

Cannabis and Small Business: Issues to Consider Regarding Organizational Behavior and Workplace Changes

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Thirty-three states have legalized some form of cannabis in the USA, including 11 states with expansive laws legalizing recreational marijuana. These new legislative changes pose challenges for small businesses from an organizational behavior perspective. A survey of 17 small businesses was conducted to examine current challenges small businesses face regarding the new cannabis using workforce. The paper examines challenges, along with current marijuana laws affecting small business today. Recommendations are provided regarding necessary company drug policy changes, and workforce issues arising from the legalization of marijuana. Descriptive statistics and a thorough discussion are provided.

Keywords: Cannabis in workplace, marijuana, small business, legalization of marijuana, legalization of cannabis, drug policy, drug policy changes, workplace drug policies

INTRODUCTION

Marijuana, the long-time illegal companion of many, is now legal for recreational use in 11 states while 33 states legalized marijuana for medicinal purposes (Governing, 2019). It is important to note that marijuana is still illegal at the federal level and is classified as a Schedule 1 substance under the Controlled Substance Act, as described below. A shift in public opinion on the recreational use of marijuana seems to be encouraging other states to consider the legalization of marijuana as well (Carnevale, et al, 2017). As our culture transitions—especially in the corporate world—surrounding marijuana, managers face many issues they did not encounter before. For example, what happens if employees are using marijuana on their personal time? What if an employee uses marijuana on company time? How can a business manager or business owner tell if marijuana is impairing an employee's behavior? How should the use of marijuana be addressed in company policies or employee handbooks? These are only a few questions that manager's face today regarding the new workforce. Since state laws vary within the US, managers need to be cognizant of the laws in the states where they conduct business,

have factories or other offices, as well as the state in which the home office is located. Company policies must be updated in various states and territories, depending on the marijuana laws.

To help answer some of the question listed above, a study was conducted on 17 small businesses. The intent was to examine the obstacles, challenges and issues that small businesses face due to the legalization of marijuana. The hope was to provide insight for small businesses to help prepare them for the new marijuana using workforce. Descriptive statistics are reported, as well as an in-depth analysis of marijuana culture, stereotypes associated with marijuana users and obstacles that businesses face due to legalization of marijuana are provided. An examination and analysis of current marijuana laws is offered, along with implications associated with these laws. Recommendations are postulated regarding necessary company drug policy changes, and risk mitigation strategies are considered from a small business perspective as well.

MARIJUANA CULTURE

A recent study reported that nearly 11 million young adults between the ages of 18-25, used marijuana over the last 12 months (Blickman, 2018). With so many young adults engaging in marijuana use and with the legalization of marijuana in 33 states across America, the marijuana culture will have a lasting effect on businesses, and marijuana will become a normal part of the corporate culture. Two important points come to mind. First, “culture is the sum total of all shared, taken-for-granted assumptions that a group has learned throughout its history” (Schein, 1999, p. 29). Granted, most organizations in the US today do not have an overt history of marijuana use, although they may have a history of anti-marijuana policies. The marijuana culture, on the other hand, has a long history of acceptance of marijuana use, even though it was or is illegal. Many proponents for the legalization of marijuana have been in favor of its legalization for quite some time.

Second, “... cultural assumptions involve not only the internal workings of the organization but, more important, how the organization views itself in relation to its various environments” (Schein, 1999, p.29). With more people using marijuana, employees’ use of marijuana will intersect with the workplace more frequently. Therefore, organizations must determine how they want to view the use of marijuana, both on company time and during employee off time. Even if the organization continues with a strong anti-marijuana policy, if a significant number of employees partake in using marijuana, the company’s internal culture may shift toward acceptance, regardless of what senior leadership wants the culture to be. This idea poses additional issues for management to consider when determining what type of policy, they want to impose regarding the use of marijuana.

THE LAW

When marijuana was “simply” illegal, employment issues related to its use were straightforward. If an employee tested positive for marijuana, that was it. It did not matter if the use occurred during or outside of work duties. Employees did not have the expectation that marijuana use was protected by law, and employers did not have to delve into the questions of whether marijuana use negatively influenced workplace safety, job productivity, workplace culture or employee availability – it was simply illegal.

