.5%	3.9%	4.0%
Neither Recreational nor Medical Use	2.7%	2.7%	2.8%	2.7%	2.7%	3.0%	3.0%	3.1%	3.3%
National	2.4%	2.5%	2.6%	2.8%	3.1%	3.6%	3.9%	4.3%	4.5%

#1

Leaves of Absence
(Paid Sick Leave, FMLA and
State Leave Laws, etc.)



#2

**Wage and
Hour Laws**



#3

**Handbooks and
Other Policies**



#4

**Background
Checks**



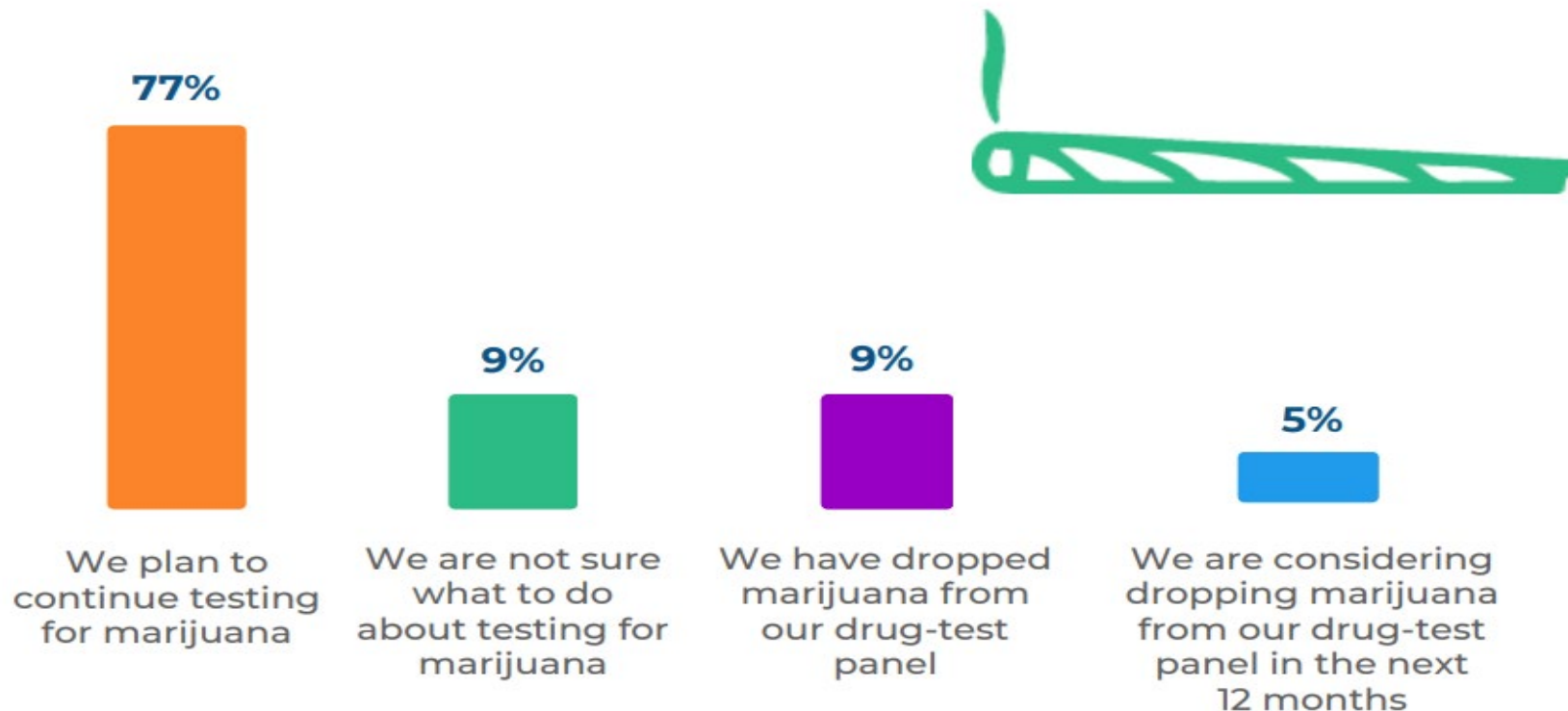
#5

**Marijuana
Laws**

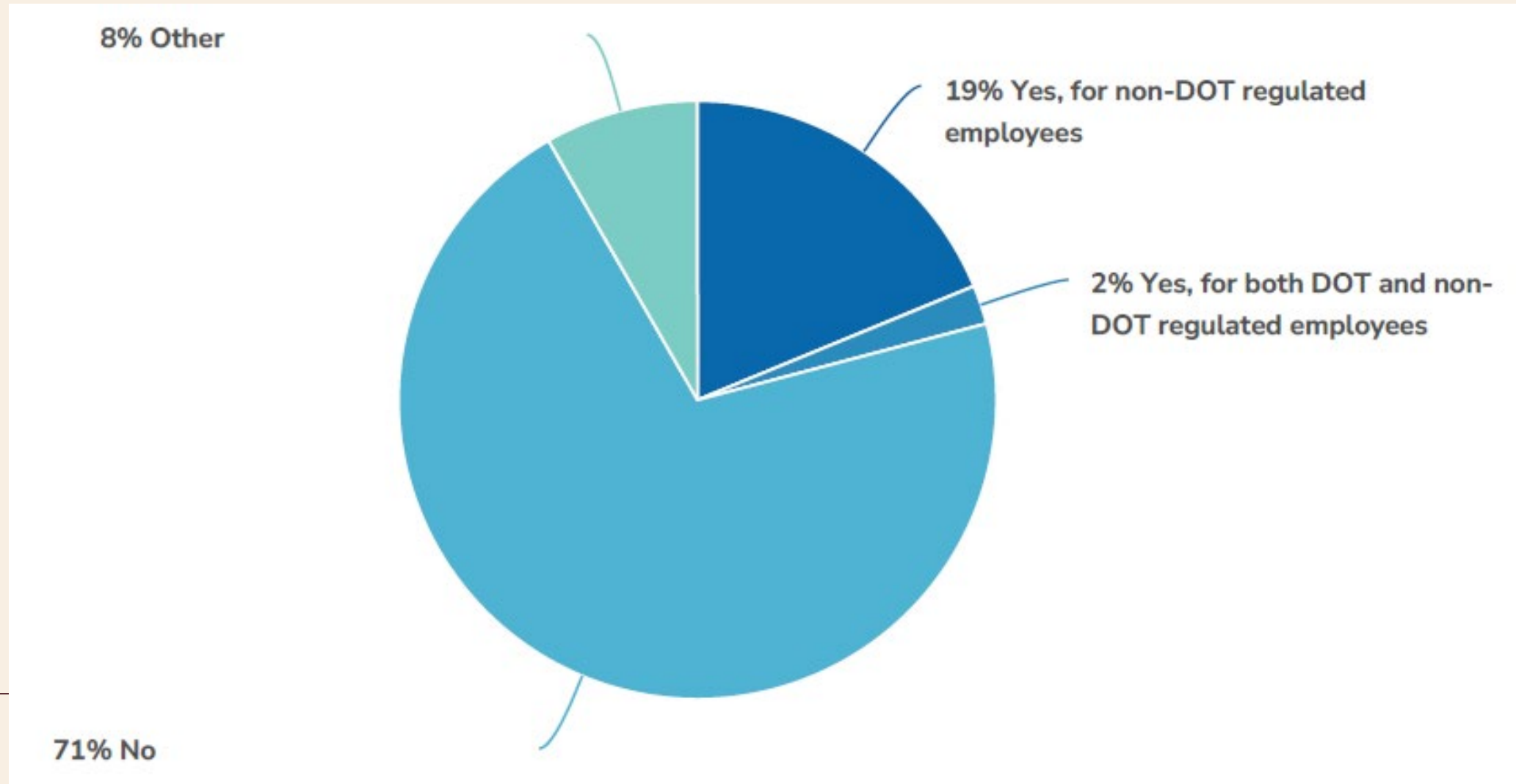


Marijuana Testing

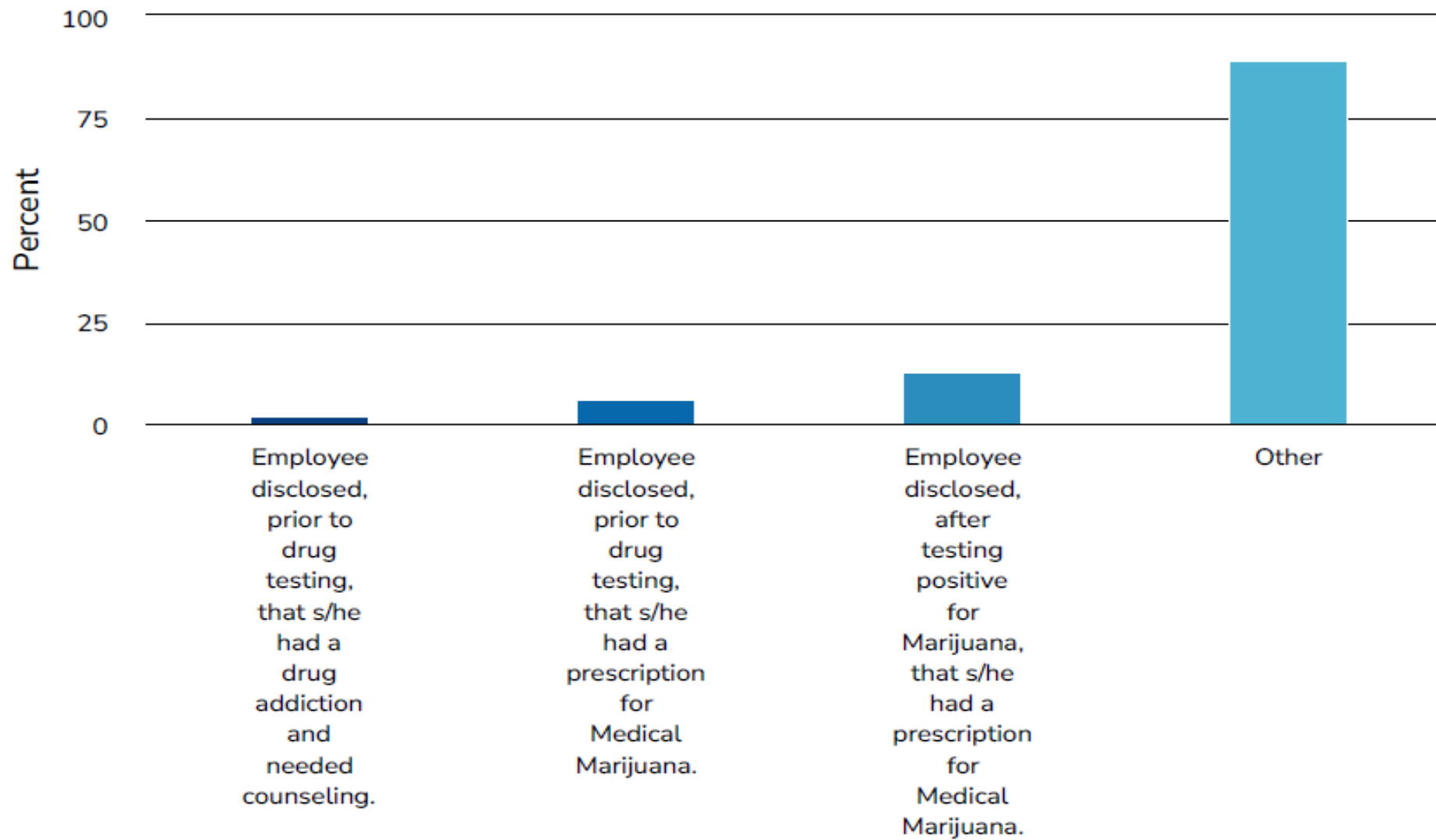
What is your company's position on testing for marijuana?



Has your agency noticed an increase in the number of positive tests leading to termination?



Identify which of the following has occurred in your agency as it pertains to marijuana.

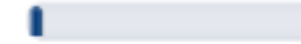


Value

Percent

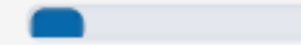
Employee disclosed, prior to drug testing, that s/he had a drug addiction and needed counseling.

2.2%



Employee disclosed, prior to drug testing, that s/he had a prescription for Medical Marijuana.

6.5%



Employee disclosed, after testing positive for Marijuana, that s/he had a prescription for Medical Marijuana.

13.0%



Other

89.1%



Identify which of the following has occurred in your agency as it pertains to marijuana – “Other”.

- Agencies stated that employees have tested positive for marijuana and claim to have been taking CBD gummies or Delta gummies.
 - Did not have a prescription but was told by their doctor that CBD products would work for their medical condition.
 - Employee disclosed that they had been prescribed CBD.
 - Employee resigned when told that he needed to submit to a drug test because he smelled like marijuana.
 - The agency has had employees inquiring about medical marijuana.
 - Employee disclosed using marijuana in a state where it was legal.
-

