



SPRING 2022

# CCDAPP Newsletter

Congratulations to the following individuals on their initial or renewal certification:

**CSAPA Renewal of Certification:**

Dwight Newell  
Patricia McKittrick  
Venus Mills

**DAPA-A Renewal of Certification:**

Penny Gallo

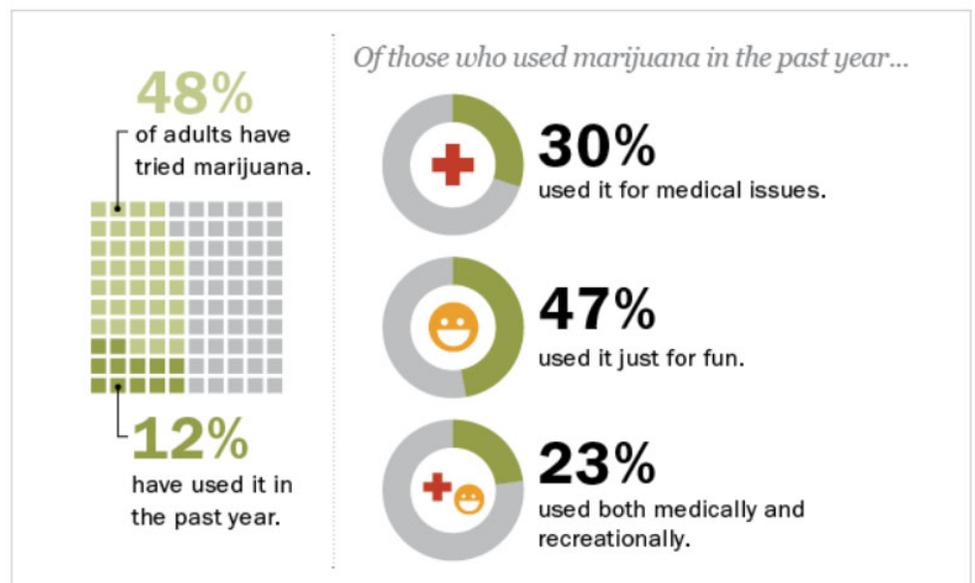


- 6 mins – is how long it takes for the brain to start to react to alcohol
- Red wines have higher alcohol content than white wines.
- 1 in 5 top 100 country music songs refer to alcohol.
- A gin & tonic will glow under a UV light because tonic contains quinines, which are UV light reactive.

<https://www.adtbreathalysers.com.au/fun-facts-alcohol/>

## MARIJUANA USE INCREASED OVER THE LAST DECADE

Just two years ago, 40% of adults said they had tried marijuana. In both 2003 and 2001, 38% said they had used marijuana. In the latest Pew Research Center survey, conducted in March, the number of those saying they had ever tried marijuana climbed to 48%, the highest percentage ever.



<https://www.pewresearch.org/fact-tank/2013/04/17/marijuana-use-increased-over-the-last-decade/>

## Training Corner

### NDASA

Webinars on a variety of drug and alcohol related topics

<https://www.ndasa.com>

### Current Consulting Group

Webinars on a variety of drug and alcohol related topics

[www.currentconsultinggroup.com](http://www.currentconsultinggroup.com)

### SAPAA

Annual Conference  
August 22-25 • Denver, CO

<https://www.sapaa.com>



Get your CEUs. Check out the webinar offerings by our sponsors and partners. Many offer CEUs for participation in their monthly webinars.

## BECOME A SPONSOR

Visit [www.CCDAPP.org](http://www.CCDAPP.org)

**WHITE GLOVE**  
Drug and Alcohol Testing, Inc.  
*The Onsite Testing Specialists*  
[www.whiteglovetesting.com](http://www.whiteglovetesting.com)  
**410 458 8276**



### Do you deliver training?

Whether you deliver webinars or classroom-style training, consider having your courses pre-approved as CCDAPP continuing education.

Your training will benefit individuals working toward initial certification as well as those who are maintaining their certification. As an added bonus, CCDAPP will advertise your upcoming training in our quarterly newsletter and on our website!

Email us for more information:  
[administrator@ccdapp.org](mailto:administrator@ccdapp.org)

CCDAPP is grateful for the support we receive from our industry partners

### Are you receiving the ODAPC ListServe Notices?

Sign up at:

<https://www.transportation.gov/odapc>

## Questions?

Do you have a regulatory question?  
Email it to [administrator@ccdapp.org](mailto:administrator@ccdapp.org)

## Trucking Law: Drug and Alcohol Regs are Tighter Than Most Know

Even responsible drivers sometimes violate regulations concerning controlled substances and alcohol because they don't fully know the law. Here are some of the more common traps for professional drivers.

