

Considerations for State Regulated Cannabis Programs:
Medical, Legal and Ethical

*Investigation: Oregon Health System Perpetuates Health
Inequities Via Systemic Anti-Cannabis Bias*

Employment Drug Testing of Providers & Healthcare Workers in Oregon

Presented to: OCC Patient Equity and Governance Frame Working Subcommittee

By: Liz Porter, MSSM
Health Environment Justice

8/24/2021

Goals of presentation

1. Summarize findings in white paper, “Oregon Healthcare Employee Drug Testing Policies and Cannabis”
 2. Identify policies on cannabis in the Oregon healthcare system that are in conflict with goal of civil rights for cannabis consumers and health parity for medical cannabis uses.
 3. Outline drug testing policies (for THC) in Oregon healthcare system by healthcare sector employers,
 4. Show examples of the misinformation communicated by healthcare employers to justify practice.
 5. Show example of the misinformation communicated by state (OHSU) to justify practice.
 6. Review samples of marketing of drug testing and rationale to sell.
 7. Describe rationale marketed by drug testing industry to drug test healthcare employees
 8. List & review justifications used by employers to drug test for THC
 9. Examine evidence of safety rationale for drug testing.
 10. Examine other rationales for drug testing.
 11. Summarize why THC drug testing has a negative impacts on healthcare system.
 12. Consider why drug testing continues despite a lack of evidence supporting legal or safety rationale.
 13. Discuss how pre-employment drug testing biases healthcare workforce.
- Identify remedies to Oregon (cannabis) policies that help attain health parity goals.
14. Discuss how pre-employment drug testing biases healthcare workforce.
 15. Session follow-up & questions.

1. Summarize findings in white paper, “Oregon Healthcare Employee Drug Testing Policies and Cannabis”

“Oregon Healthcare Employee Drug Testing Policies and Cannabis”

- Federal law does not require drug testing of clinicians or healthcare workers.
- The results of positive drug tests are not diagnostic of a substance misuse disorder nor evidence of impairment as identified in state rules.
- THC is detectable in the system significantly longer than drugs of abuse, impacting employee activities outside of the workplace. THC effects differ in novel and experienced users so real time detection measures would not accurately measure impairment.
- The evidence does not show any causal relationship between workplace safety and drug testing.
- These practices, advocated by a +\$5B/year industry, reinforce both explicit and implicit biases (all cannabis use is harmful, and it is not a substance that should be ever used by healthcare workers)
- Establishing a zero tolerance cannabis use policy influences healthcare workforce attitudes against cannabis and reinforces systemic bias against patients who use cannabis.

2. Identify policies on cannabis in the Oregon healthcare system that are in conflict with goal of civil rights for cannabis consumers and health parity for medical cannabis uses.

Policies and Rules for Healthcare Worker Employment THC Drug Screening

- Rule: [105-050-004 Drug Testing State Employees](#) (DAS, 2018)
- Rule: [409-030-0210 Drug Testing for Substance Misuse and Abuse in Student Clinical Training](#) (OHA, 2019)
- Policy: [Drug Free Workplace FAQs](#) (DAS, 2020)
- Rule: [471-030-0125 UNEMPLOYMENT INSURANCE BENEFITS AND CLAIMS](#) Drug, Cannabis, and Alcohol Adjudication Policy and Refusal of Drug test (DAS)
- Policy Guidance: [50.000.02 Drug Testing of Employees in Designated Jobs](#) (DAS, 2019)
- Unpublished Policies: OHP provider organization / CCA*.
- (employees and contractors drug testing, and major Oregon hospital systems (sources: reported cases, social media searches, phone calls, 3/2020-8/2021)

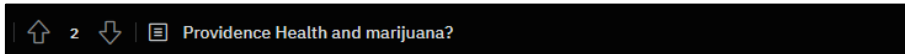
* A **coordinated care organization** is a network of all types of health care providers (physical health care, addictions and mental health care and dental care providers) who work together in their local communities to serve people who receive health care coverage under the Oregon Health Plan (Medicaid). CCOs focus on prevention and helping people manage chronic conditions, like diabetes. This helps reduce unnecessary emergency room visits and gives people support to be healthy, <https://www.oregon.gov/oha/hsd/ohp/pages/coordinated-care-organizations.aspx>

Links verified 8/23/2021

Note: there is an [active notice of proposed rulemaking](#) regarding clinician pre-placement requirements on Covid-19 vaccination that still falsely labels 10-panel urine drug screen as a “substance abuse screening”. This is false information.

