

Employment Drug Testing for THC: Summary of Rationale to Test, and Relevant Oregon Health Policies

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Rationales Offered For Drug Testing Employees for Marijuana

Justification to Require Drug Test	Evidence to Support Policy?
Federal law requirement	NOT LIKELY (only a small subset of DOT & NRC workers are federally mandated to be drug tested).
On-the-job safety (i.e., impairment, workplace accidents, and drug diversion)	No. Evidence does not support. Other methods that address employee impairment on the job have more positive outcomes.
Deterrent to avoid hiring “undesirable” employees (negative traits such as on the job drug use, 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.
Liability insurance rates discounted for employers who test.	No. Major underwriters reward risk reduction and prevention programs and do not require testing programs
Indicative of potential employee substance abuse problem and medical risk.	No. And rejects medical use of cannabis. Branding all regular use as indicative of a “disorder” rejects the legitimacy of regular, medical use of cannabis, as is fundamental to the Oregon Medical Marijuana Act.
Risk of loss of federal grant and contract funds.	No precedent, no documented cases known. After more than half the USA allows some form of cannabis and there’s been a twenty years history of medical cannabis programs, this veiled threat of economic loss as a pretext to allow cannabis discrimination by businesses is not supported by actual events or precedent.

Oregon Policies and Rules That Require Revision Regarding THC Drug Testing

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- Unpublished Policies: OHP provider organization / CCA*.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

Drug Free Workplace Conflated with Oregon HR Drug Testing Policy

- Policy: 50.000.02 3 of 5 Effective: 2/01/2019
- State HR Policy: Drug Testing of Employees in Designated Job Profiles 50.000.02

- POLICY:

(1) It is the policy of the Executive Branch of Oregon state government to provide the public with a drug-free service environment and employees with a drug-free workplace.

(c) Prohibited drugs/controlled substances are marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines and substances specified in schedules I through V of Section 202 of the Controlled Substances Act, 21 USC 811, 812 and as defined in 21 CFR 1300.11 through 1300.15 unless authorized by a legal prescription or are exempt from federal or State law.

Definitions From Relevant Oregon Statutes

- Health Professions Generally ORS 676.303

Purposes of health professional regulatory boards

(1) As used in this section:

(a) “Health professional regulatory board” means the agencies listed in ORS 676.160 (Definitions for ORS 676.165 to 676.180) and the Health Licensing Office created in ORS 676.560 (Purpose of Health Licensing Office).

(b) “Impairment” means an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.