Times, they are a changing

- California was the first state to pass a medicinal marijuana law with the passage of proposition 215 in 1996
- Now 23 states and the District of Columbia have passed some form of medical marijuana
- 18 states introduced medical marijuana bills for their 2015 legislative sessions
- Colorado, Washington, Oregon and Alaska now allow recreational use of marijuana
- The majority of the US population live in states that allow medical marijuana
The “green” states

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The court of public opinion

“Marijuana is no more dangerous than alcohol” President Barack Obama

- According to a Pew Research Center national poll in April 2014:
  - In 2009, 52% said marijuana should not be legal
  - In 2014, 54% say marijuana should be legal
  - 83% would approve of some form of legalization
    - 44% - medical use only
    - 39% - medical + recreational
  - 15% felt marijuana is harmful to health
    - 69% felt alcohol is harmful to health
  - 23% felt marijuana is harmful to society
    - 63% felt alcohol is harmful to society
What are the active ingredients of Marijuana?

- 483 known compounds
- Primary ingredients are:
  - THC (tetrahydrocannabinol) – psychoactive (the “high”)
  - CBD (cannabidiol) – more medical application
  - CBN (cannabinol) – weak psychoactive
  - THCV (tetrahydrocannabivarin)
  - CBG (cannabigerol) – non-psychoactive, associated with glaucoma
- Most plants contain 2-5% THC
There is more than one way to eat a REESES!

Methods of marijuana intake

- Edibles – brownies, cookies, lollipops
- Brewed as a tea
- Vaporizers
- Joint
- Apple (creative pipe)
- Blunt
- Bong
- Hookah
- Pipe
- Gravity bong (start with a 2-liter bottle)
- “straight to the dome” (bud in one nostril, close the other, light it)
- Hot knives

Ask your doctor if marijuana is right for you?

What are the effects?

- Physical short term – last 3 to 4 hours after use
  - Increased heart rate
  - Dizziness
  - Shallow breathing
  - Red eyes and dilated pupils
  - Dry mouth
  - Slowed reaction times
  - Paranoia
  - Anxiety
  - Depression
  - Forgetfulness
  - Increased appetite

- Long term
  - Physical withdrawal symptoms
  - Cravings
  - Irritability
  - Sleeplessness
  - Decreased appetite -- when you stop.
Marijuana is not a dangerous drug

A 20-year study in Australia

Study from 1993-2013 by Dr. Wayne Hall, Univ of Queensland

- Five major findings:
  1. It’s essentially impossible to overdose
     - Requires 15-70 grams
  2. It doubles the chance of a driving accident
     - DUI for marijuana not as understood as from alcohol
  3. Addiction/dependence can occur
     - 1 in 10 adults, 1 in 6 adolescents
     - Strongly associated with use of other illicit drugs
  4. Negatively impacts IQ
     - Only where initiated in adolescence and continued into adulthood
  5. Effect on respiratory health is inconclusive
     - Typically smoke tobacco as well

This is your brain on drugs, any questions?

Casual marijuana use changes the brain

- Northwestern Medicine and Massachusetts General Hospital/Harvard Medical School study on casual use (1-2 times per week)
  - 20 adults (18-25) who smoked marijuana, 20 who did not

- Scientists examined the nucleus accumbens and the amygdala -- key regions for emotion and motivation, and associated with addiction -- in the brains of casual marijuana users and non-users

- The more joints a person smoked, the more abnormal the shape, volume and density of the brain regions
Schedule 1, 2, 3 whatever it takes

THC is a scheduled 1 substance per the Controlled Substance Act of 1970

- It cannot be prescribed, but recommended by a physician, and provided by a licensed dispensary

What are the characteristics of a schedule 1 drug?

- High potential for abuse
- Has no currently accepted medical treatment use
- There is a lack of accepted safety for use of the drug or substance under medical supervision

Other schedule 1 drugs include:

- Heroin
- Mescaline
- GHB
- LSD
- Bath salts
- Methaqualone

How widespread is utilization?