### *Resting in the Sleeper Berth After Using Alcohol*

Safety regulation 49 C.F.R. § 392.5 prohibits a driver from having alcohol in his or her system while having "physical control" of a commercial motor vehicle, meaning you have immediate access to the keys and your truck is nearby. This applies even while taking a 34-hour restart. The fine points of "physical control" aren't spelled out, so the best course is to consume no alcohol on the road unless you are lodging in a motel room. If you're at home, put the truck keys away while you consume some suds on your porch. As for the tolerable blood alcohol level during your downtime, Federal Motor Carrier Safety Administration "guidance" on its own regulation pegs the maximum at 0.02%, roughly the immediate effect of one beer or mixed drink for a man who weighs more than 150 pounds.

### *Failing to Proceed Immediately to the Testing Site*

49 C.F.R. § 382.305 requires a driver to proceed to "the test site immediately" once being notified of selection for random testing. If you're performing a non-driving safety-sensitive function such as unloading a trailer, your fleet is obligated to make sure you cease work and proceed to the test site as soon as possible. Waiting for traffic to die down, for example, is an impermissible delay and violates the regulation.

### *Failing to Report for a Random Controlled Substance Test While Off Duty*

You're subject to random controlled substance testing while off duty, including while at home or on a vacation. If this is a concern, I suggest turning off your cell phone or not answering it while off duty. As for random alcohol testing, the regulation does not require you to submit to it while off duty. You may be called for a random DOT alcohol test only just before, during or just after performing safety-sensitive functions.

### *Using Someone Else's Medication*

If you test positive for certain drugs, you are automatically disqualified from operating a commercial motor vehicle until you consult with a substance abuse professional. With respect to certain other controlled substances, a positive test is OK provided you have a current prescription for that drug. In other words, if you have a severe toothache, do not take your friend's Vicodin, even if off duty. Likewise, do not take your own prescribed controlled substance if your prescription has expired. Abuses such as this can sign a death warrant for your career.

### *Using Marijuana "Legally"*

If you test positive for marijuana in a DOT-mandated random test, you become disqualified to drive professionally until you fulfill the recommendations of a substance abuse professional. You're also disqualified if you test positive in a pre-employment drug test. It does not matter if you used the marijuana legally. State laws do not overrule or void controlled substance testing in the Federal Motor Carrier Safety Regulations.

## Trucking Law: Drug and Alcohol Regs are Tighter Than Most Know (cont.)

### *Marijuana Stays in Your System for up to 30 Days*

It's wise to not bother applying for work with a motor carrier until you have remained off marijuana and other controlled substances for at least 30 days, or longer if you know the carrier uses hair sample testing.

### *Failing to Respond to the Medical Review Officer*

The job of a medical review officer (MRO) is to confirm a positive controlled substance test received from a laboratory. In such a case, the MRO contacts the employer, who must tell the driver to contact the MRO to discuss the test results. Do not pass up this opportunity if you have a good explanation for the positive test. For example, if you have a current prescription for the controlled substance for which you tested positive, fax or email a copy of the prescription to the MRO as soon as possible. This advice applies even if you have been fired.

*Overdrive. (2021). Trucking law: Drug and alcohol regs are tighter than most know.*

<https://www.overdriveonline.com/business/article/14896794/trucking-law-drug-and-alcohol-regs-are-tighter-than-most-know>

## Teen overdose deaths are spiking despite drug usage falling, study finds

*Despite teenage drug use being at an all time low, the number of teen overdose deaths has been rising for the past 10 years, a new study found.*

*Teenage overdose deaths in the United States more than doubled from 2010 to 2021, according to a peer-reviewed study published in JAMA on Tuesday.*

*Study author Joseph Friedman told USA TODAY the reason is that illicit drugs are becoming more lethal. For example, pills resembling Oxycodone, Percocet and Xanax are being laced with high levels of fentanyl, he said.*

*Teenagers "are not necessarily changing the practices. It's just that the drugs they've been buying and consuming for a long time have gotten way more dangerous," Friedman said.*

*The study found that between 2019 and 2021, teen fentanyl-involved overdoses increased from 253 to 884.*

*The only way to tell if a drug is laced with fentanyl is to use a fentanyl testing strip because illicit pills can look identical to the prescription ones, according to Friedman.*

<https://www.usatoday.com/story/news/health/2022/04/13/teen-overdose-deaths-rising/7302681001/>

## **Impairment: The newest buzzword in workplace drug and alcohol testing programs**

**By Sharon Bottcher**

*This information is provided for educational purposes only. Reader retains full responsibility for the use of the information contained herein.*

Impairment in the workplace can have severe consequences. Workplace drug testing programs are designed to detect the presence of alcohol, illicit drugs and/or certain prescription drugs while also preventing potential on-the-job impairment. Drug testing is a common practice in workplaces of all industries and sizes, serving as a prevention and deterrent method implemented as part of a comprehensive program.

