

***West Central Ohio Safety Council presents:***

# Medical Marijuana & Your Drug-Free Workplace Program

# INTRODUCTION



- Consulting & Training
- Community Projects
- Risks: Harmful Use of Substances
- Operations vs. Legal
- Legal Partner: Littler

# DISCLAIMER

- Content is meant for informational purposes only and not for the purpose of providing legal advice.
- Should not be used as a substitute for consultation with a legal professional or other competent advisor.
- Contact a licensed attorney to obtain advice with respect to any legal issue discussed in this presentation or regarding a situation specific to your business.

“We’re in the midst of trying to change our relationship with our culture’s most widely used illicit drug.”

- Allison Sharer

### 3 KEY OBJECTIVES

1. Increase awareness of business issues under Ohio HB 523
2. Increase understanding of the related operational, DFWP issues for employers and employees
3. Review key decisions to be made – related to policy, operations, education & training

## BOTTOM LINE:

Employers are not required, but  
are not prohibited from allowing  
the lawful use of marijuana as  
medicine

*(unless prohibited by an authority).*

**SO YOU NEED TO DECIDE\***

**YES ... NO .... MAYBE?**

\*DEADLINE: ???

# HOW WILLING ARE YOU TO ALLOW USE?

10

YES

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# Derrick



# Cliff



# Ramona



# Noah



# Bethany





**Connect the Xs!**

# WHAT DID YOU BASE YOUR DECISIONS ON?



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# BASIS OF DECISION MAKING

- Get the right players at the table
- Proactive vs. Reactive
- Rational vs. Emotional



# 5 CONSIDERATIONS

1. Laws & Authorities
2. Safety, Security & Public Image
3. Attitudes & Knowledge about the Drug
4. Ease of Operations
5. Workforce

# 1. LAWS & AUTHORITIES

ILLEG

Feder

CS,

EGAL:

to HB

23



# HIERARCHY OF AUTHORITIES

- Federal
  - DFWP Act 1988
  - DOT
- State
  - Marijuana Law (Ohio HB 523)
  - Workers Compensation/Ohio BWC DFSP
  - Professional Licenses/Credentials
  - Other DFWP-related laws
- Company-Specific
  - Attorney
  - Union
  - Insurance
  - Landlord
  - Clients
  - And more ...

**Check with legal counsel**

# Oversight & Operation of the Law



Cultivators, processors  
& testing labs



Dispensaries,  
patient/caregiver  
registration, new  
forms of marijuana,  
coordinating advisory  
committee



Certifying physicians,  
qualifying conditions

LEARN MORE!  
INFORMATION & UPDATES

[www.MedicalMarijuana.Ohio.gov](http://www.MedicalMarijuana.Ohio.gov)

## 2 CHEMICALS OF INTEREST FOR MEDICAL

- THC
  - Increase appetite
  - Reduce nausea
  - Decrease pain and inflammation
- CBD
  - Decrease pain and inflammation
  - Control epileptic seizures