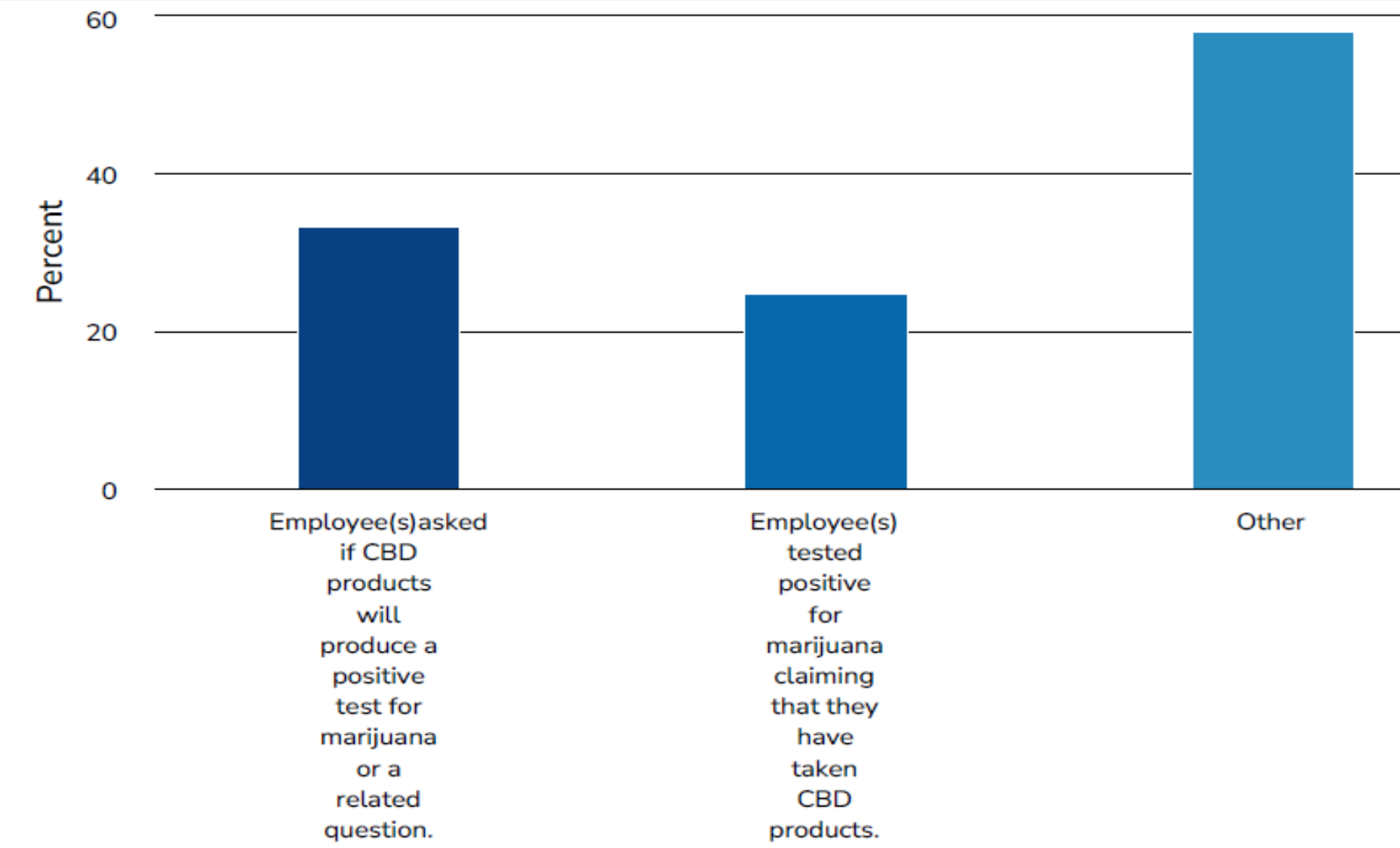
Identify which of the following has occurred in your agency as it pertains to Medical Marijuana (continued):

- Employee(s) was terminated for testing positive after using Delta 8 and CBD gummies.
 - Our state agency has a zero-tolerance rule, and we must terminate.
 - Our agency has not hired an employee who has a Medical Marijuana card. We follow federal statutes.
 - We have not had any employees disclose that they use Medical Marijuana.
 - Our agency is willing to review medical documentation.
-