Impairment can be the result of various situations such as stress, fatigue, and medical conditions. However, a common cause of impairment is the use and abuse of alcohol and drugs, whether legal or illegal. Impairment caused by drugs and/or alcohol often creates unfit working conditions and restricts the ability of employees to safely perform work functions. Impairment can affect judgment, thinking and decision making, or decrease motor coordination, reaction time and sensory perception. Employers have a responsibility to address impairment in the workplace.

### **Why is impairment being brought into the mix of workplace testing programs?**

Until now, impairment has not been a focus in drug and alcohol testing. However, as states pass medicinal and recreational marijuana laws, some have put into place stipulations that require employers to prove there is a connection between a positive drug test result and actual impairment before taking adverse employment action. Knowing the signs of drug or alcohol impairment and adequately addressing impairment in your policy may mean the difference between a successful, compliant program vs. program failure and non-compliance.

Additionally, most states have workers' compensation laws that allow denial of a claim for either failing a drug test or being impaired or intoxicated when injured.

### **Why is documenting signs or symptoms of impairment encouraged prior to drug testing?**

It is important to understand that a positive drug test does not necessarily prove, either scientifically or legally, that a person is impaired. There is varying evidence on how drug levels correlate with impairment, and some sample types (urine and hair, for example) can detect drug use that occurred weeks ago, as opposed to recent drug use that is more likely to impact impairment. To date, lab-based oral fluid testing is the only testing method capable of detecting drugs within minutes of consumption that has been approved by the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Department of Transportation (DOT).

The effects of drugs and alcohol vary from person-to-person. Some factors that may affect drug levels and impairment include:

- General mood
- How a drug is consumed
- Tolerance to drugs and alcohol.
- General health,
- Body fat percentage and weight,
- Amount of drug consumed,

Nevertheless, what a positive drug test does prove is that an individual had drugs in their system at the time of testing. Therefore, the safest and most comprehensive way to determine impairment is to complement recent-use drug testing with an investigation into whether an employee exhibited any of the physical and behavioral signs typically associated with impairment.

To prove impairment, it is important to have sufficient evidence that is well-documented, similar to when an employer performs reasonable cause testing. Documentation of observed behaviors is the evidence applied to justify and merit the request for a drug test. When such behavior is documented, it signals possible impairment from drugs or other factors. The drug test is used to rule out prohibited drugs as a source of a particular behavior. Documenting signs and symptoms of impairment does not necessarily mean that an individual is using drugs and needs a drug test. Rather, a drug test post-documented signs is used as a means to exclude possible impairment as a cause of unusual behavior.

## ***Impairment: The newest buzzword in workplace drug and alcohol testing programs (Continued)***

### **What are common signs and symptoms of impairment?**

To implement a successful drug testing program, it is essential to know what constitutes a sign or symptom of impairment. Observing signs of impairment identifies that an individual is not functioning normally. This red flag allows the observer to pull the individual aside as a safety precaution and for further investigation. Additionally, it may aid in the early identification of an employee who might need help.

Some states require employers to identify signs of impairment before permitting disciplinary action of an employee for marijuana use.

Identifying and confronting individuals exhibiting signs of impairment can be a difficult and uncomfortable task for supervisors and managers. Proper training can help provide individuals with the confidence and knowledge necessary to take the appropriate steps.

There is not an all-inclusive or complete list of signs and symptoms of impairment; however, there are common signs and symptoms of possible impairment to watch for which include but are not limited to the following:

- **Physical:** poor appearance/hygiene, sweating, headaches, tremors, diarrhea, restlessness, slurred speech, unsteady gait, etc.
- **Psychosocial:** mood fluctuations, inappropriate verbal or emotional responses, irritability, confusion, memory lapses, isolation, lack of focus, lying, etc.
- **Performance:** calling in sick frequently or working more overtime, arriving late/leaving early, extended breaks, errors in judgment, deterioration in performance, non-compliance with policies, changes in quality of work, etc.