Prior to 1937, marijuana was legal in most states, and each state regulated marijuana on its own. The United States Congress enacted the first federal law regulating marijuana in the Marihuana Tax Act of 1937. Thirty years later, the U.S. Congress outlawed the use of marijuana for any purpose with the Comprehensive Drug Abuse Prevention and Control Act of 1970, Title II of which is the Controlled Substances Act (CSA). Marijuana is classified as a Schedule I substance, making the use a criminal offense. Schedule I drugs have high potential for abuse, no accepted medical use, and no accepted safe way to use in medically supervised treatment. In the CSA, Congress assumed exclusive control over the regulation of controlled substances, pre-empting all conflicting state laws.

States and the Nation Are Proceeding Differently

Despite the conflict with federal law, states have opted to progress individually in legalizing or decriminalizing marijuana. Each state's scheme is slightly different, with divergent legal consequences attaching to the use of marijuana. Many courts have handled cases and issued decisions about permissible consequences to employer and employee when employees were fired, or denied other benefits, because of using marijuana – even if that use was permitted by state law. The decisions vary, providing mixed guidance to employers.

Cases springing from the conflict between federal and state law reached the courts in the early 2000's. In one case, the United States sued to stop the operations of a cooperative providing marijuana in accordance with California's Compassionate Use Act. *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483, 121 S. Ct. 1711, 149 L. Ed. 2d 722 (2001). In another case, DEA agents seized and destroyed a patient's marijuana plants, which he was growing in accordance with California law. In each case, the plaintiffs argued that the federal CSA was an invalid statute, because it exceeded Congress' authority to regulate commerce under the Commerce Clause. *Gonzales v. Raich*, 545 U.S. 1, 125 S. Ct. 2195, 162 L. Ed. 2d 1 (2005). These claims failed; the U.S. Supreme Court held that the Controlled Substances Act is constitutional and it may be freely enforced, even in states with conflicting laws.

Among the questions the courts are considering now is whether state statutes legalizing marijuana, and providing protections from consequences attaching to marijuana use, actually do conflict with federal law. In these cases, courts appear to be trying valiantly to harmonize federal and state law. State legislatures, too, are seeking clarity for their citizen employers and employees. Are workers who use marijuana eligible for unemployment benefits, or Workers' compensation benefits? Does the employer operate in a state with a "lawful conduct" statute, giving rise to employees' claims that it is unlawful to fire them for engaging in lawful activities outside of work?

Additionally, "... employers have a duty to provide employees with a safe and healthful workplace. Federal law obligates employers to identify potential workplace hazards and take proactive steps to minimize an employee's exposure to these hazards" (Schroth, et. al. p. 37, 2018). Some people may consider the use of marijuana a workplace hazard, while others may not. The medicinal use of marijuana in the workplace, or the recreational use outside of the workplace, "... creates significant challenges for workplaces where physical impairment may lead to mishaps and injuries" (Schroth, et. al. p. 36. 2018). These issues make it imperative that managers create policies and/or procedures for dealing with the influx of marijuana into the workplace that recent legislation may allow.

Employers have both the right and the obligation to create policies that ensure a safe work environment for all employees, customers and other stakeholders. While an employee may perceive a company's marijuana prohibition as violating his or her individual rights, the aforementioned employer rights must supersede the employ's individual rights in this case. Of the nine questionnaires returned, for Question 14, five of the respondents agreed or strongly agreed that they would hesitate to hire a job candidate who uses marijuana either medicinally or recreationally and only one disagreed. Granted, the survey results do not tell us why the respondents would not hire such candidates, but, as shown in the responses to Question 15, only two agreed or strongly agreed that they would not hire a candidate who uses marijuana regularly, whether medicinally or recreationally, because their use of marijuana would limit their job performance. Therefore, the researchers can conclude that the reason for an employer not hiring a candidate that uses marijuana is for reasons other than job performance issues, although that is not the opinion of all respondents. A few respondents did note lower productivity and employee absence as a risk or concern to the company related to marijuana use. Many others described the risk or concerns as the possibility of being sued for negligent employees, injuries on the job resulting from marijuana use, or that their employees operate heavy machinery or commercial vehicles, which increase the employer's risk when employees partake in marijuana use.