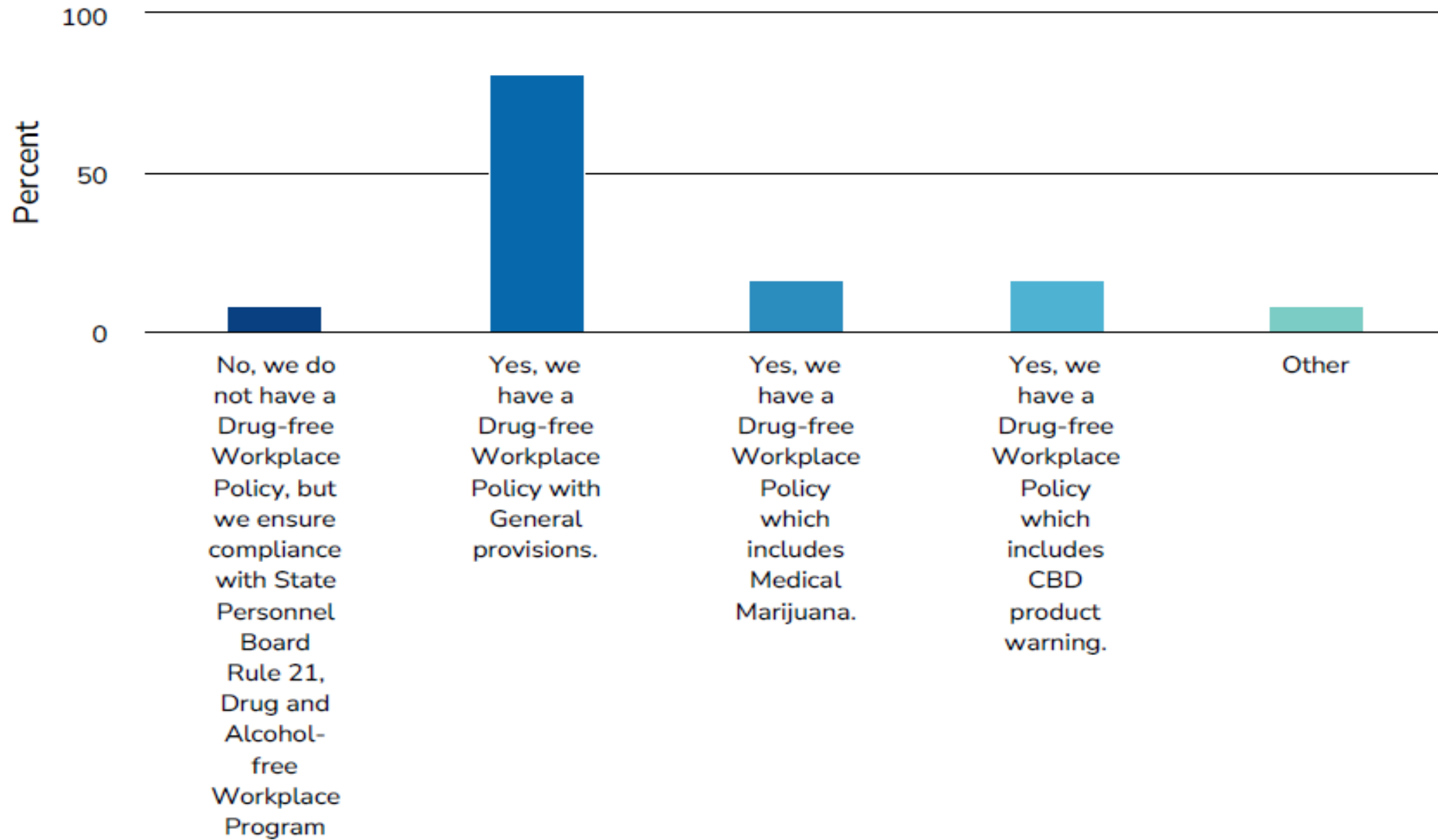
Identify which of the following has occurred in your agency as it pertains to Medical Marijuana (61.7% selected – Other, continued):

- If an employee in a safety-sensitive position tests positive for medical marijuana, the employee will be terminated. If an employee in a non-safety-sensitive position tests positive and the results indicate that the employee has provided the medical review officer with proof of lawful use, the employee will not be terminated.
-

Identify which of the following has occurred in your agency as it pertains to CBD Products



Does your agency have a Drug-free Workplace Policy?



FAQs ON Medical Marijuana



Can an agency terminate an Employee who tests positive for Marijuana although s/he is registered with the Public Department and has a Low THC Card?



Low THC Oil Registry

According to [OCCA §31-2A-18](#), the Low THC Oil Registry allows physicians fully licensed to practice in Georgia to certify and manage patients who have a qualifying condition to obtain Low THC Oil legally. Physician certification is the **only way** patients and their caregivers* can access Low THC Oil in the state.



<https://dph.georgia.gov/low-thc-oil-registry>

STATE of GEORGIA
LOW THC OIL REGISTRATION CARD

SAMPLE SAMPLE SAMPLE

John Q. Public
123 Main Street
Anywhere, Georgia 12345

CALL DEPARTMENT
OF PUBLIC HEALTH
TO VERIFY:
1-866-PUB-HLTH



Georgia Low THC Oil Program

THCRegistry@dph.ga.gov

[FindHelp Georgia DPH](#)

Primary: [\(770\) 909-2765](tel:(770)909-2765)

<http://www.candicelange.com/2019/03/11/georgia-low-thc-oil-registry-red-card/>



Is Medical Marijuana a type of accommodation under the ADAAA?

