



# Impairment at Work:

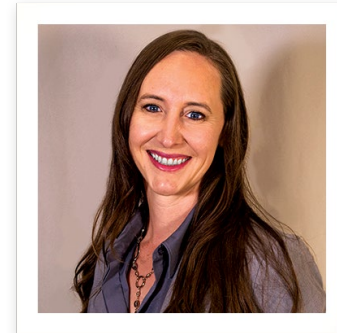
## *Effects of Marijuana Use on Worker Safety*

*Please note:*

- *All phone lines will automatically be muted on entry, and will remain muted for the length of the presentation.*
- *You may submit written questions via the “chat” icon shown here*  .

# Opening Remarks

- Karen Wake, CIC, CISR
  - » *AVP, Sales Optimization Specialist*
    - 414-287-6412
    - [kwake@johnsonfinancialgroup.com](mailto:kwake@johnsonfinancialgroup.com)
- Housekeeping Notes
  - » *This presentation will be recorded and distributed after the webinar.*
  - » *You will have an opportunity to ask questions at the end.*



# New Illinois Legislation

- On June 25<sup>th</sup> Illinois became the 11<sup>th</sup> to legalize marijuana use.
  - » *Legislation goes into effect January 1, 2020*
    - Illinois residents can purchase up to 1 ounce of cannabis.
    - Non-residents can purchase .50 ounces of cannabis.
      - *It is not legal to transport across state lines.*
      - *Not allowed in public, motor vehicles and can be prohibited from privately owned property.*
- Other states with legal recreational use are:
  - » *Alaska, California, Colorado, Maine, Massachusetts, Michigan, Oregon, Nevada, Vermont & Washington.*
  - » *More states have allowed Medical Use and Decriminalization laws.*



# Carrier Cannabis Exclusions

- Some carriers are adding exclusions to ALL policyholders to exclude cannabis exposures.
  - » *This may exclude bodily injury or property damage and personal and advertise injury exposures relating to the manufacturing, distribution, possession or use of cannabis related products.*
  - » *This cannabis definition may include products that include ANY amount of THC, including hemp.*
- Check your policy language!
  - » *If you business or industry has any association to a cannabis or cannabis related product, talk to your agent to assure proper coverage and exclusions.*



# Agenda

- **11:00am to 11:05am**
  - » *Introductions and opening remarks*
  - » *Karen Wake, Johnson Financial Group*
- **11:05am to 11:50am**
  - » *Laura Radke, MD*
  - » *Medical Director – Froedert & The Medical College at Wisconsin Occupational Health Services*
- **11:50am to Noon**
  - » *Q&A and closing remarks*

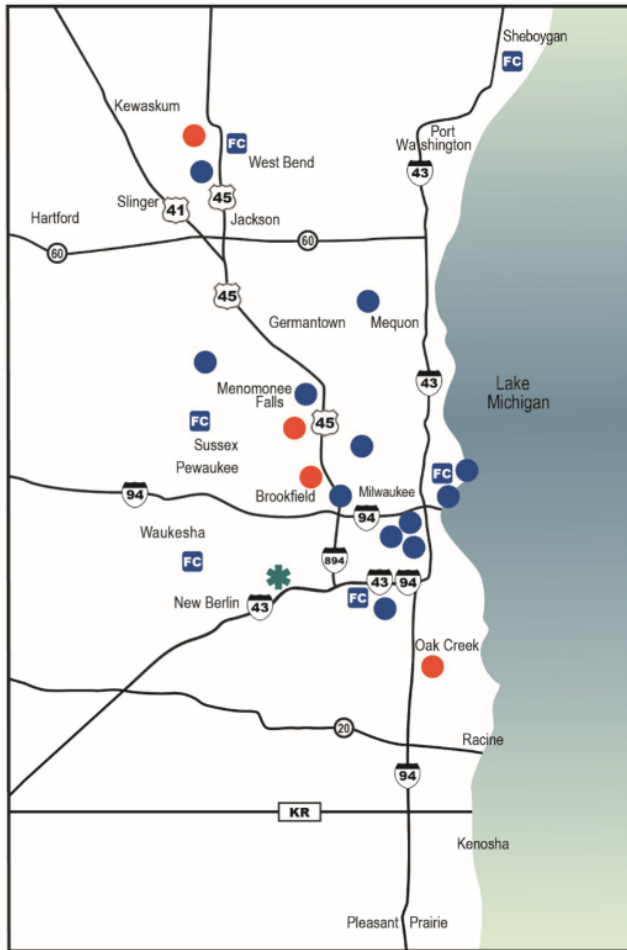


## Laura Radke, MD

- Medical Director – Froedtert & The Medical College of Wisconsin Occupational Health Services
  - *Internal Occupational Health Services – serving all staff, faculty, students and residents*
  - *Workforce Health Occupational Medicine Clinics – Menomonee Falls, New Berlin, Oak Creek, Wauwatosa, and West Bend*
- Board Certified - Infectious Disease
- Occupational Medicine – 20 years as physician and program medical director







# Workforce Health Service Locations



**Froedtert & Medical College of Wisconsin**

**Workforce Health**

-  Emergency Care/Health Center and Occupational Medicine Clinic
-  FastCares® Locations
-  Health Centers with Occupational Medicine Clinic
-  Workforce Health Workplace Clinics

# What is Cannabis?



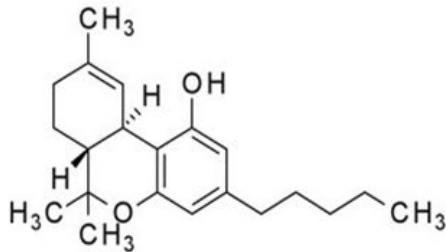
# What is Cannabis?