Impairment

Probably the most difficult question to answer is how to define impairment, especially in terms of marijuana use. Impairment means: "the act of impairing something or being impaired: diminishment or

loss of ability” (Merriam-Webster, 2019). How can we tell then if an employee’s consumption of marijuana, say for example over the weekend, impairs said employee’s ability to perform his or her job? Unfortunately, impairment from marijuana is not as easy to determine as with alcohol impairment. However, some indicators do exist. According to the Colorado Bureau of Investigation’s (CBI) Department of Public Safety, the psychoactive component in marijuana is delta-9-tetrahydrocannabinol (THC), which has lasting effects depending on whether one is a regular user of marijuana or an occasional user (CBI, 2020). It further states that, “general driving impairments caused by THC include, but are not limited to, decreased ability to perform divided attention tasks, loss of vigilance, altered perception of time and space, slowed reaction time, reduced short term memory and inability to maintain lane position/increased lane weaving” (CBI, 2020, p1.).

These same driving impairments can be evident while operating machinery in the workplace, or in performing routine tasks. While frequent users do gain a tolerance to THC over time, they will still have the impairment effects of THC, especially when performing complex tasks. Blood tests can detect THC in a person’s system at or below 1 ng/ml for hours in the occasional user and for days in the frequent user. “At approximately 5 ng/ml, both occasional and frequent users exhibit impairment to some degree” and “...impairment emerges at approximately 2 ng/ml blood THC” (CBI, 2020, p. 1). Granted, this test is used by law enforcement for determining driving impairment and may or may not be an exact measure, but impairments caused by the use of marijuana are important considerations for managers to undertake. Short of conducting a blood test, some indicators of marijuana use include, but are not limited to, euphoria, relaxation, altered time perception, lack of concentration and impaired memory.

Perhaps the most difficult cases employers face arises when an employee causes harm or injury at work, and then tests positive for marijuana. Unlike alcohol and some other drugs, a positive THC drug test does not indicate that the person is impaired at the time the test is taken. Rather, the presence of THC in a person’s blood or urine indicates only that THC has been ingested within 2 days to 2 months, depending on the strength of the THC, the type of drug test administered, the person’s pattern and level of use and the person’s body composition. In many circumstances, employers adopt a “zero tolerance” drug policy, which may avoid the difficulty of assessing impairment in some cases. In other cases, courts have found that even with a no tolerance drug policy, some indication of impairment must be shown in order to dismiss the employee lawfully.

Employers need to know about the negative effects of marijuana to make good decisions about whether the use of marijuana was a cause of the work-related harm or injury. Being under the influence of marijuana affects the ability to process information, make a quick decision, and act accordingly. According to the CDC, researchers believe that THC directly affects the brain and the parts responsible for memory, learning, attention, decision-making, coordination, emotions and reaction time. [*Researchers Probe Marijuana Testing Methods*, by Megan Gates, 12/1/19, <https://www.asisonline.org/security-management-magazine/articles/2019/12/researchers-probe-marijuana-testing-methods/>]

It is common that a company has both a no drug policy and wrongful discharge policy. Drug policies may allow the employer to fire employees who use drugs at work or away from work, but wrongful discharge policies often require just cause in order to fire an employee. In one case, an employee caused an accident at work and afterward tested positive for marijuana. Even with the company’s no tolerance drug policy, the arbitrator found that the company’s “just cause” requirement for discharge required more than just a positive drug test. The arbitrator held that there must be some evidence showing on-the-job impairment, possession or use of prohibited drugs creating just cause for the dismissal. *Chevron Mining Inc. v. United Mine Workers of Am. Local 1307*, 648 F.3d 1151, 1155–56 (10th Cir. 2011), citing *Kennecott* at 1205.

Similarly, OSHA (a federal agency) requires employers to have a valid safety-related reason for performing a post-accident drug test. The results of these tests are intended to determine the “root cause” of the accident. On the other hand, drug testing and policies *other than* post-accident drug tests do not always carry a requirement of showing impairment. Employers are still able to administer pre-hiring drug tests, random drug tests, drug tests under other federal laws, and the like – and to take employment actions accordingly. If there is no applicable statute or company policy requiring just cause for

termination, employers will probably not face adverse legal consequences for disciplining or terminating employees who use marijuana, on or off duty.

Lawful Activities Statutes

In most states, private employers are free to prohibit their employees from a number of lawful off-duty activities. Other states, like Colorado, North Dakota and California, prohibit employers from firing employees for engaging in lawful conduct on their own time. Colorado's statute says that:

It shall be a discriminatory or unfair employment practice for an employer to terminate the employment of any employee due to that employee's engaging in any lawful activity off the premises of the employer during nonworking hours . . . [except in certain enumerated job-related situations]. Colo. Rev. Stat. Ann. § 24-34-402.5 (West).