“If you go to a medical marijuana dispensary in California, the staff will find a condition that allows them to dispense legally to you” Mark Walls, Safety National

- The laws in many states define the medical conditions, circumstances and methods of consumption in which an individual can secure and use medical marijuana

- Examples of allowable conditions include:
  - Cachexia/wasting away
  - Chronic/severe pain
  - HIV/AIDS
  - Epilepsy/seizure disorders
  - Nausea & vomiting
  - Hep C
  - Lupus
  - PTSD
  - Cancer
  - Multiple Sclerosis
  - Glaucoma
  - ALS
  - Crohn’s disease
  - Complex regional pain syndrome
Wait a minute, you’re not a pharmacist?

What is the injured worker is receiving?
• The right strain for the condition
• The right dosage
• Dangerous drug interactions/pre-existing conditions
• The correct method of intake
• A pure product

The Dispensary Dilemma!
• Not a pharmacist
• Not FDA approved
• Inconsistent oversight
• Lack of any PBM involvement
• Use now and ask for reimbursement later

Medical Marijuana – Legal Perspective
We will never provide medical marijuana, ever!

What are some of the rationales used not to provide medical marijuana?

• It is a schedule 1 controlled substance and federally illegal to distribute or utilize
• There are no studies on the efficacy of marijuana to treat the results of an occupational injury
• Peer reviewed medical guidelines, such as ODG, do not recommend it
• It cannot be prescribed by a physician, but only recommended
• Opens the carrier up to secondary complications and exposure

How do we deal with schedule II?

The Compassionate Access, Research Expansion and Respect States Act (CARERS) (Senate Bill 683)

Introduced in the Senate on March 10, 2015

Authored by Rand Paul (R-KY), Corey Booker (D-NJ) and Kirsten Gillibrand (D-NY).

• Reclassify marijuana under the Controlled Substances Act from Schedule I to Schedule II ending the federal ban
• Recognize that the substance has some medical uses
• Permit interstate commerce in cannabidiol (CBD) oils
• Allow banks to provide checking accounts and other financial services to marijuana dispensaries
• Allow Veterans Administration physicians to recommend
• Eliminate barriers to medical marijuana research
ODG says NO!
The Official Disability Guidelines Classify THC as an “N” Drug

• All cannabinoids are “N” drugs
• Not recommended for pain
• Among the supporting studies cited
  – Cannabis users who start using the drug as adolescents show an irreparable decline in IQ, with more persistent use linked to a greater decline
  – Long-term marijuana use has been linked to standard brain changes similar to those observed in schizophrenia patients, and they correlate with poorer working memory

The big “green” apple
New York enacted a medical marijuana bill on July 5, 2014

• Physicians are required to register and certify state-disabled patients with defined allowable medical conditions
• Allowed conditions include: Cancer, AIDS, ALS, Parkinson’s, MS, epilepsy, neuropathy, spinal cord spasticity and Huntington’s
• User must apply for an ID card with the department of health and allowed up to a 30 day supply
• State sets the price and taxes on marijuana
• Insurers do not have to pay
• Medical marijuana cannot be smoked
You can blame New Mexico

Vialpando v. Ben’s Auto Servs.

- The workers’ compensation judge found that worker Gregory Vialpando was qualified to participate in the State of New Mexico Department of Health Medical Cannabis program authorized by the Compassionate Use Act

- Such treatment would be reasonable and necessary medical care

- The judge ordered the injured worker pay for the medical marijuana through the program and that the insurance carrier reimburse the worker

You can still blame New Mexico

Maez v. Riley Industrial

- NM Court of Appeals in January 2015 confirmed that “medical” marijuana was reasonable and necessary
  - The patient tested positive for recreational use of marijuana while being prescribed a variety of other drugs (including opioids)
  - The physician decided to certify the marijuana use
  - The physician was deposed and said the patient “has failed traditional pain management and is a candidate for the cannabis program”
  - The Court decided that since the physician confirmed its use that it should be deemed “reasonable and necessary”
  - The ultimate patient-directed care
It’s not marijuana it’s marinol

