

What Every Employer Should Know About Drug & Alcohol Policies: Navigating Marijuana, Compliance & Workplace Safety

Presented by:

Sandra Serrano

Chief Development Officer

sserrano@go2asap.com

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About your Presenter



Sandra Serrano is the Chief Development Officer at American Substance Abuse Professionals, Inc., where she has served since 2013. She brings more than 25 years of experience in building recovery-friendly workplace programs, substance risk management, testing program management, and workplace compliance solutions, along with over 30 years of customer service and account management experience. Sandra works closely with safety-sensitive employers, TPAs, and EAPs to develop compliant workplace programs and strategic partnerships. She is an active leader within the industry, having served on the SAPAA Board of Directors from 2016-2025 and as SAPAA President from 2020–2021.

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ASAP: Who We Are



WHO WE ARE

- Nearly 30 years of workplace compliance
- Nationwide SAP Provider
- Return to Duty and Return to Work Specialists
- 85% success rate** returning employees safely to work



WHAT WE DO

- Recovery-Friendly Workplace Programs
- Substance Use Evaluations & Case Management
- Policy Development
- Testing Program Management
- Regulatory Compliance Support
- Audit Readiness & Risk Reduction



COMMON REFERRALS

- Positive Tests
- Refusals
- DUI/DWI
- Self-Referrals
- Company Policy Violations



INDUSTRIES & PROGRAMS SUPPORTED

DOT • Non-DOT (General Workforce) • NRC • NASAP/DISA • Safety-Sensitive Employers

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Today's Agenda

Building a compliant, recovery-friendly workplace

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Changing Workplace Substance Use Laws

Current legal and regulatory landscape

3

Maryland & Virginia

State-specific workplace considerations

5

Marijuana & Workplace Impairment

Moving beyond marijuana to a broader impairment-focused approach

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DOT vs. Non-DOT Requirements

Key compliance differences and considerations

4

Managing Workplace Substance Use

Reasonable suspicion • testing • documentation • enforcement

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Strengthening Your Program

Practical strategies • resources • risk reduction

TAKEAWAY

Leave with practical strategies for navigating workplace substance use compliance requirements that you can apply immediately.

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Disclaimer

The material and information presented today are provided for general informational and educational purposes only. This presentation is intended to offer guidance on navigating considerations related to the development or updating of employer policies.

The presenter is not an attorney and is not providing legal advice, legal opinions, or legal services. Nothing in this presentation should be construed as legal counsel.

Employers should consult with their legal counsel or other qualified professionals before implementing, modifying, or enforcing any workplace policies to ensure compliance with applicable federal, state, and local laws and regulations.

No attorney-client or professional advisory relationship is created by participation in this presentation.

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Maryland Moves To A Recovery-Friendly Workplace

EXECUTIVE ORDER
September 4, 2026

Governor Moore signs executive order supporting state employees in recovery

Maryland is “walking the walk.”

It joins a small number of state governments adopting recovery-friendly workplace policies at this scale and is moving from encouraging employers to be recovery-friendly to demonstrating the model itself as an employer.

TRAIN
Build awareness & reduce stigma

SUPPORT
Connect employees to help first

RETAIN
Strengthen a productive workforce

WHY IT MATTERS

Recovery-friendly workplaces are associated with less unscheduled leave, lower turnover, less productivity loss and lower health care costs.

Source: Office of Governor Wes Moore — “Governor Moore Signs Executive Order Making Maryland a Recovery-Friendly Workplace” | Sept. 4, 2026

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DOT vs Non-DOT (High-Level Comparison)

DOT EMPLOYEES	TOPIC	NON-DOT (MD / VA)
Prohibited regardless of state law	Marijuana	Depends on state law and employer policy
Federally regulated	Testing Rules	State-specific
SAP RTD process required	Return to Duty	Employer policy / state law
Required	Supervisor Training	Strongly recommended (some states require)

Takeaway: DOT compliance does not automatically equal non-DOT compliance.

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DOT Compliance Update: Marijuana Rescheduling and Testing