3. Outline drug testing policies (for THC) in Oregon healthcare system by healthcare sector employers.

Pre-employment Drug Screening With Zero Tolerance for Cannabis Required by Oregon's Largest Private Healthcare Corporations



2 Providence Health and marijuana?

Posted by u/ecieri 1 year ago

2 Providence Health and marijuana?

Okay so I just got hired at Providence St. Joseph in WA. Weed is legal here but as we all know, not federally. I am a daily smoker of marijuana but never before work. I am never impaired while at work. I passed my pre employment drug screen and went through the new employee orientation. They had one slide at the end of an 8 hour orientation that said a drug free workplace and they comply with federal law. I smoked throughout nursing school and was just fine but they never did random tests. Does providence do random drug screens? At another providence location (Spokane) I had a nurse preceptor say she smoked daily and she's not the only one. She said she has never heard of them doing random drug tests. Is this true? I just want to smoke after a long day!


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Phelixer · 1y

I don't know about Providence Health specifically, but generally speaking, random drug tests are only done if there's a specific incident which sparks concern.

11 Share Report Save

ecieri OP · 1y



Name:			
	(Last)	(First)	(Middle)
Address:			
City:		State:	Zip:
DOB:	/	/19	SSN:
Ph #:	-	-	Department:

Employment Agreement
Please initial each paragraph indicating you have read and understand each statement.

___ I understand that my employment at Northwest Service Area/Providence Regional Medical Center Everett (NWSA/PRMCE) is contingent upon this pre-placement assessment. I understand that Employee Health Services will give me 2 weeks to provide medical clearance and/or medical records for any physical or mental condition that may affect my ability to perform the essential functions of this job with or without reasonable accommodation.

___ The essential functions and physical requirements of this job have been explained to me prior to this pre-placement assessment. I am able to perform the essential functions of this job with or without reasonable accommodations.

___ I understand that NWSA/PRMCE may do a background check to find out if I have ever had a prior workers' compensation accident. I understand that any falsification of the workers' compensation portion of this pre-placement assessment may be grounds for immediate termination.

___ I understand that, if I am at risk for occupational exposure to blood-borne pathogens, I will be screened for Hepatitis C and Hepatitis B. If I test positive for Hepatitis B or Hepatitis C, I may be restricted from performing exposure-prone procedures at the discretion of NWSA/PRMCE.

___ I agree to comply with NWSA/PRMCE mandatory vaccination policies. Employee Health will provide these vaccines to me at no charge. (See Employee Health policy #EH106: Immunization and Antibody Screening).

___ I will receive a skin test(s) for tuberculosis and/or a chest x-ray during this pre-placement assessment. If my tuberculin skin test (TST) is positive, I understand that I must have a "negative" chest x-ray result prior to starting work. I will be required to obtain medical clearance from my own physician or the health department within 30 days of my start date.

___ I understand that if my urine drug screen results are positive, as determined by a certified Medical Review officer, I will be denied employment and cannot re-apply for at least one year.

___ I certify that the information I provide on this pre-placement assessment is confidential and accurate to the best of my knowledge. I understand that any misstatement, misrepresentation, omission, or falsification of any portion of this pre-placement assessment is grounds for immediate termination or refusal to hire, and relieves NWSA/PRMCE of all responsibilities involving a former illness or injury which may occur after being employed.

___ I understand that if a physical examination at Employee Health is required, it does not replace the physical exam from my primary care provider.

Applicant Signature _____ Date _____


C:\Documents and Settings\p6999\Local Settings\Temporary Internet Files\Content.Outlook\GFWU59NR\2011 NEO Complete Packet.doc - 1 -

___ I understand that if my urine drug screen results are positive, as determined by a certified Medical Review officer, I will be denied employment and cannot re-apply for at least one year.

4. Show examples of the misinformation communicated by healthcare employers to justify using no cause pre employment drug testing on prospects.

HR rep falsely attributes testing policy to federal requirements.