Even so, federal law sometimes pre-empts these state statutes.

Dish Network fired a Colorado employee (Coats) for using marijuana off the job. Coats was a medical marijuana patient, using marijuana in compliance with that state statute. Coats sued Dish Network, claiming he was wrongfully discharged because of the Colorado Lawful Activities statute. Relying on the Supremacy Clause, the Colorado court held that federally prohibited but state-licensed medical marijuana use is not "lawful activity" under Colorado's Lawful Activities Statute. *Coats v. Dish Network*, 303 P.3d 147 (Colo. 2013). The court opined that, if the consuming marijuana were considered a lawful activity, Colorado employers would be effectively prohibited from discharging an employee for off-the-job use of marijuana, regardless that such use was in violation of federal law.

While most states have specifically preserved employers' rights to terminate or discipline employees for marijuana use, on-duty or off-duty, conflicts still arise. In Illinois, for example, its Cannabis Act [cite] clarifies that employers have the right to have drug free policies and to terminate employees who violate those policies. At the same time, Illinois' lawful use statute [cite] provides that an employee's off-duty of marijuana must also interfere with the ability to perform job duties in order to be a lawful basis for discipline or discharge.

Unemployment Benefits

If the law isn't complicated enough, unemployment benefits are also under scrutiny from a legal perspective from state to state. Comparing a Colorado case involving eligibility for unemployment and a Michigan case doing the same illustrates the difference that every state's laws make. The plaintiffs in both of these cases were denied unemployment benefits, after they were fired for testing positive for marijuana. The Colorado court determined its plaintiff was not entitled to unemployment benefits, and the Michigan court determined that its plaintiff was entitled to unemployment benefits. *Benoir v. Industrial Claims Appeals Office*, 262 P.3d 970 (Colo. 2011); *Braska v. Challenge Mfg. Co.*, 307 Mich. App. 340, 364–65, 861 N.W.2d 289, 302 (2014).

The difference in the decisions in these cases is because of the different ways Colorado and Michigan legalized marijuana. In Colorado, marijuana users are protected from prosecution for marijuana use under the state's criminal laws. Michigan's marijuana statute protects marijuana users from both criminal and civil penalties for marijuana use, including negative employment actions. Small businesses and managers need to be aware of their state laws before they fire an employee due to marijuana use from an unemployment benefit perspective. Without understanding state laws, organizations may be required to pay unemployment benefits.

OBSTACLES MANAGERS FACE

While managers in some companies may not care if employees use marijuana during their off hours, other managers state that marijuana use by employees puts the employer at risk. (Pinnacol, 2018). According to Disa (2019), drug and alcohol abuse costs USA companies billions of dollars every year due

to high employee turnover rates, unexcused absences, lower efficiency, lower productivity, increased accidents, and amplified workers' compensation claims. In fact, the U.S. Department of Justice reported nearly half of workplace accidents are caused by drug and drug abuse (Disa, 2019). Managers and small businesses may not be able to tolerate an increased risk due to employees using marijuana. For example, if an electrician wires a home incorrectly, perhaps a simple mistake, but was under the influence of marijuana at the time, the company can be held liable for any damage or injury caused by the incorrect wiring. Another issue for employers is that while they may oppose marijuana use by employees, having a policy against marijuana use may limit the hiring pool for potential job candidates. This can especially be an issue if the business is located in a state that has not legalized marijuana for recreational or medicinal use. The company may have a policy against marijuana use because it is illegal in the state or because the company received federal funding and must comply with federal law as well as state law. If job candidates steer away from these companies because of their non-marijuana use policies, employers may be missing the opportunity to hire great talent.

The same can be true for a company that creates a policy banning marijuana use by employee, even during their off time. Some of the talented employees the company wants to keep may choose to leave and seek employment with an organization, or within a state, that allows marijuana use. If an employer conducts random drug testing, employees may be terminated because of having marijuana in their system, even though it may have been days or weeks after the employee's use of marijuana (Pinnacol, 2018). If drug screening is a requirement for hiring, good talent may be lost due to failed drug testing as well. Marijuana can remain in one's system anywhere from a few days to 30 days depending one's body fat, the amount used, one's sensitivity to the drug and the type of test used for the drug screening (Villines, 2019). This makes it difficult for managers to discipline employees who test positive for marijuana use through drug screening, but show no signs of impairment while on the job (Pinnacol, 2018).