NEED MORE RESEARCH

# WHAT WE DO KNOW: RECOMMENDING

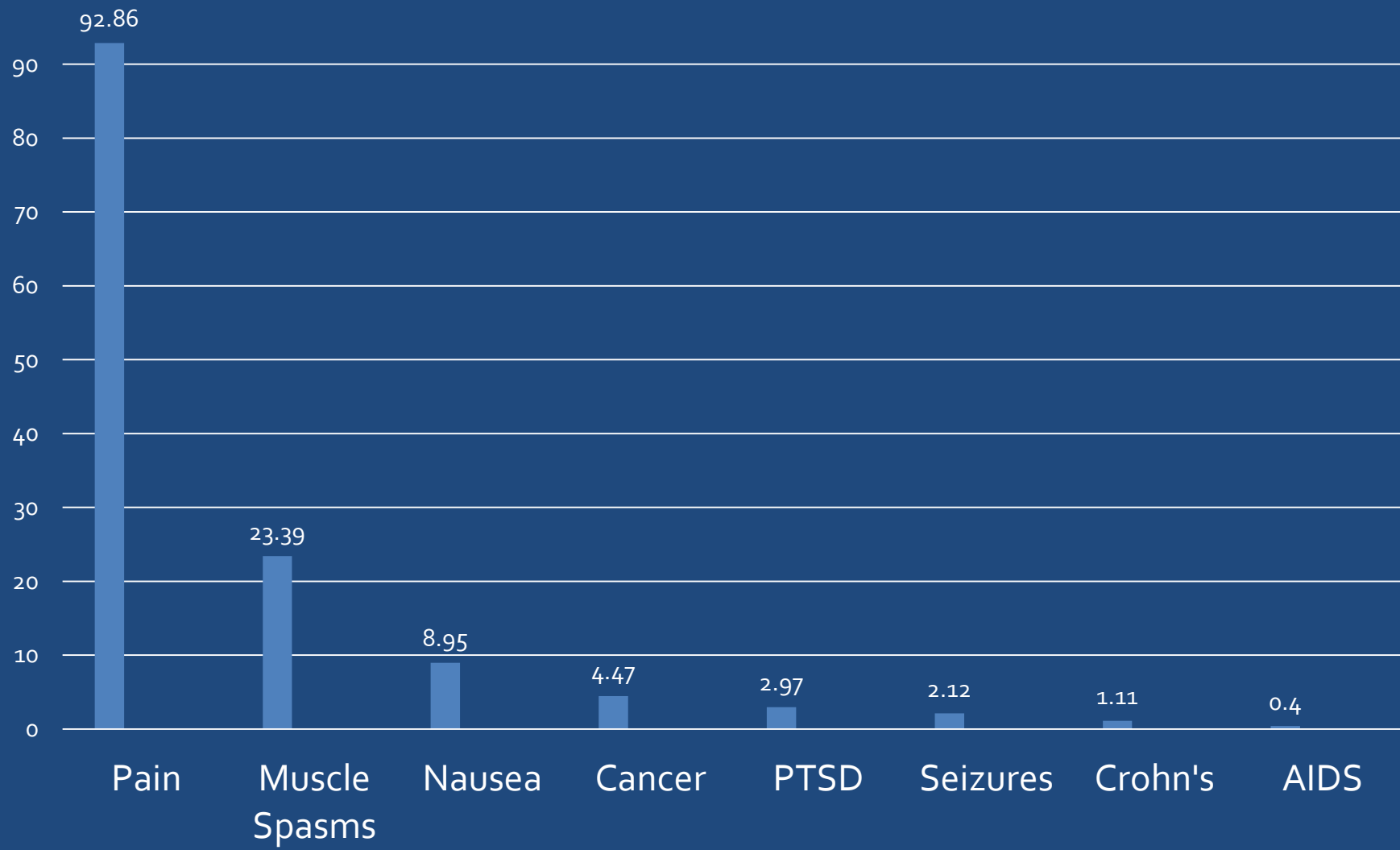
- Must be a bona fide relationship between patient and doctor
- Expectation that they will provide care on an ongoing basis.
- Dr. must complete 2 hours CE in a qualifying course and apply for a certificate to recommend
- Have in-person visit with patient
- Can recommend for 1 of 21 “qualifying conditions”



# 21 QUALIFYING CONDITIONS

1. AIDS
2. Amyotrophic lateral sclerosis
3. Alzheimer's disease
4. Cancer
5. Chronic traumatic encephalopathy
6. Crohn's disease
7. Epilepsy or another seizure disorder
8. Fibromyalgia
9. Glaucoma
10. Hepatitis C
11. Inflammatory bowel disease
12. Multiple sclerosis
13. Pain (chronic and severe or intractable)
14. Parkinson's disease
15. Positive status for HIV
16. Post-traumatic stress disorder
17. Sickle cell anemia
18. Spinal cord disease or injury
19. Tourette's syndrome
20. Traumatic brain injury
21. Ulcerative colitis