[< View all 56 questions about PeaceHealth](#)

 **Does Peacehealth drug test for marijuana and if so, can an RN who is prescribed medical marijuana still work?**

Asked February 25, 2018

2 answers

Answered May 29, 2019 - Recruiter (Current Employee) - Vancouver, WA

Yes, they screen for it and I believe you can not work on it because of federal rules


[Upvote](#) [Downvote](#)

Answered March 5, 2018 - Patient Access Representative (Former Employee) - Bellingham, WA

They do drug test

[Upvote](#) [Downvote](#)

Corporate web site falsely attributes pre employment drug testing to on-the-job sobriety.



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Feature Article

Want the Job? Be Prepared to Take a Drug Test

February 10, 2020

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Congratulations! You've got the job ... pending results of a pre-employment drug screen. What happens next?

Drug testing is common, particularly in organizations where sobriety is critical to job function, such as jobs that require driving, the operation of heavy machinery, or patient care. But any

5. Show examples of the misinformation communicated by state to justify practice.

Indoctrinating a New Generation of Health Professionals at OHSU with Zero Tolerance Policies on Cannabis

ments shall be made for testing and for transportation home as
of 18 wing the test. Refusal to submit to the test or failure to
to the testing site is cause for disciplinary action.

Oregon

OHSU's [Drug and Alcohol Testing policy](#) also provides for pre-employment testing of applicants for specified positions and reasonable suspicion testing of employees who are suspected of being under the influence of unlawful drugs or alcohol while at work. The drug test panel for both pre-employment and for-cause testing includes THC, which remains illegal under federal law. This policy was also updated to clarify that "an unlawful drug is any drug that is illegal under federal, state or local law.

Employees with a professional license should keep in mind that many professional licensing boards have their own requirements regarding drug and alcohol use.

Conduct Relating to Students-Proscribed Conduct

[Policy No. 02-03-010](#)

A student shall engage in conduct proscribed by an applicable school or program by the University or its Board of Directors, including but not limited to the OHSU Code of Conduct. Engaging in proscribed conduct shall subject a student to sanctions ranging from oral or written reprimand to dismissal, according to the procedures administered by the student's school or program.

Proscribed conduct related to alcohol and drug use:

Illegal use, possession, manufacture, diversion, sale, dispensation, or distribution of drugs or controlled substances, including being under the influence or impaired, on institutionally owned or controlled property

OHSU conflates addressing the workplace problem of being "under the influence of unlawful drugs or alcohol" with a requirement to undergo a pre employment urine drug test that does not include alcohol screening, and has no bearing to workplace impairment.

6. Review samples of marketing of drug testing and rationale to sell.

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Thinking About Dropping Marijuana?

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Thinking about dropping marijuana from your drug test




Thinking About Dropping Marijuana From Your Drug Test?

Some employers may be thinking about dropping marijuana from their drug testing panel as a way to address legalization. Learn about what to consider before making any changes to your drug-free workplace program in a short video produced by our friends at [Drug Free Business](#).

Thinking about dropping marijuana from your drug test

Watch later | Share



Watch on YouTube

Users impaired 21 days after last use

July 24, 2020

Articles

Does workforce drug testing work?
Quest Diagnostics Employer Solutions Blog | Dr. Barry Sample | 19 January 2021 As states pass legislation to allow medical and recreational marijuana use, some are questioning whether workplace drug...

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NCCI Released a New Research Brief
NCCI released a new research brief on Drug-Free Workplace Premium Credit Programs, noting that legalization of marijuana, both recreational and medical, has been an active issue over the last few...

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Controlling drugs and alcohol in the waste industry
Waste Today Magazine | Adam Redling | January 12, 2021 Controlling drugs and alcohol in the waste industry Waste companies face a number of staffing challenges related to recruitment and...

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Tobacco-Free Workplace Benefits
Tobacco-free workplaces protect all employees from the harms of secondhand smoke and can motivate persons who currently use tobacco to stop or decrease its use. Employers that take the steps...

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National Alliance promotes safety fears to help sell drug tests. Guest columnist is spokesperson for industry.

<https://blog.employersolutions.com/does-workplace-drug-testing-work/>

<https://www.hireright.com/blog/background-checks/drug-testing/think-th>

Think the Cost of Drug Testing is Too High?
Think Again

7. Describe rationale marketed by drug testing industry to drug test healthcare employees

Why test healthcare workers?