Does the employee have any ADA –rights related to medical marijuana?

Medical Marijuana Usage Is Not Protected Under the ADA

- A federal district judge in Vermont ruled that the ADA does not protect medical marijuana usage.
- Under the federal Controlled Substances Act, marijuana has “no currently accepted medical use” and therefore does not fall under the supervised use exception of the ADA.

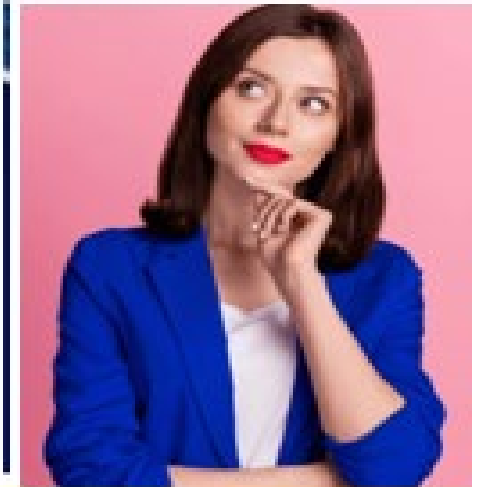
An employee comes to your HR Office after receiving random notification for drug testing. The employee reveals that s/he has been taking medical marijuana and show's you a copy of his card.

- Do you send the employee for the random test?
 - If the employee's drug testing returns positive, can s/he be terminated?
-

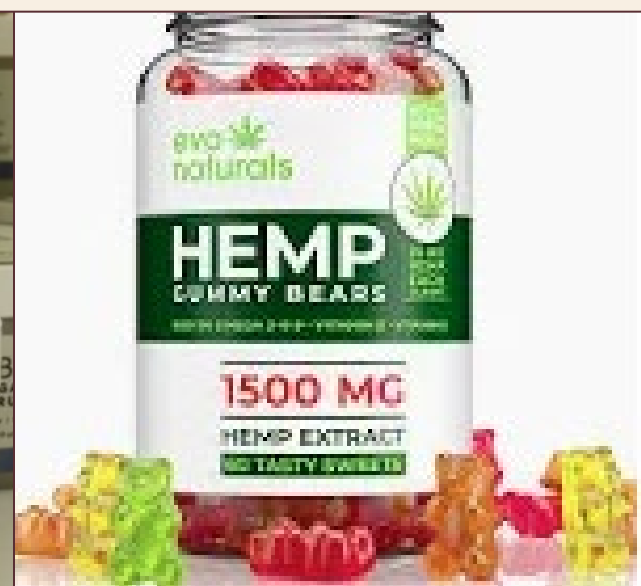
Will the MRO be able to confirm the employee tested positive because of medical marijuana?



Questions about Medical Marijuana?



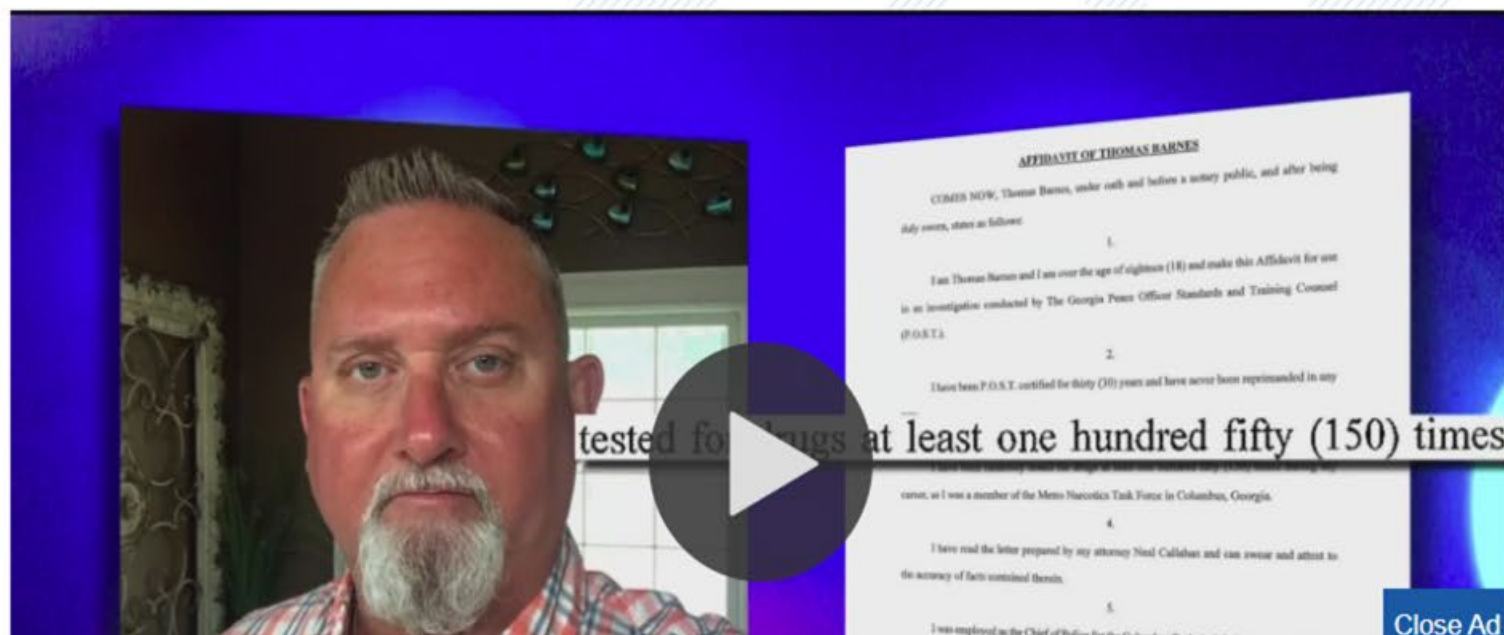
CBD Products – Are they safe?