# CONDITIONS LISTED FOR RECEIVING MM IN MICHIGAN



# WHAT WE DO KNOW: RECOMMENDING

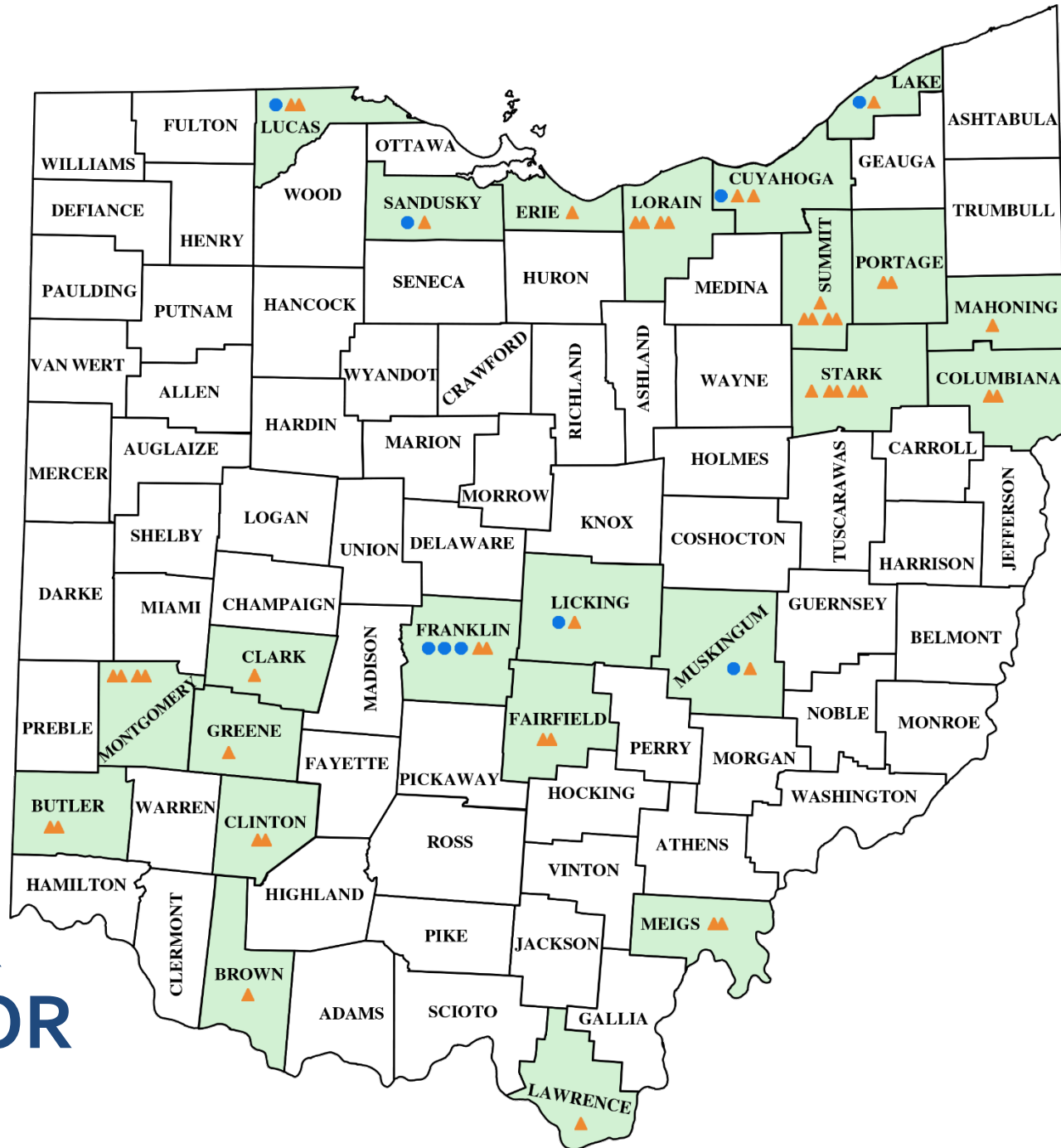
- Patient must provide proof of Ohio residence
- Pay \$50 registration fee & renew annually (can be discounted)
- Can't operate a "vehicle under the influence"

# WHAT WE DO KNOW: FORMS

- ORAL: Oil, tinctures, capsules, edible (not attractive to children)
- VAPORIZATION: oil or plant material
- TOPICAL: lotions, creams, ointments
- TRANSDERMAL: Patches