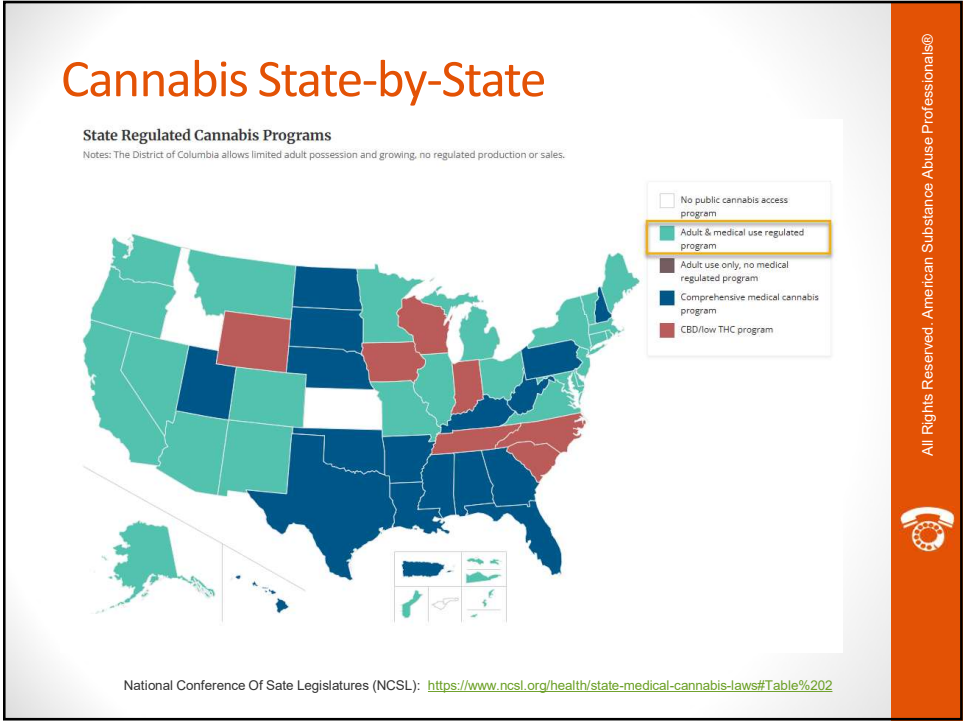


- An Executive Order directed the Department of Justice (DOJ) to complete the process of moving marijuana from **Schedule I**—to **Schedule III**, a classification that recognizes medical use while maintaining regulatory controls.
- **No Immediate Changes to Drug Testing Programs Needed**
 - Department of Transportation (DOT)
 - General Workforce (state/local laws still apply)
- Safety Carve-out needed!

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Cannabis

MARYLAND

Effective July 1, 2023
Persons 21 years or older may lawfully possess and use cannabis.
Employers may still test for cannabis and act against employees who test positive (not licensing boards).

VIRGINIA

Recreational
Permitted for age 21 and older (Senate Bill 1406).
Medical Marijuana
Code of Virginia 40.1-27.4 — cannabis oil containing no more than 10 mg of THC per dose.

PENNSYLVANIA

Local Restrictions
Restrictions in Philadelphia and Pittsburgh.
Medical Marijuana laws in PA

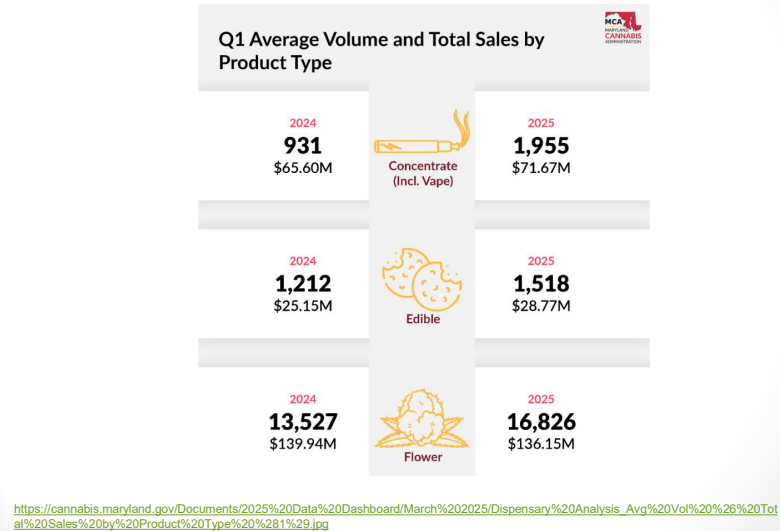
DOT

Federal Rule
Not permitted for medical or recreational marijuana.
[DOT "CBD" Notice](#)
[DOT "Recreational Marijuana" Notice](#)
[DOT "Medical Marijuana" Notice](#)

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Impairment / Intoxication – Cannabis Sales in MD



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Maryland vs Virginia vs DOT

Topic	Maryland	Virginia	DOT
Written Policy	Highly Recommended	Highly Recommended	Required
MRO Review	Required	Highly Recommended	Required
Lab Accreditation	CAP required	U.S. HHS or CAP or AACC required	U.S. HHS under NLCP required
Alcohol Testing	Breath Test prohibited	No mention	Breath Test
POCT-Instants/Rapids	Employer registration required with MD Depart of Health	FDA approved device / confirmations required	Saliva Alcohol – initial test Confirm Breath Test
Insurer	No mention	Employers with a qualifying drug-free workplace program may receive up to a 5% insurance premium discount.	No mention

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Maryland Nuance: Alcohol Testing

MD EMPLOYERS Cannot use Breath Alcohol Test		DOT EMPLOYEES Requires Breath Alcohol Test
Instant oral fluid — initial screen ONLY	Initial Screen	Instant oral fluid — as initial screen ONLY
Device must be CLIA waived	Testing Device	Device must be DOT approved
Blood Alcohol — confirmatory test required	Confirmation	BAT — confirmatory test required

Note: Urine alcohol testing is never recommended; it is not legally defensible in court. This is not a reliable indicator of impairment.