Drug test cost Georgia police chief his job after using CBD oil, he says

CBD is legal, but a test showed illegal THC.



People warn of losing jobs, testing positive for THC after drinking tea that helps weight loss



ATLANTA — Local people who drank a herbal tea that is supposed to help with weight loss told **Channel 2 Action News** it caused them to lose their jobs by failing a drug test. Total Life Changes (TLC) makes a raspberry lemonade Iaso tea that claimed it contained zero percent THC on the label. Women told **Channel 2 Action News** they thought they had nothing to worry about until they took a drug test.



Penn Study Shows Nearly 70 Percent of Cannabidiol Extracts Sold Online Are Mislabeled

Mislabeleding may lead to adverse effects for patients, including children with epilepsy

November 07, 2017

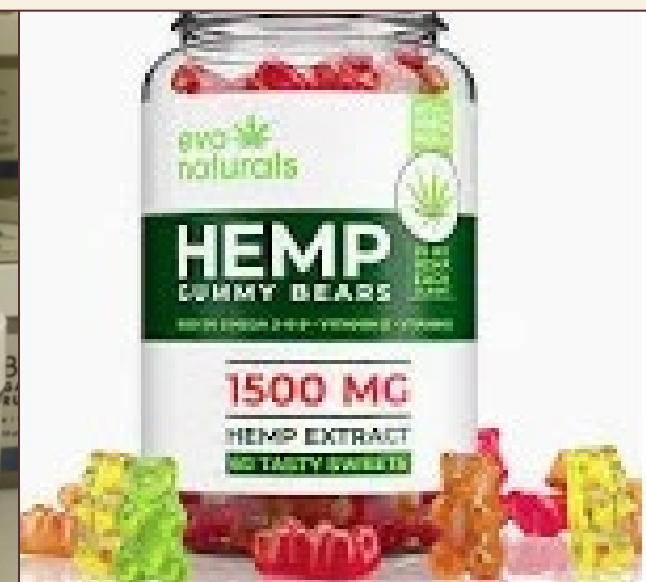
PHILADELPHIA – In recent years, there has been an increased interest in the medicinal use of Cannabidiol (CBD), a chemical that naturally occurs in the cannabis plant (aka “marijuana”). There is interest in CBD as a medicine because there is some evidence that it has medical benefits, but it does not make people feel “high” and there is no indication that CBD, by itself, is abused. Recent research has shown potential therapeutic effects of CBD for young children with rare seizure disorders, and patients in states where cannabis or CBD have been legalized report using it for a variety of health conditions. Business experts estimate that the market for CBD products will grow to more than \$2 billion in consumer sales within the next three years. While interest in this area continues to grow, little has been done to ensure regulation and oversight of the sale of products containing CBD. The primary reason for this is that CBD is currently classified as a Schedule I controlled dangerous substance by the DEA, despite having been legalized for medicinal use in many states. Thus, many people do not have access to stores that sell CBD products and instead rely on online retailers to purchase CBD products.

A new study by a Penn Medicine researcher, published this week in *JAMA*, found that nearly 70 percent of all cannabidiol products sold online are either over or under labeled, causing potential serious harm to its consumers. **Marcel Bonn-Miller, PhD**, an adjunct assistant professor of Psychology in Psychiatry and the lead author on the study, believes the mislabeling of cannabidiol products is a direct result of inadequate regulation and oversight.