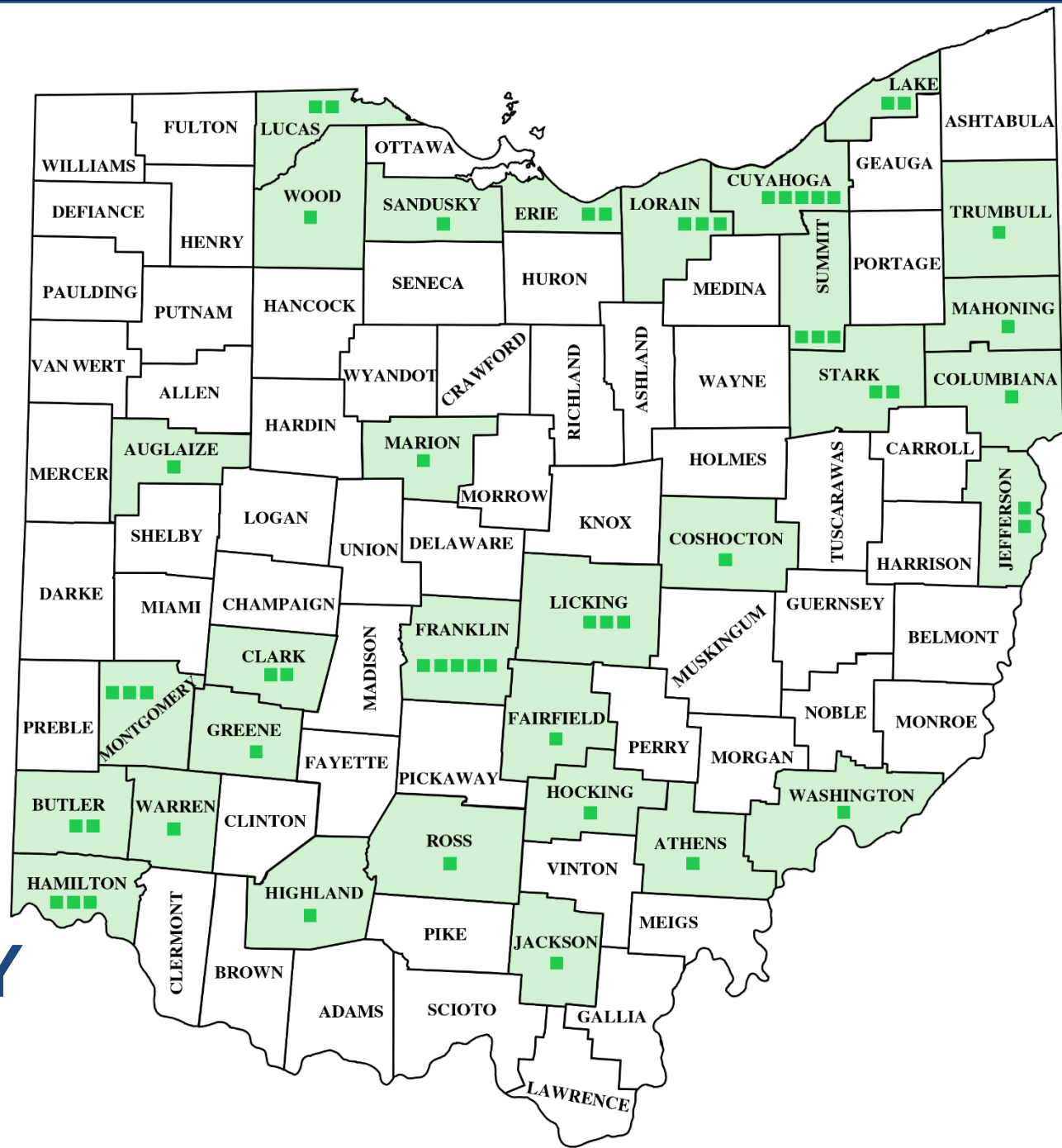
# CULTIVATOR & PROCESSOR LOCATIONS



# WHAT WE DO KNOW: DISPENSING

- Must be registered business with state
- Must obtain certificate (renewed biannually)
- Employees have to be licensed
- Must be 18+ years to purchase (with ID)
- Can get a single dose or up to a 90-day supply
- Must be reported to OARRS
- Up to 60 Dispensaries