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Maryland Nuance (continued) — Instant/Rapids/POCT On-site Collections

Drug & Alcohol Instant Testing



Instant/Rapids/Point of Care Testing (POCT) products used onsite require registration with MD Department of Health (DOH)
https://health.maryland.gov/ohca/docs/Applications/APPLICATION_LABS-EDT-Registration-03.03.2026-A.pdf



Limitation in language pre-employment testing
Check with MD DOH on reason for test limitation

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Maryland Nuance

After a positive test employer must provide...

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graph LR; A[Test results] --> B[Company's written policy]; B --> C[Notice of any disciplinary action (if applicable)]; C --> D[Inform the employee of their right to request independent testing of the original sample]; D --> E[Deliver notification in person or by certified mail]; E --> F[Provide notification within 30 days of the test date];
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Focus on Impairment, Not Just Cannabis

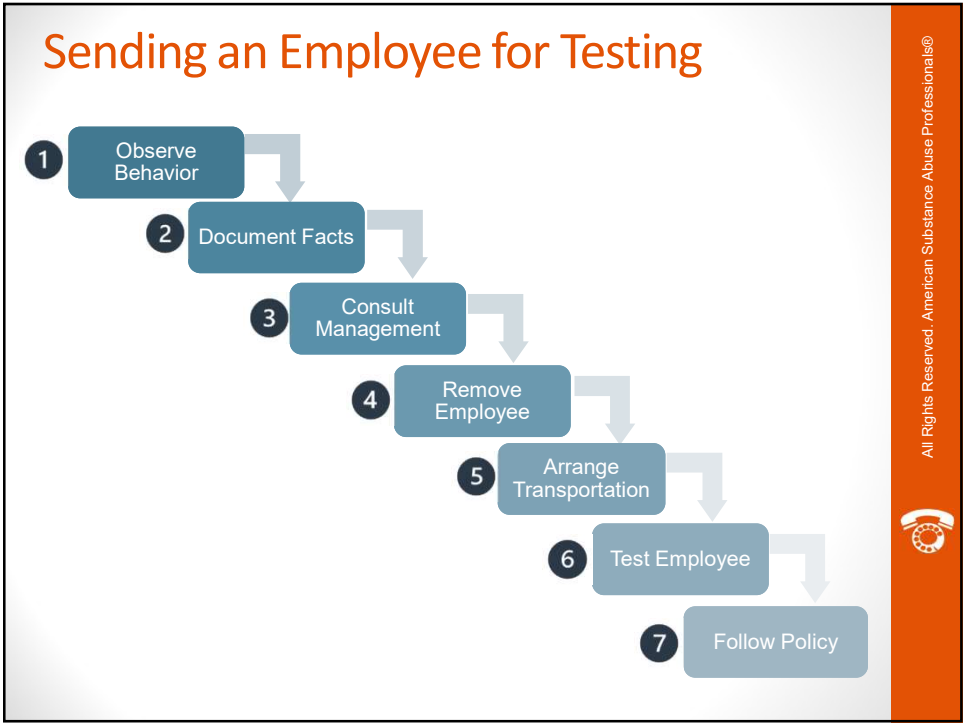
IMPAIRMENT CAN BE CAUSED BY:

- ALCOHOL
- CANNABIS
- PRESCRIPTION MEDICATIONS
- ILLICIT DRUGS
- FATIGUE
- MENTAL STRESS
- MEDICAL CONDITIONS

Takeaway: Employers should manage impairment, not just marijuana.

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What Supervisors Should Document

SUPERVISOR OBSERVATION & DOCUMENTATION GUIDE

DOCUMENT:

- Slurred speech
- Odor of alcohol or marijuana
- Unsteady gait
- Delayed reactions
- Red or watery eyes
- Confusion
- Unsafe acts

DO NOT DOCUMENT:

- Diagnoses
- Assumptions
- Opinions

EXAMPLES:

GOOD EXAMPLE:

“Employee stumbled twice while walking and dropped tools.”