- Most frequently used illicit drug of abuse in the US/worldwide
- Second only to alcohol in cases of driving under the influence
- Classified at the federal level as Schedule 1
  - *No currently accepted medical use*
  - *High potential for abuse*

- Cannabis (and hemp) are a mixture THC and cannabidiol (CBD)
  - *Recreational cannabis (marijuana) is generally high in THC, low in CBD and vice versa for hemp*
- THC has complex metabolism that makes it difficult to use urine drug screening to demonstrate current intoxication/impairment
- Urine concentrations can stay elevated up to 36 days after use in frequent, heavy users
- Blood levels are also difficult to interpret; can have detectable THC/THCA up to one month in daily smokers

# THC vs CBD Effects

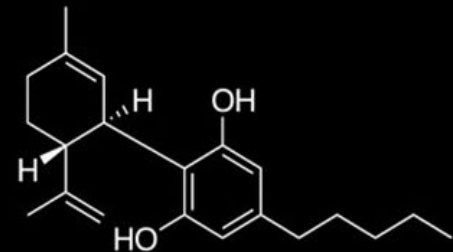
## THC



### Medical Benefits

- Psychoactive. Create the high! Euphoria
- Relieves pain and inflammation
- Causes anxiety for new users
- Create sense of relaxation and wellbeing
- Induces sleep
- Appetite stimulant

## CBD



### Medical Benefits

- Non-psychoactive -
- Combats inflammation and pain -
- Combats anxiety and depression -
- Suppresses Seizure activity -
- Combat neurodegenerative diseases -
- Combat psychosis -
- Combats tumors and cancer cells -
- Appetite suppressant -



  
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# Urine Drug Tests for THC

- Measure the amounts of THCA (11-nor-delta-9-tetrahydrocannabinol) in specimen
- Use immunoassays
- Have cut-off levels higher than the levels of detection
  - *Minimizes false positives*
  - *50 ng/ml is the Federal cut-off for screening; 15 ng/ml for confirmation*
- Do not detect synthetic cannabinoids, i.e. Spice

# Issues with Urine Screens

- Cannot differentiate recent from past use (detects anywhere from 3-36 days since last use depending on frequency/quantity of THC consumed)
- The results are not related to impairment/intoxication – takes time for THC to be metabolized and show up in urine
- Affected by frequency of use, relative amount of fat tissue

# “False Positive” THC Urine Drug Screen

- Does not cross-react with CBD: should not have positive result unless the product used contained THC in addition to CBD
- Second-hand smoke exposure is not likely to result in urine levels above the established federal testing cutoffs, as shown by at least one study
- Dronabinol (Marinol) is an FDA-approved oral formulation of THC; will cause a positive drug screen, donor should have prescription for use
- Efavirenz: reverse transcriptase inhibitor used to treat HIV does cross-react, donor should have prescription for use

# Legal Implications of Marijuana Legislation

Department Of Justice 2013

“expects states...to create strong, state-based enforcement efforts...and will defer the right to challenge their legalization laws at this time.”

# Americans with Disabilities Act

- Employers who fire or refuse to hire employees for using marijuana are not in violation of the ADA or other federal antidiscrimination statutes (as long as marijuana is illegal under federal law)
- Decision to test must be job-related and necessary for business, conducted when there is evidence of a safety or job performance issue.
- ADA does not require employers to permit marijuana use, even if the employee is a registered medical marijuana patient



# Drug and Alcohol Testing Regulations

- US DOT – marijuana use remains unacceptable for any safety-sensitive employee subject to testing under DOT regulations
- Use of SAMHSA testing guidelines/procedures is recommended

# Drug Free Workplace Act

- Requires that employers publish and distribute a policy statement
- Specify actions that will be taken for those who violate policy
- Provide education in the workplace about dangers of drug use
- Provide education about available counseling and EAP
- Employees working for federal contractors may be subject to discipline for marijuana use, regardless of whether it is permitted by state law

# State Laws

- States with recreational marijuana laws generally do not provide protection for employee discrimination
- Laws do not require employers to permit drug use in the workplace nor tolerate employees who report in an impaired state
- Drug-free-workplace policies may be instituted

# Medical Issues Related to Marijuana Use

# Metabolism and Impairment

- Subjective “high” and impairment occur within minutes of smoking
- Impairment varies with dose and how it is taken in
  - Smoking: Peaks at one hour and lasts 3-4 hours after smoking, but may last up to 6 hours\*
  - Oral ingestion: Peaks at 30 minutes and lasts up to ~ 5 hours after ingestion\*

\*Potency of marijuana has been increasing; may have longer periods of impairment.