Louisiana, Creole Steele v. Ricky Stewart

• The workers’ compensation judge found that the use of marinol to control the injured workers pain was a reasonable and necessary medical expense
• The Judge however did not order that the employee be reimbursed
• Upon appeal the third circuit court determined that the judge erred in finding the use reasonable, but not ordering the employee be reimbursed
• The court of appeal amended the original order requiring reimbursement of the cost associated with the marinol

California, not in my state

Cockrell v Farmer’s Insurance

• Both the treating physician and agreed medical evaluator felt marijuana was a reasonable and necessary course of treatment
• In 2012 the local workers’ compensation judge ruled that Cockrell was entitled to be reimbursed for marijuana at the same rate as other FDA approved THC derivatives, such as Marinol
• Upon appeal the WCAB ruled that Cockrell could not be reimbursed as nothing in CA’s program requires a governmental, private or any other health insurance provider or health care service plan to be liable
• The judge asserted that a comp carrier is not a health care service plan
• The WCAB ruled twice that the request for reimbursement was not allowed under the Health and Safety Code
Keep your hands off my stash!

2015 Federal budget provides protection

- US Congress included an amendment that prohibits Department of Justice from using funds to go after state-legal medical cannabis programs
- H.R. 83, “Section 538” (specifically lists the states)
  - President Obama signed it on 12/16/14
- None of the funds made available in this act to the Department of Justice may be used.....to prevent.....states.....from implementing their own state laws that authorize the use, distribution, possession, or cultivation of medical marijuana
Pre-hire drug screening

What if an applicant tests positive? Can you refuse to hire?

- ADA does not protect job applicants utilizing illegal drugs
- To date the courts have usually ruled in favor of the employer.
- The Oregon Supreme Court held in *Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries* that an employer was not required to hire an employee who discloses that he would not pass a drug test because of his medical marijuana use
- In Connecticut, Illinois, Maine and Rhode Island, medical marijuana patients are given protected status and employers are prohibited from discriminating against an employee merely due to their status as a medical marijuana patient

You tested positive, but are you high?

Toxicity versus intoxication

- How can you tell whether or not an employee is high if they test positive for marijuana?
- There is no clear method to test for intoxication much like with alcohol
- This is becoming a real challenge for employers to maintain a drug free workplace
You must show intoxication

Several states have specifically noted the inability to discriminate based on the possession of a medical card

- Arizona - specifically prohibits discrimination based solely on the individual holding a medical marijuana card, unless the patient used, possessed or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

- Rhode Island - also has outlawed any type of discrimination based on card holder status. However, he law does not permit any person to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice or require an employer to accommodate the medical use of marijuana in any workplace.

How do I deal with positive post accident screens?

- Some states specifically allow for termination due to failing a post-accident drug screen. Examples include Michigan, Colorado & Illinois

- However, other states like Maine, Connecticut, Delaware and Arizona discuss the need to show the individual is under the influence

- Minnesota law specifically outlines that an employer generally cannot discriminate against a patient based on a failed drug test for marijuana

- In 2009, the Montana Supreme Court upheld the dismissal of an employee who tested positive for marijuana in Johnson v. Columbia Falls Aluminum
Is a drug-free work place possible?

Several cases have established that employers are not required to accommodate marijuana utilization


So, what is an employer/administrator to do?

How does an administrator respond to a request for reimbursement of medicinal marijuana?

- Marijuana is still a schedule 1 controlled substance and therefore illegal
- It is was not prescribed by a physician and therefore self-procurred
- It does not represent reasonable and necessary medical care
- The efficacy is not substantiated by any peer reviewed based guidelines such as those outlined in ODG and ACOEM
- The employer should not be held responsible for any side-effects, unintended consequences and adverse drug interactions