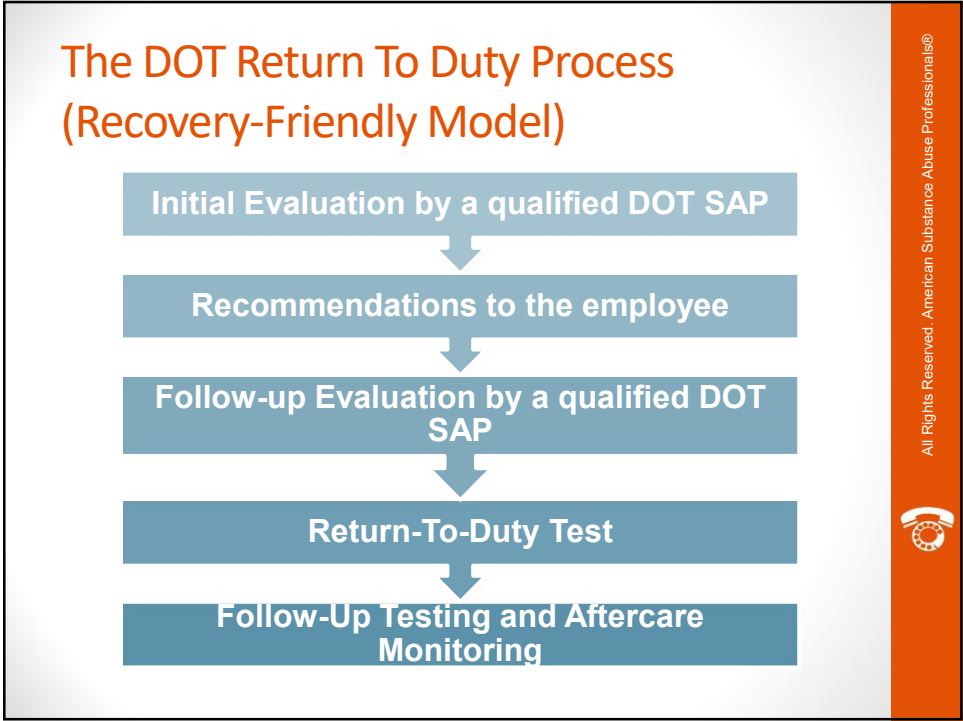
BAD EXAMPLE:

“Employee was high.”

REMEMBER: Document what you observe, not what you think. Objective, factual, and specific documentation protects everyone.

Focus on behavior. Stick to the facts. Keep everyone safe.

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§40.281 - Who May Act as a SAP?

A DOT qualified SAP must have and/or maintain:

Specific Qualifying Credential	Basic Knowledge	Training on DOT Regulations
Exam following the training	CEUs every 3 years	Enroll into the FMCSA Clearinghouse

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DOT §40.287 & 40.281- List of SAPs

Organization Name:	
Designated Employer Rep. (DER):	Phone:
Third-Party Administrator (TPA):	
Medical Review Officer (MRO):	Phone:

Date:

Employee Referred:

You have been denied safety-sensitive employment or have been removed from safety-sensitive duty as a result of a drug and alcohol testing violation. As a result, you are in direct violation of U.S. Department of Transportation (DOT) 49 CFR Part 40 Section 40.23. **This violation has officially disqualified you from performing safety-sensitive duties.**

 What's next? Call **888-792-2727 x 177** to speak with an **American Substance Abuse Professional (ASAP) Advisor**.

American Substance Abuse Professionals, Inc. (ASAP) is a dedicated SAP Service Agent with a nationwide provider network of DOT qualified Substance Abuse Professionals (SAP) performing Return to Duty (RTD) services.

List of qualified DOT SAPs: Nicole Hanratty, CEAP, SAP, SAE and Sharon Fleming, MA, CEAP, SAP, 10151 York Road, Cockeysville, MD 21030. For assistance call 888-792-2727 x 177 / getbacktowork@go2asap.com

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The DOT Return to Duty Process

Step 1: SAP Evaluation



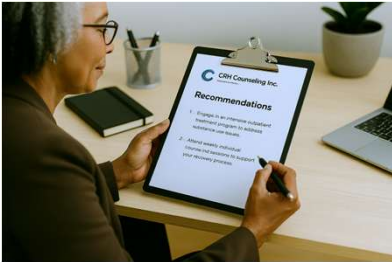
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The DOT Return to Duty Process

Steps 2 & 3: Recommendations & Follow-up Evaluation



The DOT Return to Duty Process

Steps 4 & 5: Return to Duty Test and Follow-ups / Aftercare



Things Every Employer Should Have

Essential Program Components

Written Drug & Alcohol Policy

Reasonable Suspicion Procedures

Supervisor Training

Testing Protocols

Documentation Process

Employee Education

Consistent Discipline Procedures

Resources; 2nd chance SAP Program, EAP

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Questions



Sandra Serrano
Chief Development Officer
sserrano@go2asap.com
410.366.3899 x.607
go2asap.com

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