STEREOTYPES ABOUT MARIJUANA USAGE

Below is a list of common stereotypes associated with marijuana users. Marijuana users are thought to be:

- lazy
- more creative
- more paranoid
- hard working
- supportive of marijuana legalization
- posing a safety risk on the job
- unable to function on the job
- prone to having more health problems than non-users
- prone to having difficulty remembering instructions
- more emotional
- less likely to process information quickly and respond accordingly

The above list is not inclusive of all of the stereotypes surrounding marijuana uses, but is a mere sample of some of the most popular. Based on the list, it is evident that some of the stereotypes contradict each other. The important thing to remember is that these are stereotypes and not all marijuana users will fit all of the stereotypes. For example, one person may feel paranoid when using marijuana, while another person may feel quite relaxed. It depends on the effect the THC concentrate has on the individual's system. Regardless, it is important to note that negative stereotypes can be harmful to employees and may contribute to discrimination or harassment on the job.

METHODOLOGY

Research Design

For the purposes of this study, a newly developed quantitative survey instrument was designed incorporating a pre-test and post-test. The instrument utilized a questionnaire format with a combination of open and close-ended questions. Close-ended questions allowed participants to select from pre-existing multiple-choice questions, and dichotomous answers. Open-ended questions allowed for more expansive answers where needed. During open-ended questions, respondents were encouraged to explain their answers, opinions, and thoughts in detail. The survey instrument was designed with an undeclared pretest to examine the effectiveness of the survey. A total of five individuals took the pre-test survey, after which adjustments were made to various questions and to the instruction page on the scale. A post-test was employed as well. The survey was distributed to targeted participants electronically, via email, with a link to the survey on SurveyMonkey. The intent of the study was to obtain information from small businesses and managers about drug policies and challenges/obstacles experienced with cannabis laws, legalization and employee drug use. Descriptive statistics were reported and calculated for the purpose of the study.

Sample

For the purpose of this study, data was collected on companies in the state of Texas and Colorado due to convenience. The sample included managers who completed the survey instrument electronically via a link. The sample was a random, convenience sample. There was a total of 30 surveys delivered electronically through email, resulting in 17 useable questionnaires and a response rate of 57%. This response rate is acceptable given the sample size (Dennis, 2003). In fact, this response rate is substantially higher than the average response rate of less than 25% (Dennis, 2003). As this study reports a response rate of 65%, it exceeds average response 25% rates and standards for the field.

Data Collection Challenges

During the research design, it became apparent that managers wanted to maintain anonymity. Companies were fearful because marijuana is a sensitive subject and illegal in the eyes of the federal government. Furthermore, companies didn't want to be associated negatively with having their name on the study. Managers explained their potential challenges to finding qualified employees in states with legalized marijuana and their desire avoid publicity of not being supportive. They felt ramifications could cause their company to become unpopular or scrutinized by the younger or cannabis using workforce. During data collection itself, several companies did not want to complete the survey for fear of blow-back from employees who are using or want to use. As a result, we allowed for anonymity due to the nature of the subject matter.

RESULTS

Descriptive Statistics

As apparent in Table 1 below, the vast majority of the sample businesses or 94% of the businesses were small businesses with 500 employees or less, with nearly 35% classified as micro enterprises with ten employees or less. Only one business was considered a medium enterprise and one was classified as large. See Table 1 for a summary of descriptive statistics.

TABLE 1
DESCRIPTIVE STATISTICS: DESCRIPTION OF SAMPLE BY SIZE

Size of Business	Number of Employees	Sample (N=17)
Micro	1-10	6 or 35.2%
Small	11-20	4 or 23.5%
Small	21-30	1 or 5.9%
Small	31-40	0
Small	41-50	2 or 11.8%
Small	51-60	1 or 5.9%
Small	60-100	0
Small	101-150	1 or 5.9%
Small	150-499	1 or 5.9%
Medium	500-1000	0
Large	1000-1500	1 or 5.9%

As evident in Table 2 below, the most common industry among the businesses surveyed was engineering at 23.5%, then business and finance at 17%, then construction at nearly 12% and insurance with 12%. The remainder of industries commanded 6% which were computer graphics, retail, hospitality, oil/gas, real estate and manufacturing. See Table 2 for a summary of descriptive statistics.