# Recognizing Impairment

# Metabolism and Impairment

- Chronic, frequent users may exhibit less impairment from acute use than occasional users
- Impairment for safety-sensitive positions is less clear
  - may still have significant impairment for these activities

# Impact on Employment

- Employees who abuse drugs are:
  - 75% more likely to miss work
  - 55% more likely to have a work-related accident
  - 85% more likely to file a Worker's Compensation claim
  - Significantly less productive (“presenteeism”)

Source:NIH/NIDA



# Impairment

- Impairment is.....
  - Working in an unsafe manner.
  - Caused by an emotional, psychological, medical, or other health condition, such as alcohol or drug dependency.
  - Consistent lateness, absenteeism or decreased productivity.
  - Behavior that is out of character for an employee; a significant change from typical behavior.

# Impairment Due to Marijuana

- Signs are "nonspecific"
- Drowsiness/sedation, red or glassy eyes
- Poor coordination/delayed reaction time
- Loss of control
- Distorted perception
- Personality changes, mood swings
- Difficulty solving problems
- Anxiety/Paranoia

Source:NIH/NIDA

# Effects Are Long Lasting

- Impairment can last hours to weeks with repeated use
  - Impaired learning and coordination
  - Sleep problems
  - Impaired memory
  - Potential decrease in IQ
  - Increased risk of psychosis/schizophrenia in those with genetic vulnerability

Source:NIH/NIDA

# Effects On Driving

- Perception of time, speed and distance
- Ability to draw on information obtained from experiences
- Ability to demonstrate coordination on divided attention tasks
- Attentiveness
- Drivers with THC-positive blood tests are 3-6 times more likely to be involved in a crash than those without a positive test

# Effects On Driving

- Chronic users may experience less acute impairment
- Further research is necessary to define levels related to impairment in chronic users
- AAOHN/ACOEM joint panel statement, April 2015:
  - *“It is the consensus of the Panel that a serum level of 5 ng/ml should be used to ensure a safe workplace.”*
  - *Several states use this level to define DUI (Colorado and Washington)*

# Recognizing an Impaired Employee

- Determination of impairment requires consideration of the behavior as well as further medical evaluation
  - Documenting signs and symptoms of impairment can be used as a reason for performing testing of body fluid
  - For federally regulated programs or where use is prohibited by the employer, urine testing is sufficient...but is not necessarily evidence of impairment
- Serum levels of THC metabolites may be used to establish an initial presumption of impairment
  - Presence of THC metabolites in serum does not definitively establish acute impairment

# Recognizing an Impaired Employee

- "Know it when you see it"
- The behavior is grossly out of character
- Judgment is impaired
- Confused, unable to think clearly
- Unable to stay awake or alert
- Extreme changes in mood or even threatening
- Unable to calm down

# Documenting Impairment

Other ways to identify impairment:

1. Evaluation of employee in an occupational medicine clinic  
(or ED after hours)
2. Perform physical exam and neurocognitive testing
3. Obtain urine drug test and breath alcohol test
4. Draw a blood sample to assess for marijuana
  - (level >2-5 ng/mL) – this testing may be difficult to access currently in the state of Wisconsin
5. Administer breathalyzer or saliva test  
(not yet available; may be may be soon)



# Workplace Impairment/Drug Screening Policy Development

# Policy Development – Essential Drug-Testing Considerations

- OSHA requires employers address impaired workers who contribute to an unsafe work environment
- Clear, well-written policies regarding drug and alcohol use and workplace impairment are critical and best practice
- Should include guidelines for fitness for duty evaluation as well as testing

# Minimize Risk

## OSHA General Duty Clause - OSH Act of 1970

### **Each employer**

- (1) 29 USC 654 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;
- (2) shall comply with occupational safety and health standards promulgated under this Act.

# Drug Policy

- If you currently have a policy, review it regularly
- Stay on top of changes in State of Wisconsin legislation that might affect your policy language
- Determine your business strategy with regard to testing
- Communicate changes to the policy in advance to employees

# Steps in Creating a Policy

- Explain the company's purpose/reasons for instituting, i.e. drug free workplace
- Define prohibited conduct
  - Clearly define what is not allowed, i.e. illegal drugs and misuse of prescriptions drugs
- Describe circumstances that will trigger testing
- Determine the testing methodology that will be used
- Determine what substances will be tested

# Steps in Creating a Policy

- Define the ramifications of a positive result
- Define the ramifications of an initial positive result
  - Will the employee be furloughed until confirmed?
- Review policy draft with legal counsel and establish an effective date
- Review final policy with supervisory staff prior to implementation and provide necessary training
- Establish and communicate detailed procedures to human resources

# Medical Marijuana

- Not currently legal in WI, but this could change in the near future
- Consult with legal counsel regarding employee use of medical marijuana if law changes and you wish to incorporate this in your policy
- Regular review of policy may be necessary to ensure compliance with all applicable laws

# Questions?





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**Thank you for attending!**