### **State laws may require specific items in your policy**

Naturally, state laws have varying requirements as to what should be included in the policy such as definitions or procedures that must be observed. For example, Illinois law indicates an employee can be considered to be under the influence or impaired if the employer has 'good faith belief' that the employee manifests at least one of the following articulable symptoms that decreases or lessens the employee's performance of job duties: "speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, negligence or carelessness in operating equipment or machinery, disregard for the safety of employee or others, involvement in any accident that results in serious equipment or property damage, disruption of the production or manufacturing process, or carelessness that results in an injury to the employee or others."

New York, in contrast, indicates that employers can take action if an employee is impaired by cannabis at work. Impairment in New York means that the individual in question manifests specific articulable symptoms of impairment that decrease or lessen job performance or interfere with the employer's obligation to provide a safe and healthy workplace. Employers should look for symptoms that are objectively observable indications that the employee's performance is decreased. Additionally, an employer cannot use a drug test as the basis for their determination that an employee was/is impaired by cannabis.

Other states may have laws that require documentation of other signs or symptoms or may leave it up to individual employers to determine what constitutes impairment.

### **Developing a workplace policy on drug impairment**

It is vital to include specific state law requirements in your policy. At a minimum, your policy should include the impact of possible impairment, company definitions of "impairment" and/or "under the influence," and required employee conduct. The policy should also clearly indicate the employer's position on the use, possession or being under the influence of substances while at work.

While the employer is ultimately responsible for developing a policy that includes the applicable provisions required, the supervisor has a vital role to play in the safety of their teams. Supervisors should be educated regularly on policy changes as regular reviews and updates occur. The success of the supervisor, in part, is determined by an accurate and comprehensive policy.

## **Cannabis Reform – Thoughts from Safety Professionals**

**By Jaime Feinberg, Vice President of Partnerships for Insurance, Risk, + Safety at Hound Labs, Inc.**

As a safety professional, I often felt like an unsung hero. I knew I was making a difference, but I couldn't always quantify the number of injuries and even deaths I prevented.

### **THE ROLE OF A SAFETY PROFESSIONAL**

Most people don't really understand what a safety manager does. Many think we are the "safety cops" – looking to catch our colleagues doing something wrong. It may feel like that to some employees, but if I did my job well, my colleagues understood that I was trying to keep them safe – to show them how to do things to avoid injury.

### **INCIDENTS vs. ACCIDENTS**

A safety professional works to prevent workplace incidents. I use the term "incident" instead of "accident" because the word accident fuels the notion the situation could have been prevented – when in most cases that's not possible. Safety managers also work to promote the wellbeing of their fellow employees. They ensure employees follow health and safety regulations and create policies and training to build a safer work environment. This can be a daunting task at times because even with effective policies, training, and systems in place, incidents in the workplace still happen. Why? Well, because employees are humans, and humans can make errors and be unpredictable.

### **"WHY'D YOU HAVE TO GO AND MAKE THINGS SO COMPLICATED?"**

Imagine you are a safety manager in a state without legal access to medical or recreational cannabis, and you have everything "under control" – policies are in place and employees are trained. You have created a well-oiled machine that limits occasions for human error. The next morning when you wake, cannabis is now legal.

The lyrics from Avril Lavigne's song, "Complicated", resonate and play on a loop in my head when I think about this very topic: "Why'd you have to go and make things so complicated?"

Pre-legalization, safety professionals could test pre-employment and weed out candidates who might be more of a risk than others. This was just one additional layer of protection and a very useful one for many years. But now with legal cannabis in many states, employers are tempted to remove cannabis from their pre-employment drug screening, and a few are even wondering if it would be easier to completely remove cannabis from all their drug testing panels.

### **SAFETY PROFESSIONALS' THOUGHTS ON LEGAL CANNABIS**

To get a real-life perspective on the impact of legalization on the day-to-day lives of a safety professional, I asked a few industry colleagues to contribute their thoughts and experiences.

*Bethany L., Safety Director, IL*

*"As a safety professional for a commercial general contractor, the legalization of recreational cannabis makes managing our safety risks much more challenging in several ways. Due to the high-risk nature of our work, we have many employees in safety-sensitive positions; and so, ensuring they're unimpaired is mission-critical. We need employees to be clear-headed and able to respond appropriately to risks in the workplace at all times. More employees may engage in using cannabis now that it's legalized, which increases the likelihood that someone may show up to work after using."*

## **Cannabis Reform – Thoughts from Safety Professionals (Continued)**

Bethany raises a good point. Safety managers strive to be fair and objective. They want objective policies and training to protect all employees. To do this, I relied heavily on objective data about risks and mitigation strategies, as well as feedback from employees those policies would impact. However, if states and businesses must now rely on training employees to recognize impairment, objectivity will be lost. That's because another characteristic of humans is unavoidable bias. The only way to ensure objectivity is to use data provided by instrument-read tests that indicate the presence or absence of recently used cannabis.

