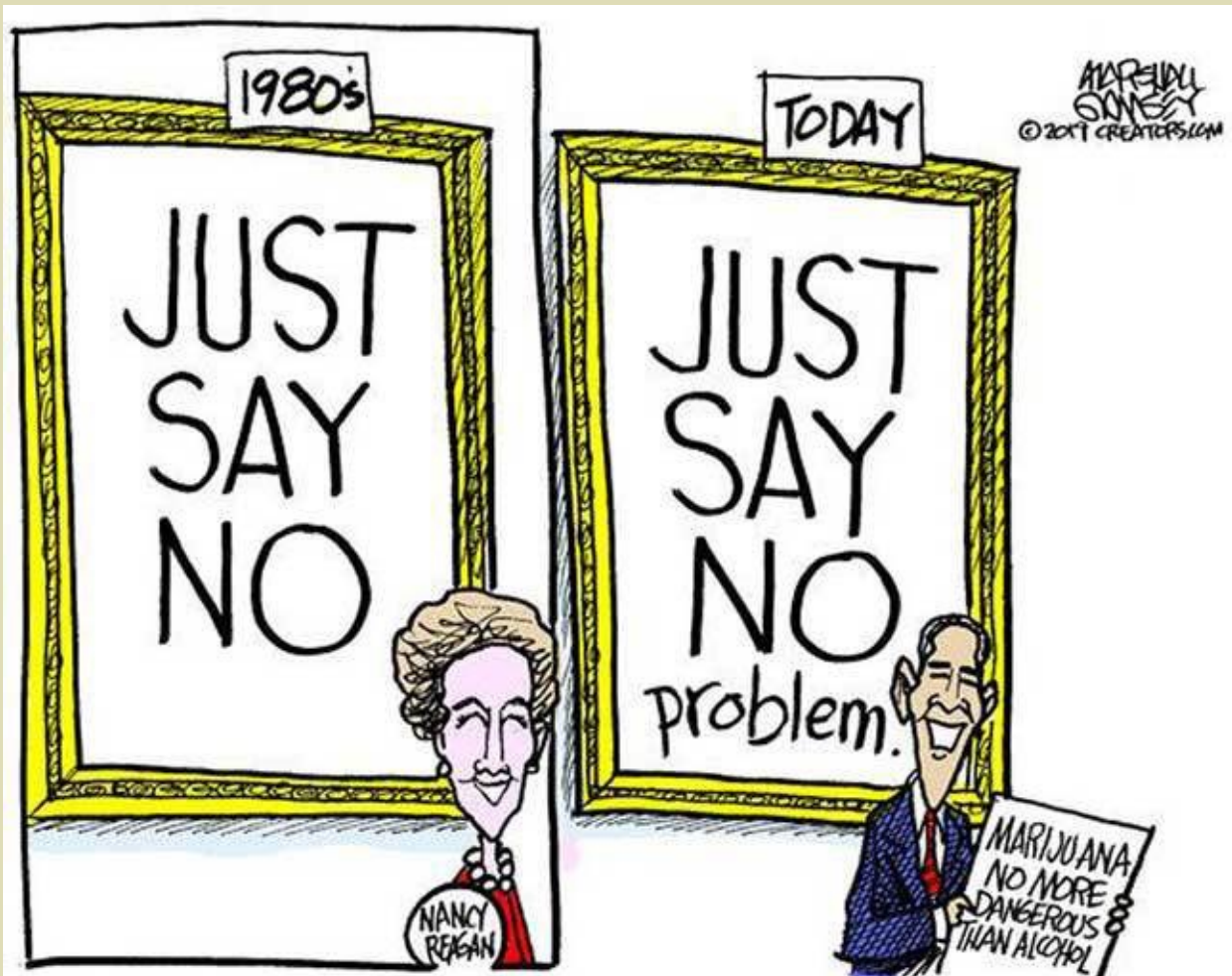


Medical Marijuana In The Workplace



Know these Guys.....?





Fun/Interesting Marijuana Facts

- In 1972, the first transaction on ARPNET (the precursor to the internet we know today) concerned a marijuana deal between students at Stanford and MIT – The Smithsonian Magazine
- Marijuana is today still a Schedule 1 substance under Federal Law; whereas, morphine and oxycodone are Schedule 2
- In 2015, 574,641 arrests for possession of marijuana. In 2015, 505,681 arrests made for all other violent crimes including murder, rape and serious assaults – The New York Times
- Legalizing pot would generate \$8.7 billion in tax revenue annually – CATO Institute

TODAY

162,000 Medical Marijuana
Cardholders Statewide

2022 Medical Marijuana monthly
sales are averaging \$9 million up
from \$7.2 million in 2021

Medical Marijuana is **Legal** in Ohio
to treat 26 Different Medical
Conditions, including:

- Chronic Pain
- PTSD
- Spinal Cord Disease or Injury
- Fibromyalgia

• *among other conditions*

Only **Prohibited** Delivery Form
Is Smoking

W. COMP REBUTTABLE PRESUMPTION DEFENSE

REQUIREMENTS

- Notice of Intent
- W/I 32 hours for drugs
- “Qualifying” Test Facility
- Reasonable Cause/Suspicion-
Documented

Drug Testing



"You're fired, Jack. The lab results just came back, and you tested positive for Coke."

Case Study



- Been with company few years
- Has a medical marijuana card
- Tardy, glassy eyed, mistake prone

ACCIDENT:

In warehouse when a large plate of steel he was moving landed on legs.

Rushed to LakeWest ED for treatment

Told co-worker couldn't pass drug test

Accident report completed

Drug Test:

Cannot pee—not administered day of injury; 6 days later—Positive

Off work

Termed – Drug Policy Violation

Workers' Comp Claim

Employee:

Injured on job

Medical Marijuana Card

Crush injury caused by accident

Employer:

Rebuttable Presumption Defense?

(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 in the employee's system that tests above the following levels:

(ii) For cannabinoids, fifty nanograms per milliliter of urine

Disability Benefits

Employee:

Medco-14 – disabled by crush injury

Employer:

Fired. No TTD?

RE 4123.56

(F) If an employee is unable to work or suffers a wage loss as the direct result of an impairment arising from an injury or occupational disease, the employee is entitled to receive compensation under this section, provided the employee is otherwise qualified. If an employee is not working or has suffered a wage loss as the direct result of reasons unrelated to the allowed injury or occupational disease, the employee is not eligible to receive compensation under this section. It is the intent of the general assembly to supersede any previous judicial decision that applied the doctrine of voluntary abandonment to a claim brought under this section. *R.C. §4123.56*

Loses Job

Employee:

ADA Discrimination

Ohio

Employer:

Zero Tolerance

Illegal Controlled Substance under Federal Law

Drug Use not Disability

RECAP

- Drug-Free Workplace Programs
Still Control
- **NO** FMLA/ADA ACCOMMODATION
- Employer **CAN FIRE** for Medical Marijuana Use

- “**JUST CAUSE**” If DFWP or Zero Tolerance Policy
- **NO CHANGE** as to the Rebuttable Presumption Defense

YOUR QUESTIONS

THE END