<https://www.pennmedicine.org/news/news-releases/2017/november/penn-study-shows-nearly-70-percent-of-cannabidiol-extracts-sold-online-are-mislabeled>

[https://jamanetwork.com/journals/jama/fullarticle/2661569#:~:text=Eighty%2Dfour%20products%20were%20purchased,range%2C%201.33%2D800.00\).](https://jamanetwork.com/journals/jama/fullarticle/2661569#:~:text=Eighty%2Dfour%20products%20were%20purchased,range%2C%201.33%2D800.00).)

FAQs on CBD Products



Can an employee test positive as a result of digesting CBD?



Will the MRO be able to confirm that the product is a CBD product?



CHANGES TO GEORGIA DRUG LAWS STARTING JULY 1 2024

What is the new law for THC in Georgia?

The new law (started July 1, 2024) now requires all consumable hemp products to be tested for total delta-9 THC concentration. This will include calculating both delta 9 THC and THC-A in any product being sold. The combined amount cannot be above 0.3% THC (either or both Delta-9 or THC-A).

[https://www.cobbcriminaldefenselawyer.com/changes-to-georgia-drug-laws-starting-july-1-2024#:~:text=The%20new%20law%20\(starting%207,9%20or%20THC%2DA\).](https://www.cobbcriminaldefenselawyer.com/changes-to-georgia-drug-laws-starting-july-1-2024#:~:text=The%20new%20law%20(starting%207,9%20or%20THC%2DA).)

Questions about CBD Products?



Marijuana, Medical Marijuana, and CBD Products (a continuation)

Topics: Creating an Effective Drug Testing Policy Continuation of FAQs

Next Drug Testing Forum:
November 14th
10 AM – 11:30 AM

WORKPLACE DRUG TESTING POLICY (SAMPLE – Consult state laws)

(COMPANY) is committed to providing a safe, healthy and productive workplace that is free from alcohol and unlawful drugs as classified under local, state or federal laws, including marijuana, while employees are working on (COMPANY) premises and while operating employer-provided vehicles. Employees are prohibited from being under the influence of drugs or alcohol while on company premises or while operating company-provided vehicles.

(COMPANY) maintains a policy in which job applicants and current employees may be requested or required to submit to drug and alcohol testing in certain situations. This policy is intended to comply with applicable laws regarding drug and alcohol testing and any privacy rights.

Pre-employment Testing

All job applicants are subject to drug and alcohol testing. All offers of employment with (COMPANY) are conditioned on the applicant submitting to and successfully completing and passing a drug and alcohol test in accordance with the (COMPANY)'s testing procedures.

Reasonable Suspicion

Employees may be asked to submit to a drug and alcohol test if an employee's supervisor or other person in authority has a reasonable suspicion, based on objective factors such as the employee's appearance, speech, behavior or other conduct and facts, that the employee possesses or is under the influence of unlawful drugs, including marijuana, or alcohol, or both.

Employees who take over-the-counter medication or other lawful



Drug Testing Forum

Hosted by HRA-Policy



Trainings & Forums

Part II: Marijuana, Medical Marijuana and CBD Products

- **Developing Your Drug Testing Policy**
- **Continuation of FAQs**

Thursday, November 14, 2024

The Forum will be held from 10 AM to 11"30 AM.



Trainings & Forums

New Training Hosted by HRA-Policy

Monthly Substance Abuse Testing Onboarding Training

- Thursday, September 26, 2024

All training will be held from 10 AM to 11 AM



Trainings & Forums

Current Training Available Through Vendor, Vault Health

FirstRequest Portal Training “Electronic Chain of Custody Form and Electronic Scheduling”

- November 5, 2024 10 AM
- November 7, 2024 2 PM



Trainings & Forums

Current Training Available Through Vendor, Vault Health

US DOT Reasonable Suspicion Training for Supervisors

- Thursday, September 19, 2024 10 AM
- Tuesday, November 12, 2024 2 PM



Trainings & Forums

Current Trainings Offered by HRA-Policy

HRA-Policy offers customized training in numerous areas.

- Reasonable Suspicion for Supervisors
- Determining Position Eligibility for Drug Testing
- Current Trends in Drug Testing

Survey Link for Audience Feedback on this Forum

Link to the survey:

<https://survey.alchemer.com/s3/8015169/Quarterly-Drug-Testing-Forum-Survey-Q3>





Human Resources Administration



Gail Stowers

Senior Policy Analyst

Office: 404- 463-7060

Email: Gail.Stowers@doas.ga.gov

Website: doas.ga.gov

Lead. Empower. Collaborate.