Proximity to controlled substances & risk of diversion.

Patient safety.

Occupational risk (allegedly healthcare workers more likely to abuse drugs than general population.

However, this is disputed information.

There is no evidence to support an association between cannabis use and drug diversion or unsafe patient care.

Here are a few articles about drug testing healthcare workers:

- [Prevalence of Drug Testing Among Family Medicine Residents and Students: Much Needed Data](#), Julius Cuong Pham, MD, PhD; Peter J. Pronovost, MD, PhD; Gregory E. Skipper, MD, Journal of Graduate Medical Education, 2015. Review. Tries to correlate drug testing as deterrent showing a reduction of positive THC tests in a medical cohort when testing is part of a written employment policy. However, authors jump to improved safety as a potential outcome of testing without any supporting evidence.
- [Pre-employment urine drug testing of hospital employees: future questions and review of current literature](#). M R Levine, W P Rennie. BMJ Occupational & Environmental Medicine, 2004. A literature search of Medline from 1980 to 1999 was performed. This yielded seven citations that reported results of pre-employment drug testing of health care workers, critically reviewed. Testing was not always applied uniformly to all health care workers. Although pre-employment drug testing programmes in the health care industry have been firmly in place for many years, it is unclear whether such strategies have achieved their stated purposes. The next step is to study whether such programmes are effective at accomplishing specific goals, such as decreasing absenteeism, turnover, accidents, and medical errors, in order to justify continuing pre-employment testing versus changing to an alternative testing strategy.

8. List & review justifications used by employers to drug test for THC

Justification to Require Drug Test	Evidence to Support Policy
Required by Federal law	NOT TRUE (only a small subset of DOT workers are federally mandated to be drug tested).
On-the-job safety (i.e., impairment, workplace accidents, and drug diversion)	Evidence does not support.
Deterrent for employee illegal drug use (negative traits such as absenteeism, theft, bad judgment, poor performance attributed to those who would fail the screening.)	No evidence that workplace illegal drug use changes with testing. However, practice reinforces bias that anyone who uses cannabis is unfit for providing healthcare.
Lowers general liability insurance rates for employers who test.	After follow up with major underwriters, no explicit commitment to lower rates with testing program.

9. Examine evidence of safety rationale for drug testing.

- “Random drug and alcohol testing for preventing injury in workers”. Charl Els, Tanya D Jackson, Mathew T Milen, Diane Kuny, Graeme Wyatt, Daniel Sowa, Reidar Hagtvedt, Danika Deibert, Sebastian Straube PMID: 33368213 PMCID: PMC8130990 (available on 2021-12-27) DOI: 10.1002/14651858.CD012921.pub2 Meta analysis done in 2021 of studies of testing and workplace injuries. The only (weak) positive correlation was for alcohol testing, which is not found on the “substance abuse screening” used by Oregon. <https://pubmed.ncbi.nlm.nih.gov/33368213/>
- “Testing for cannabis in the work-place: a review of the evidence”. Scott Macdonald, Wayne Hall, Paul Roman, Tim Stockwell, Michelle Coghlan, Sverre Nesvaag. A 20-year retrospective shows urine testing does not have a meaningful impact on job injury/accident rates. Data analysis also shows no evidence that cannabis users experienced higher rates of work-related injuries. PubMed <https://pubmed.ncbi.nlm.nih.gov/20402984/> Addiction 2010 Mar;105(3):408-16. doi: 10.1111/j.1360-0443.2009.02808.x. No association between pre employment drug testing and accident reduction.
- “Determinants of Drug Testing Policy” Evidence supports drug testing for social control as opposed to prevent workplace impairment (doctoral dissertation in social policy) <https://repository.lib.ncsu.edu/bitstream/handle/1840.16/4414/etd.pdf?sequence=1> (downloaded 8/21)
- “How effective is drug testing as a workplace safety strategy? A systematic review of the evidence.” Ken Pidd, Ann M. Roche. <https://www.sciencedirect.com/science/article/abs/pii/S0001457514001547?via%3Dihub> 23 studies were reviewed and assessed, six of which reported on the effectiveness of testing in reducing employee drug use and 17 which reported on occupational accident or injury rates. No studies involved randomised control trials. Only one study was assessed as demonstrating strong methodological rigour. That study found random alcohol testing reduced fatal accidents in the transport industry. The majority of studies reviewed contained methodological weaknesses including; inappropriate study design, limited sample representativeness, the use of ecological data to evaluate individual behaviour change and failure to adequately control for potentially confounding variables. This latter finding is consistent with previous reviews and indicates the evidence base for the effectiveness of testing in improving workplace safety is at best tenuous.
- Invalid references to “research”: example of NOT research. e.g., Slick sales brochures touted as “research” by leading fiscal stakeholder in THC drug testing “The new age of marijuana” by Quest Diagnostics https://images.wellness.questdiagnostics.com/Web/QuestDiagnosticsServices/%7B36231880-a561-4526-9c83-edead5f97a41%7D_ES-Gated-002-Marijuana-White-Paper-File.pdf