# DISPENSARY LOCATIONS



# WHAT WE KNOW: EMPLOYERS

- Nothing in the bill requires employer to accommodate use, possession or distribution of MM
- Nothing in the bill prohibits an employer from taking any adverse employment action ... because of person's use, possession or distribution of MM
- Nothing in the bill permits a person to sue an employer for taking an adverse employment action related to medical marijuana. *(But check with your legal counsel!)*



# WHAT WE KNOW: EMPLOYERS

- Nothing in the bill prohibits an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy
- Nothing in the bill interferes with federal restrictions on employment (e.g., DOT)
- BWC

## 2. SAFETY, SECURITY & PUBLIC IMAGE

# SAFETY-SENSITIVE

- Safety Sensitive “Function”
  - Operating vehicle/Motorized equipment
  - Handling combustible/hazardous material
  - Working in a S.S. environment
- Safety Sensitive “Position”
  - Laborer
  - Carpenter
  - Outside sales
  - Mechanic
  - Warehouse Worker

# SECURITY-SENSITIVE

- Payroll, finances
- Classified information
- Intellectual property
- Security
- Child/Adult Care
- Professionals -- Architects, Structural Engineers

# PUBLIC IMAGE

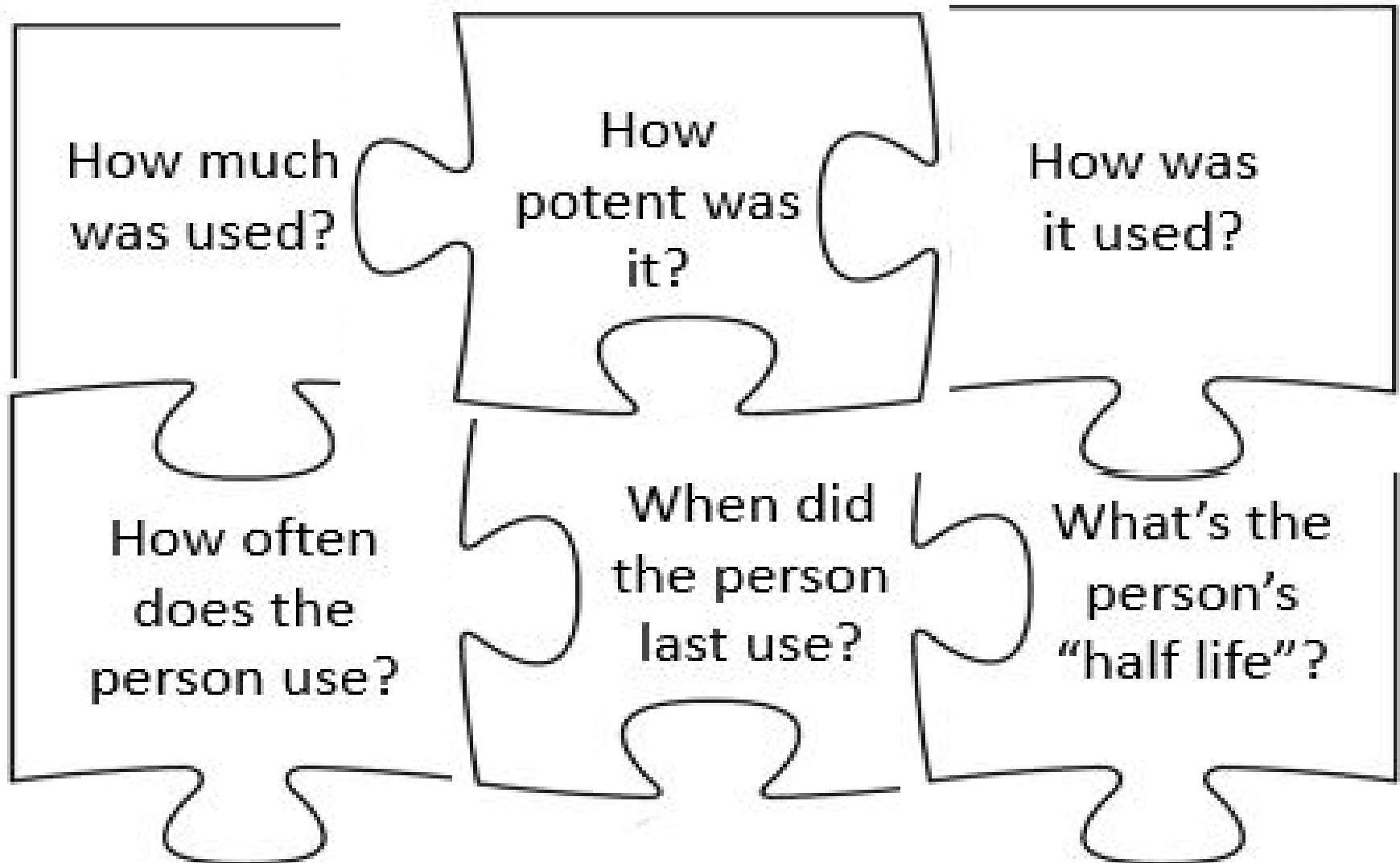
- Child & adult care providers
- Retail
- Alcohol/Drug Professionals
- Other forward-facing positions