TABLE 2
DESCRIPTIVE STATISTICS: DESCRIPTION OF SAMPLE BY INDUSTRY

Industry	Sample (N=17)
Engineering	4 or 23.5%
Computer Graphics	1 or 5.9%
Business & Finance	3 or 17.7%
Retail	1 or 5.9%
Real Estate	1 or 5.9%
Construction	2 or 11.8%
Manufacturing	1 or 5.9%
Hospitality	1 or 5.9%
Oil & Gas	1 or 5.9%
Insurance	2 or 11.8%

As apparent in Table 3, the majority of the sample or 76% of the businesses were formed between the years 1980 and 2009., 18% were formed between 1979 and 1950, while 6% were created recently over the past 9 years. See Table 3 for a summary of descriptive statistics.

TABLE 3
DESCRIPTIVE STATISTICS: YEAR OF BUSINESS INCEPTION

Year of Inception	Sample (N=17)	Percent %
1950-1959	1	6%
1960-1969	1	6%
1970-1979	1	6%
1980-1989	2	12%
1990-1999	6	35%
2000-2009	5	29%
2010-2019	1	6%

As shown in Table 4, the vast majority of businesses surveyed or 82.4% were located in the state of Colorado where marijuana is legal both medicinally and recreationally. Three or nearly 18% of respondents were from the state of Texas where cannabis is still illegal, and almost 24% of businesses conduct business outside their state. Please see Table 4 for information.

TABLE 4
DESCRIPTIVE STATISTICS: YEAR OF BUSINESS INCEPTION

State Business Located	Sample	Percent
Colorado	14	82.4%
Texas	3	17.6%
Work in State AND worldwide	4	23.5%

As evident in Table 5 below, 35% of the businesses surveyed have strict no tolerance drug policies regarding marijuana. Managers who reported a zero-tolerance policy explained that employees could not use drugs, including marijuana during work or during off-work hours. If an employee failed a random drug test, it would result in immediate termination of employment. Almost 30% of respondents have semi strict policies, while 35% reported they have no policy addressing drugs, nor do they randomly drug test. Another variable assessed in the study was if companies amended their drug and alcohol policy since the legalization of marijuana. Nearly 1/3 of managers said they addressed and amended drug policies, while nearly 64% did not amend or change their policy since the legalization. Lastly, since the legalization of cannabis 89% reported no change in employee performance since the legalization of marijuana, while 11% have noticed a change in performance. For more information, please see Table 5.

TABLE 5
DRUG & ALCOHOL POLICY, AMENDED DRUG POLICY, PERFORMANCE CHANGE

Variable	Sample (N = 17)
<u>Drug & Alcohol Policy</u>	
Strict (zero tolerance period, randomly test)	6/ 35.3%
Semi-Strict (No tolerance during work hrs.)	5/ 29.4%
No policy	6/ 35.3%
<u>Amended Drug & Alcohol Policy since legalization</u>	
Strongly agree	3/ 17.6%
Agree	3/ 17.6%
Neither Agree nor disagree	2/ 11.7%
Disagree	8/ 47.1%
Strongly disagree	1/ 5.9%
<u>Change in performance since legalization</u>	
None	14/ 88.9%
Yes, more open about drug use	3/ 11.1%

As displayed in Table 6, only 17% of businesses randomly drug test their employees, while approximately 53% do not. According to the results, nearly ¼ of respondents will only drug test if they suspect an employee to be under the influence of drugs during business hours. In addition to the above, nearly half of the companies provide one warning for employees before terminating when employees test positive for drugs or alcohol on the job. Lastly, nearly 2/3 of participants disagree or strongly disagree that cannabis usage has increased during work hours since legalization. In contrast, 23% stated that they have seen an increase of cannabis during work hours. For more results, please see table 6 below.

TABLE 6
MANDATORY DRUG TESTING, POSITIVE TEST RESULTS, INCREASED USAGE

Variable	Sample
<u>Mandatory Drug Testing</u>	
Yes (randomly drug test)	3/ 17.65%
No	9/ 52.94%
Only if we suspect	4/ 23.53%
Only if a client requests it	2/ 11.76%
<u>If test positive or under influence of alcohol on job</u>	
Warn once and then terminate	8/ 47%
Terminate immediately	8/ 47%
Terminate and put on no hire list 3 years	1/ 6%
<u>If test positive or under influence of cannabis on job</u>	
Warn once and then terminate	9/ 53%
Terminate immediately	7/ 41.2%
Terminate and put on no hire list 3 years	1/ 5.8%
<u>Since legalization increased usage during work hours</u>	
Agree	4/ 23.5%
Disagree	7/ 41.2%
Strongly disagree	6/ 35.3%

As listed in Table 7, approximately 82% of managers surveyed in the study agree or strongly agree that their employees understand the company drug and alcohol policy. In addition, the vast majority of companies surveyed provide training on their corporate drug policy. For more information, please see Table 7.

