ask a Doctor
By Tim Wilson, MD

Q. How does Asante Work Health handle urine drug testing with the medical marijuana issue?

A. There are two answers to this question. The first answer is for the federal drug-testing programs. The second answer is for the non-regulated drug-testing programs.

Medical Marijuana in the Federal Drug-testing Programs

In 1997 the Office of National Drug Control Policy (ONDCP) and the U.S. Department of Transportation (DOT) issued policy and guidance statements regarding the use of medical marijuana. The following are excerpts from these statements.

From ONDCP:
The use of any Federal Controlled Substances Act Schedule 1 drug, whether for non-medical or ostensible medical purpose, violates Federal law and the Federal Drug-Free Workplace Program. It is also inconsistent with the performance of safety-sensitive, health sensitive, and security sensitive positions, and other testing circumstances. The Medical Review Officer (MRO) shall not accept a prescription or the verbal or written recommendation of a physician for a Schedule 1 substance as a legitimate medical explanation for the presence of a Schedule 1 drug in a Federal employee/applicant specimen.

From DOT:
Under the Controlled Substances Act, a Schedule 1 drug is one which “has no currently accepted medical use in treatment in the United States and there is a lack of accepted safety for the use of the drug.” Moreover the Act only allows physicians to prescribe schedule 2-5 drugs. The only legitimate medical explanation for its presence in the Department’s drug testing program is a prescription for Marinol.

The bulk of this guidance was incorporated quite succinctly into the current DOT Part 40.151(e):
You must not verify a test negative based on information that a physician recommended that the employee use a drug listed in Schedule 1 of the Controlled Substances Act (e.g., under a state law that purports to authorize such recommendations, such as the “medical marijuana” laws that some states have adopted).

Medical Marijuana in Non-regulated Drug-testing Programs

How should a medical review officer handle a positive marijuana test for an applicant or employee of a non-regulated employer who produces a “prescription” for marijuana?

In light of the decisive federal guidance, which relies on the fact that possession of marijuana

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remains a violation of federal law, the deductive answer is that the MRO has no choice. The MRO must verify a marijuana test as positive. Unfortunately, that is not a complete or accurate answer. The federal guidance is not controlling for non-regulated workplace testing.

The premise of this problem is the question of how the MRO should handle the employment issue of compassionate use of marijuana in the workplace. That is not the role of the MRO, however. The issue of how a company should address “compassionate” or “prescription” use of marijuana in the workplace is an employer policy decision. This decision should not be preempted by either the enlightened or unenlightened opinion of the MRO as a service provider.

It is highly unlikely that any employer who has implemented a drug-testing program is going to accommodate a behavior that violates federal narcotics laws. But employers in non-regulated settings have no legal duty to test for marijuana or any other drug; and if they wish to accommodate an individual who has a prescription for marijuana, they can. The MRO must be careful to ensure that the policy for dealing with compassionate use of marijuana and related issues is affirmatively made by the employer.

The simple solution is that the MRO should ask employers how they would like to handle this issue. The MRO should provide recommendations and present the federal guidelines that will, in all likelihood, be followed. It then becomes the employer’s informed and expressed decision, not the MRO’s.

The MRO will contact the donor to discuss the drug-screen results. In the course of the interview, the MRO obtains relevant information but does not verify the status of a valid medical marijuana card. We would inform the donor that despite the referendums or other state law, the possession of marijuana remains a violation of federal law and that it is the employer’s decision with regard to what employment action may follow. We obtain permission to report to the employer the employee’s claim of being a medical marijuana cardholder and that the drug-screen results would be marijuana-positive.

The employer can then make informed employment decisions. This approach places responsibility for employment decisions on the employer and informs the employee that it is not the role of the MRO to make any employment decisions.

The Oregon Medical Marijuana Act states that employers are not required to accommodate employees who use medical marijuana.

As a medical review officer, I would strongly recommend to employers who have a drug-testing program that they have a comprehensive policy addressing all aspects of this issue, including verifying medical marijuana cards.

CLIENT COMPANY OF THE QUARTER:

Biomass One
Client since: 2001

Services utilized: Physical exams (DOT and non-DOT), drug screens, breath alcohol testing, and comprehensive wellness program services

Safety Consultant: Mark Labart

Why we utilize Asante Work Health:
The primary reason why we use Asante Work Health is that the services they provide meet our needs. We began using their services for audiometric and fit testing as well as pre-employment and DOT physicals, then expanded into a wellness program. The friendly, caring attitude of everyone at Asante Work Health has been an important factor in employee satisfaction with the services received. Over the years our relationship has grown to the point that our wellness trainer comes to the company picnic and Christmas party and is viewed as one of our “family.” The friendly, caring attitude has been a key factor in maintaining our ongoing business relationship.
SEPTEMBER IS: Cholesterol Awareness Month

Cholesterol Transport

High-density lipoprotein (HDL) cholesterol is considered the “good” cholesterol. A high HDL cholesterol level helps fight heart disease. Why is HDL cholesterol protective? The strength of HDLs is in the protein molecules found in their coatings. When HDLs come in contact with cholesterol-filled cells, these protein molecules attach to the cells and take their cholesterol. Nobody knows for sure, but it appears that it’s not the cholesterol itself that is good but rather the “vehicle.” HDLs act as “scavengers,” removing cholesterol from the body and preventing plaque from forming in the arteries. They scour the walls of blood vessels, clean out excess cholesterol, and take it back to the liver to be broken down and excreted.