### 3. KNOWLEDGE & ATTITUDES ABOUT THE DRUG

# THE DRUG

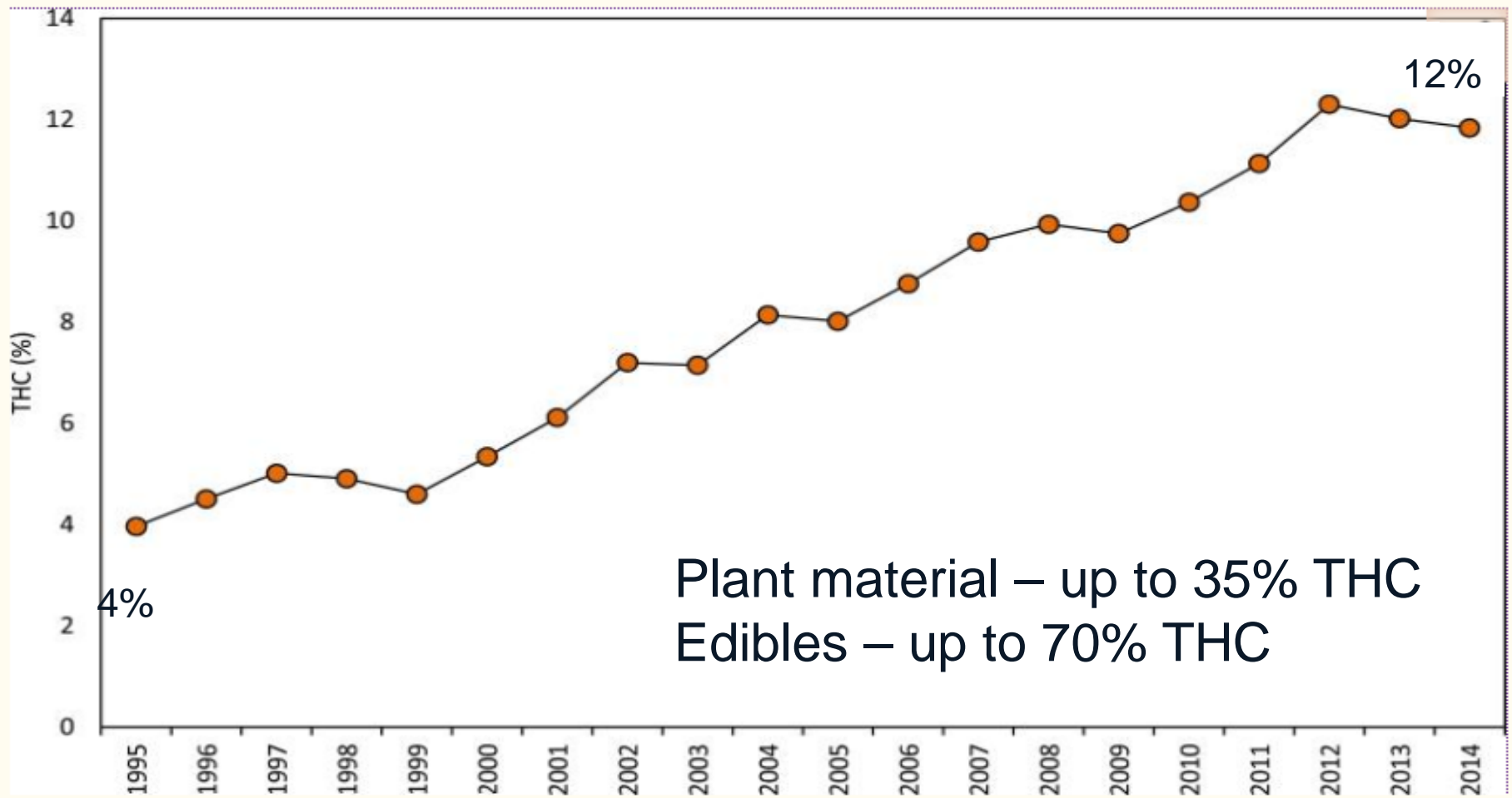
- Over 400 naturally occurring chemicals
- Unique to marijuana: cannabinoids
  - Fat soluble
  - Half-life
  - Accumulates