10. Examine other rationales for drug testing.

More in-depth: Federal law and workplace drug testing

- [US Regulatory Requirements for the 1988 Drug-Free Workplace Act](#) (US Dept of Labor 1990)
- [Top Five Myths About the Drug-Free Workplace Act](#), By Kimberlie Ryan, Esq. November 9, 2015 The HR Gazette. “The legislative history of the Act indicates that Congress did not intend to impose any additional requirements beyond those set forth in the Act, which are very limited as discussed below. Specifically, the legislative history precludes the imposition of drug testing of employees as part of the implementation of the Act.”
- [Medical Marijuana and the Drug-Free Workplace Act](#) (legal opinion). Maynard Cooper Gale discuss changing legal landscape with respect to rights of medical marijuana patients. Court precedent has interpreted drug free workplaces narrowly, exposing legal liability for testing programs that screen for personal activities outside the workplace.

Employee Deterrence as Rationale for Drug Testing

- “[Drug Testing: How Both Employers and Employees Benefit](#)” Uses safety argument and an employee attitude survey about safety to justify tests. From stakeholder William F. Current, Dec 11, 2002. This is a playbook of bias and unsubstantiated cultural stereotypes.

11. Summarize why THC drug testing has a negative impacts on healthcare system.

- Healthcare workers are inculcated to not see cannabis as a therapeutic option.
- Cannabis-sympathetic providers cannot help under served communities without consenting to the evidence-free pre-employment drug testing of employees, including consenting to not use cannabis, even in off duty time, and with full knowledge that edict extends beyond workplace sobriety.
- “Medical establishment” continues to regard all cannabis use as abuse.
- Providers who view cannabis as solely a substance of abuse are likely to use drug testing to surveille patients and terminate opiate pain contracts if cannabis is detected.
- Healthcare workers perceive more risks to cannabis than evidence supports.
- Healthcare workers are de-sensitized to civil rights issues involving personal body space and fluids and without cause searches.
- Healthcare establishment defers to law enforcement and fiscal stakeholders rather than current evidence and science.
- Limiting the healthcare workforce based on workplace cultural intolerance of cannabis harms Oregonians who engage in legal cannabis use and limits access to healthcare.

12. Consider why drug testing continues despite a lack of evidence supporting legal or safety rationale

- Size and economic momentum to continue and promote industry sector
- “Workforce shaping” / Employer empowerment
- Punishment-centric approach to Drug War influences on healthcare (especially mental health and substance abuse) paradigm
- Promotion of false narrative (junk science) regarding workplace and patient safety by fiscal stakeholders
- Lack of information about lack of effectiveness in improving workplace safety and harms caused by no-cause drug testing for THC.

13. Identify remedies to Oregon (cannabis) policies that help attain health parity goals.

- **Prohibit use of THC screening by Oregon entities that receive state health funds.**
- Support research into use of functional assessments of impairment.

14. Discuss how pre-employment drug testing biases healthcare workforce.

- Likely to use testing on patients
- Terminate pain contracts
- Not see cannabis as a therapeutic option
- Perceive more risks to cannabis than evidence supports
- Not be sensitive to civil rights issues involving personal body space and fluids
- Defer to police-centric policies before considering the science

15. Session follow-up & questions.



No-cause (pre-employment) urine drug screening of healthcare workers for THC.

What can be done to stop this costly and harmful practice without compromising....?

- patient safety?
- employer rights?
- employee rights?