**TABLE 7
EMPLOYEES UNDERSTAND OUR POLICY AND WE TRAIN**

Variable	Sample (N=17)
Strongly Agree	6/ 35.3%
Agree	8/ 47.1%
Neither agree nor disagree	1/ 5.8%
Disagree	2/ 11.7%
Strongly disagree	1/ 5.8%

According to the results in Table 8 listed below, business managers do not believe that they have retention issues among the workforce due to their drug policies which address marijuana, at 58.8%. However, 17.64% of surveyed managers believe their drug policy impacted employee retention and that they lost employees due to their drug policies. Nearly 41.18% of managers stated they would not hire an employee if they knew they were using cannabis due to fear of liability and risk to the company, while 35.29% didn't commit to an answer either way. In addition, 35.29% reported they would not hire an employee if they knew they were cannabis using for fear of poor performance, 29.41% were neutral and 1/3 said they would not avoid hiring an employee using cannabis due to fear for poor performance. Interestingly 1/3 were scared to hire for fear of performance and 1/3 were not fearful that performance would be impacted by a cannabis using employee. For more information see Table 8.

**TABLE 8
RETENTION DIFFICULTY, HESITATE TO HIRE DUE TO LIABILITY, HESITATE DUE TO POOR PERFORMANCE**

Variable	Sample (N = 17) / %
<u>Retention Difficulty After New Drug Policy Implemented</u>	
Strongly agree	1/ 5.88%
Agree	2/ 11.76%
Neither Agree nor disagree	4/ 23.53%
Disagree	3/ 17.65%
Strongly disagree	7/ 41.18%
<u>Would Hesitate to Hire Cannabis Using Employee Due to Liability Fear</u>	
Strongly agree	4/ 23.53%
Agree	3/ 17.65%
Neither Agree nor disagree	6/ 35.29%
Disagree	3/ 17.65%
Strongly disagree	1/ 5.88%
<u>Would Hesitate to Hire Cannabis Using Employee Due to Performance Fears</u>	
Strongly agree	2/ 11.76%
Agree	4/ 23.53%
Neither Agree nor disagree	5/ 29.41%
Disagree	5/ 29.41%
Strongly disagree	1/ 5.88%

As evident in Table 9, almost 60% of managers believe it will be difficult to hire employees in the future who are not cannabis using compared to 29% who do not anticipate hiring difficulty. Vast majority of managers believe that young employees use marijuana during off-hours from work and that it will be difficult to maintain a cannabis-free workforce. Results show that older generation employees are believed to be less accepting of employees using cannabis at 29%, with 29% reporting neutral and 40% believe they are not less accepting. Overall, managers believe that during non-work hours employees have the right to consume alcohol (82.35%) and drugs (76.47%) as they choose. However, more managers strongly agree with alcohol freedoms, while agreeing to drugs freedoms during non-work hours as well. Please see Table 9 for more information.

TABLE 9
FUTURE HIRING DIFFICULTY, OLDER GENERATION LESS ACCEPTING,
RIGHT TO OFF-HOUR PRIVACY

Variable	Sample (N = 17) / %
<u>Managers Believe Future Difficulty Exists with Hiring Young Workers due to Uses of Cannabis During Off-hours</u>	
Strongly agree	2/ 11.76%
Agree	8/ 47.06%
Neither Agree nor disagree	2/ 11.76%
Disagree	4/ 23.53%
Strongly disagree	1/ 5.88%
<u>Older Generation Less Accepting of Employees Using Cannabis</u>	
Strongly agree	2/ 11.76%
Agree	3/ 17.65%
Neither Agree nor disagree	5/ 29.41%
Disagree	3/ 17.65%
Strongly disagree	4/ 23.52%
<u>Believe Employee Has Right to Do as Please During Off Hours Regarding Drugs</u>	
Strongly agree	3/ 17.65%
Agree	10/ 58.82%
Neither Agree nor disagree	1/ 5.88%
Disagree	3/ 17.65%
Strongly disagree	0
<u>Believe Employee Has Right to Do as Please During Off Hours Regarding Alcohol</u>	
Strongly agree	10/ 58.82%
Agree	4/ 23.53%
Neither Agree nor disagree	3/ 17.65%
Disagree	0
Strongly disagree	0

Limitations

The study is limited to Texas and Colorado companies. A greater sample size is needed to confirm results found in this study and for larger generalizations. Results should not be interpreted and generalized to the entire population of businesses in Texas or Colorado because the sample size is too small.