*Rick L. CSP, Safety, and HR Director, UT*

*"As a safety manager I am wary as cannabis use legalizes in more states. My company is measuring the effectiveness of our substance abuse policy and its potency to protect workplace safety. Recently, a superintendent questioned the ethics of terminating an employee who tested positive for THC when that employee didn't break a law (smoked cannabis legally) and did not do it while at work."*

In my previous role as a Vice President of Risk Control for Captive Resources, Inc. (CRI), I spoke with many companies in a similar situation as Rick – trying to maintain safety while also recognizing the new realities of employees choosing to legally use. It's a situation countless businesses are currently navigating with varying degrees of success. Until they can test breath for recent cannabis use, safety managers will have a hard time determining how to use the results from conventional cannabis tests that provide positive results for cannabis use days, weeks, or months prior to the test.

*Amy R, Safety and Hiring Coordinator, OK*

*"We had to change our policy so only safety-sensitive positions include THC in their pre-employment screening panel. With Oklahoma having dispensaries everywhere you turn, it seems like everyone has a medical cannabis card and access to cannabis. It's just a new norm, and unfortunately, we could not get the number of hires we were needing in our non-safety-sensitive roles, so our best option was to just remove THC from their pre-employment screening. We inform all associates that THC will be included in other drugs screenings to which they will be subjected – such as a post-incident drug test. We continue to lose good candidates weekly for failing safety-sensitive drug screenings because of THC."*

As Amy and I discussed her situation, we recognized cannabis legalization is forcing the hand of some companies who are struggling to hire in a tight labor market. Some are focusing pre-employment testing only on safety-sensitive positions which, again, runs counter to a safety managers' desire for fairness and objectivity. It's a short-term fix that Amy's company addresses by testing both safety-sensitive and non-safety sensitive positions post-hire.

### **CONTINUING THE CONVERSATIONS**

Unsurprisingly, cannabis legalization has complicated how safety professionals across the country balance the need for safety with the goal of fairness. However, I am hopeful these difficult discussions will lead to improved outcomes as companies realize that by using new breath technology, they can maintain safety, ensure objectivity, and continue fair workplace practices of testing both safety-sensitive and non-safety-sensitive employees.

Articles submitted by CCDAPP Sponsors or external groups do not represent the views of the CCDAPP Commission. Please direct inquiries via email: [administrator@ccdapp.org](mailto:administrator@ccdapp.org)

**The Certification Commission for Drug and Alcohol Program Professionals (CCDAPP)** is a certifying body for drug and alcohol program professionals who have chosen to be recognized as specialists with demonstrated proficiency in their field. CCDAPP is a nonprofit, independent corporation dedicated to enhancing the quality and level of professional knowledge and skills of individuals providing drug and alcohol testing and related services to the public.

Please visit [CCDAPP.org](http://CCDAPP.org) to learn more and apply to become certified.



**CCDAPP Officers:**

- Regina Doural, CSAPA, President*
- Robi Bolton, CSAPA, Vice-President*
- Helen White, CSAPA, Secretary*
- Venus Mills, CSAPA, Treasurer*

**CCDAPP Commissioners:**

- Candy Clepper, CSAPA*
- Julie Daugherty, CSAPA*
- Mary Hines, CSAPA*
- Dennis Kerns, CSAPA*
- Dr. Anu Konakanchi, MRO*
- Barbara Martin, CSAPA*
- Sean Oswald, CDAPA-T*
- David Perlman, SAP*
- Dr. Richard Plut*
- Tom Pool, CSAPA*
- Brandie Reid, CSAPA*
- Jeff Sims, CSAPA*

**Get Certified!**

Listen to a pre-recorded webinar on the who, what, why, and how to get certified as a drug & alcohol program professional. Watch [HERE](#), or download our [Information Guide](#). Please visit [ccdapp.org](http://ccdapp.org) to start your journey to certification. We are happy to answer any additional questions you have. Just email [administrator@ccdapp.org](mailto:administrator@ccdapp.org).

Be sure to stop by our booth at the [SAPAA](#) conference this year!



Follow us on [LinkedIn](#)



Follow us on [Facebook](#)

Visit our website to download archived CCDAPP newsletters: [www.ccdapp.org](http://www.ccdapp.org)