The number one recommendation for raising HDL cholesterol is three hours of cardiovascular exercise per week. That’s exercising at a moderate intensity, breathing deeply and rhythmically, and breaking a bit of a sweat.

Health and Wellness Education Tips are compliments of Health Promotion Services. Visit our Web site for health and wellness tools that may be beneficial to you and your employees at www.asanteworkhealth.org, click on “Health Promotion.”

Managing Stress in Trying Times

By Andrea Woods, MS, LMFT, CEAP, and Jeff Borchers, MS, PhD, NCC

Stress is a natural response to both negative and positive events. Too much stress—or the wrong kind—can override our ability to cope. This can seriously disrupt our lives, particularly in these days of economic uncertainty, which has had a negative impact on many of us—on our jobs, finances, homes, and families.

Learning healthy ways to cope with stress involves changing our habitual programmed reactions to stress with different, learned responses. By not allowing our brains to be hijacked by the old fight-flight-freeze program, our ability to cope with stressful situations and people is enhanced. Healthy coping may also mean making new decisions, improving self-care, and embracing activities and relationships that are life affirming.

Asante Counseling Services EAP can help you improve your response to stress, expand your positive coping strategies, and help increase your resources and supports. Contact us at (541) 789-4238.

Fit for Duty Exam

A Fit-for-Duty exam is an employer-requested physical exam performed by a medical provider to determine a worker’s ability to perform essential job functions. An employer may wish to request a Fit-for-Duty exam if he or she is concerned about an employee’s ability to perform the job.

The request can be made in any of the following situations:

- After a worker has had an extended leave because of a medical condition
- After an employer has observed a worker having difficulty performing specific job duties
- With a verbal report by the worker that he or she is having difficulty performing specific tasks of his or her job

The Fit-for-Duty exam begins with a physical examination by a physician, including a review of the job analysis and the medical history provided. The physician may then approve further testing to be performed by a physical or occupational therapist. The therapist will assess the worker’s physical abilities as they apply to the individual’s work capacities to perform the specific job demands. Results will be provided on a medical/functional evaluation form and reported back to the employer by Asante’s customer service representative.

To request a Fit-for-Duty exam, complete an Asante Fit-for-Duty referral form and fax it to the Work Health referral clerk at (541) 789-5938.

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On Track Fishing Trip

On June 27, 2009 Asante Work Health staff and counselors from OnTrack’s residential treatment program treated 12 young men participating in the OnTrack program, ages 12 to 16 to a day of fishing at Howard Prairie Lake. The boys learned how to set up and prepare their tackle, catch fish from the banks of the lake, clean the fish and then took the fish back with them to cook. In total 48 fish were caught. It was a great day had by all. The young men expressed gratitude and were, at times, overwhelmed by the generosity of those who contributed to this wonderful day.

Our sponsors for the day included Asante, Sherm’s Food 4 Less, Knife River, Certainteed, and Harry and David. Asante’s contribution bought the fishing licenses, poles, tackle and tackle boxes. Work Health provided volunteers who taught the young men to fish, Sherm’s Food For Less Provided all the food for the BBQ and the remaining companies provided personal items, gift cards, and prizes including hats, water bottles and Moose Munch.

It was a great opportunity to help these young men participate in a life skill and recreational activity that can be pursued throughout their lives and gave them an opportunity to be involved in character building experiences that they may never have done before. As the saying goes that you can give a man a fish and feed him for a day or you can teach a man to fish and feed him for a lifetime. Asante Work Health is proud to celebrate our 10th anniversary of collaborating with OnTrack to provide this annual fishing trip and we wish to recognize and thank all those who supported this event.

Department of Transportation
Direct Observation Stay is Lifted

On July 1, 2009, the U.S. Court of Appeals for the District of Columbia announced the court’s final decision: the stay has been lifted on direct observation drug-testing rules applicable to return-to-duty, safety-sensitive transportation industry employees who have already failed or refused to take a prior drug test.

Effective August 31, 2009, direct observation collection procedures are mandatory for all follow-up and return-to-duty DOT drug testing. This includes employees currently in follow-up testing programs who will still be in those programs on and after August 31.

Direct observation: The donor is asked to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist and to lower clothing and underpants to show, by turning around, that he or she does not have a prosthetic device. After it is determined that the donor does not have such a device, he or she may return clothing to its proper position for observed urination. The observer must watch the donor urinate into the collection container. A person of the opposite sex is never permitted to be the observer.