# HOW LONG DOES THC STAY IN THE SYSTEM? (It depends!)





# AVERAGE CONCENTRATION OF THC BY YEAR



# IMPAIRMENT ISSUES

- Cognitive vs Behavioral
- THC content
- Accumulation
- Impairment lingers

# WORKPLACE CONCERNS

- Memory
- Vision
- Perception of Time
- Attention
- Judgment
- Reflexes
- Perception of performance

“Bottom line for me ... it’s none of my business if they use it on their own time, but I certainly don’t want them to be impaired on the job.”



How will I know?

Currently, there is no  
objection to standardized  
medical marijuana for  
treatment.



## 4. EASE OF OPERATIONS

“Why can’t I just treat ‘medical’  
marijuana like *other* Rx meds?”





THERE'S **STOP** AS A RX FOR



# WHAT'S MISSING?

- Dosage & administration
- Drugs interactions
- Storage directives
- Adverse reactions
- Warnings

*In every state, the responsibility for  
verifying the validity of a  
“recommendation” falls on the  
employer.*

# THINGS TO VERIFY ...

- Is the card legit?
- It is being used according to doctor's recommendation?
- When is the employee going to use?
- Is he/she safe to work or do I need to adjust job duties?
- If so, for how long?
- Is there anything else they can use?

“If I do decide to allow employees to use  
MM, what do I do if someone tests  
positive?”



“Since so many states are legalizing it ...  
and so many people are using it ... and  
since I can’t find workers anyhow, maybe  
I’ll just stop testing for it.”



# 5. WORKFORCE

CAN'T FIND WORKERS WHO CAN  
PASS A PRE-EMPLOYMENT TEST



# NATIONAL RATES (%) PAST MO. USE

|      | 12+ yrs. | 18+  | 18 - 25 | 26 - 34 | 35+ |
|------|----------|------|---------|---------|-----|
| 2015 | 10.1     | 10.2 | 22.3    | 15.4    | 6.6 |
| 2016 | 10.6     | 10.9 | 23.2    | 16.8    | 7.1 |

# WORKPLACE TESTS

**2016**

Marijuana

45.53

Amphetamines

22.33

Opiates

8.74

Benzodiazepines

7.84

Cocaine

5.24

Barbiturates

2.61

Oxycodone

2.61

Methadone

2.05

6-AM (HEROIN)

.15

# MARIJUANA – RATES OF INCREASE

2016 - 2017

4<sup>0</sup>%

2015 - 2016

4<sup>0</sup>%

2013 - 2014

14.3<sup>0</sup>%

2012 - 2013

5<sup>0</sup>%

# UP IN STATES WITH NEW RECREATIONAL LEGALIZATION STATUTES

|        |                   |
|--------|-------------------|
| Nevada | 43 <sup>0</sup> % |
|--------|-------------------|

|               |                   |
|---------------|-------------------|
| Massachusetts | 14 <sup>0</sup> % |
|---------------|-------------------|

|            |                   |
|------------|-------------------|
| California | 11 <sup>0</sup> % |
|------------|-------------------|