DISCUSSION

Overall, the study had some interesting findings. After investigating open-ended comments and analyzing deeper, it was evident that managers whose organizations were in the engineering, construction, business, manufacturing and oil/gas industries had the most risk aversion and fear regarding cannabis. Managers employed in the engineering, manufacturing finance and construction industries stated that they had the strictest, no tolerance drug policies, had the most fear hiring young employees in the future due to liability reasons and felt they would have the hardest time hiring qualified workers due to their drug policies. These sentiments repeated across several companies regarding future challenges.

Another challenge that managers believe they face in the future was in finding qualified workers who are not using cannabis in off-work-hours. Managers believe that keeping a drug-free workforce will be challenging because cannabis stays in the blood stream for extended time, thus causing employees to fail tests. If more of the youth engages in cannabis use during non-work hours, very few companies residing in industries that require sharp thinking, heavy machinery use or require random drug testing will struggle to find employees. Overall, there was not much concern that older generation workers were not accepting of young employees who were cannabis users. In addition, Colorado had the greatest concern over long-term productivity and employment hiring pools compared to Texas. This is likely due to the fact that marijuana is legal, both medicinally and recreationally for Colorado workers. As more states pass legalization to legalize cannabis and if the federal government removes marijuana as a Schedule 1 Drug, business will need to revisit their corporate drug policies.

LIMITATIONS OF STUDY

The research study was limited by its small research sample size. A larger sample would most likely result in more relevant findings, which would help in determining future policy paths for managers. The authors are continuing to collect data to support their findings. The authors sent 30 surveys to employers and received 17 useable questionnaires, resulting in a 57% response rate. Although this was an acceptable response rate, it is not generalizable to the population, thus a larger study is needed. Some obstacles researchers may encounter in this type of research include reluctance of employers to participate in research on such a touchy subject, or not wanting to advertise their position on the subject. However, if a large enough sample size is obtained, there will be enough data to make rational conclusions.

The researchers will also need to compare companies within the same industry and across several states. This small sample included companies in engineering, construction, hospitality, retail, oil/gas, manufacturing and business development. Each of these industries may have different reasons for accepting or prohibiting marijuana use by their employees. The risks can be as different as are the industries. There may be safety issues in some industries, where others may not have.

RECOMMENDATIONS

Managers will have to be proactive in looking at their own business situation and determining if policies prohibiting the use of marijuana will be in the best interest of their organization. They will need to determine the risk factors of employees using marijuana, the long-term residual effects on the individual using marijuana, whether they be adverse medical effects or impairment in determining how to create such policies. Managers may want to consider asking employees to help create the drug policy to ensure buy-in from employees. The policy will then need to be included in the company's employee handbook. Once established, the managers need to conduct training on the new policy to ensure all employees understand the policy and the consequences for violating the policy. Following are some recommended items to include in the drug policy:

- Purpose of the policy, which includes concerns for management
- Information on impairment risks
- Information on non-worker's compensation benefits

- Address both medical and recreational marijuana use
- List all the drugs the company tests for during drug screening

Additionally, managers need to revisit the policy on a regular basis (annually) to evaluate its effectiveness. Managers must enforce the policy equally across the organization and at all levels of employment.

CONCLUSION

As we continue to “...compete for top talent [which challenges] employers to implement processes that better attract, retain and motivate employees” (Allen, p. 2019), managers must look into the issue of marijuana use by their employees and try to determine if said use will be a detriment or an asset to the organization overall. Additionally, as more states legalize the use of marijuana, whether for medical use, recreational use or both, managers will need to assess the effects that marijuana might have on their employees and their business. Workplace and drug policies should be updated and amended on a regular basis, and training of any policy changes must be implemented, provided and publicized for employees to peruse. In addition, mandatory annual reviews of corporate drug policies as related to current laws regarding drug legalizations or restrictions and their impact on the workforce should be established as part of good corporate risk mitigation practice.

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