# OTHER WORKFORCE ISSUES

- Age
- Employee Relations & Morale
- Blended Workforce
- Multi-State

# What do you base your decision on?

1. Laws & Authorities
2. Safety, Security & Public Image
3. Attitudes & Knowledge about the Drug
4. Ease of Operations
5. Workforce



# 5 ACTION STEPS

# TAKE ACTION

1. Prepare to explain
2. Update Policy
3. Research & Refine Operations
4. Educate Employees
5. Train Supervisors



# 1. PREPARE TO EXPLAIN

- Hiring Managers & Supervisors
- Employees with Qualifying Conditions
- Non-using Employees
- Union
- After Accident/Critical Incident
- Customers/Contractors/Job owners
- General Public

## 2. RESEARCH & REFINE OPERATIONS

- Self-report
- MRO/testing process
- Verification process
- Job descriptions
- Job postings
- Employee orientation/on-boarding

### 3. DECLARE (POLICY DOCS)

- Definition of “illicit” drug
- Rules
  - Use
  - Possession & distribution
  - Under-the-Influence
  - Off-the-job use
  - While traveling in other states
- S.S. functions & positions
- Corrective Action

## 4. EDUCATE EMPLOYEES

- Rules & Expectations
- Testing
- Corrective Action
- Assistance Options

## 5. TRAIN SUPERVISORS

- Your decision and why
- Their role in your policy/program
- Reasonable suspicion
- Confession/Self-Report
- Referring employees for assistance

**SO YOU NEED TO DECIDE ...  
THEN ACT!**

**YES ... NO .... MAYBE?**

# RESOURCES



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



# MONTHLY E-BLAST



## **Working Partners® E-Blast**

Keeping you connected to your drug-free workplace program

### **September 2015**

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[Go Ahead ... Ask!](#)

[Guess What We Heard?](#)

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## **Lights. Camera. Video.**



### **Marijuana & Your Business: Workforce Readiness**

2:21 minutes

[Check out other videos](#)

## OPIOID TOOLKIT

Ohio's employers are asking what they should do about the opioid problem in their own workplaces. The Ohio Chamber of Commerce convened a task force to explore the options. One recommendation coming out of the task force was for employers to be armed with a toolkit of resources to be better prepared to prevent and respond to the problem. With the help and expertise of a member company, *Working Partners(R)*, and financial support from member company, Anthem, we have developed the *Opioid Toolkit* containing several resources free of charge to any company that is doing business in Ohio.

### Contents of the Toolkit include:

#### For Employers:

- Online Course: Dose of Reality for EMPLOYERS

#### For Employees:

- Online Course: Dose of Reality for EMPLOYEES

#### Additional Resources:

- Awareness Campaign Materials
- 4-Minute Video about the Opioid Epidemic
- Informational Materials and Resources

Again, thank you to our member companies who helped make this project happen:



### QUICK LINKS

- [ABOUT US](#)
- [STAFF](#)
- [JOIN THE CHAMBER](#)
- [CURRENT MEMBERS](#)
- [BLOG](#)

[www.OhioChamber.com/Opioid-Toolkit](http://www.OhioChamber.com/Opioid-Toolkit)

# Want credit?

Approved:  
1.50 (general)  
recertification hrs.  
through the HR  
Certification  
Institute.

If you need a  
certificate of  
completion, please  
sign the clipboard!

## CERTIFICATE OF PARTICIPATION

This is to certify that

XXXXX

has completed the 90-minute presentation titled

### **WORKING PARTNERS® YES. NO. MAYBE? MEDICAL MARIJUANA & YOUR DRUG-FREE WORKPLACE PROGRAM**

Participants will gain insights into this important decision to raise awareness of business and operational issues from legalization under Ohio H.B. 523, an increased understanding of the related drug-free workplace program issues for employers and employees, and a review of key decisions that need to be made - particularly relating to policy, operations and employee/supervisor awareness.

Administered by:

*Karen Pierce*

Karen Pierce  
Representing *Working Partners®*

XXXX  
Date of *Working Partners®* Course



*Working Partners®* is recognized by the State of Ohio as the most comprehensive single system and leader for drug-free workplace resources.

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