

**Cannabis in the Workplace**



August 29, 2024

- Brian Wacker – Partner, The Cook Group
- Chad Thompson – Corporate Human Resources General Manager, North American Lighting

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

1

---

---

---

---

---

---

---

---

**Business Navigator Alliance of Southcentral and Southeastern Illinois**

- Regional collaboration for the Community Navigator Program
- Purpose: provide professional outreach and technical assistance for local, state, and federal economic relief programs
- Mission: to ensure that small businesses in our region are competitive in applying for necessary resources
- Goal: position local businesses for success by acceleration business recovery and growth



2

---

---

---


---

---

---


---

---



Webinars  
Outreach Events  
Virtual Office Hours  
Offer 1-on-1 Technical Assistance

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



3

---

---

---

---

---

---

---

---

**Cannabis in the Workplace:**

Business Navigators Alliance  
(August 29, 2024)

Brian M. Wacker, Esq.  
Partner  
© 2024  
All Rights Reserved



4

---

---

---

---

---

---

---

---

**Goals and Agenda**

- Legal issues raised relating to cannabis in the workplace.
- Different types of training available.
- Understanding “reasonable suspicion”
  - Increase awareness and understanding of importance of drug and alcohol policies.
  - Role of supervisors in implementing policies.
  - Detecting possible cannabis use (that violates policy or the law).
- What steps to take once detection is suspected.

5

---

---

---

---

---

---

---

---

**Marijuana/Cannabis**

Overview and Methods

6

---

---

---

---

---

---



---

---

**Type of Drug:** Hallucinogen

**Description:** Marijuana is a "tobacco-like, leafy substance" consisting of dried, chopped leaves. It sometimes contains oval-shaped seeds with a pointed end. It has a distinctive pungent aroma, almost incense-like.

**Street Names:** Bud, Weed, Flower, Edibles, Shatter, Wax, Sugar, Butter, Oil.


---

---

---

---

---

---

---

---

7

**Marijuana/Cannabis Usage**



It is not just smoked anymore:

- Food products, including brownies, candy bars, chocolate, cookies, and candies (lollipops, hard candy, gummies).
- Waxes/Oils/Liquid to be put in Vaporizers/E-Cigs.
- Drinks including sodas and teas.
- Pills, lotions, sprays, tinctures and oils.

**Vaping THC is the third-most popular way to use cannabis**

Percentage of cannabis products used in a 30-month period in the US:

Method	Percentage
Smoking	37%
Edibles	25%
Vaping	18%
Waxes/Oils	12%
Drinks	8%
Pills	6%
Topicals	4%
Other	2%


---

---

---

---

---

---


---

---

8

**Marijuana/Cannabis Effects**

- **Smoking:** Immediate absorption through lungs, peaks in blood within minutes and causes "high" that can last **2-3+ hours**.  
Most behavioral and physiological effects return to baseline levels within **4-6 hours after drug use**, although residual effects have been shown in behaviors up to **24-48+ hours after use**.
- **Eating:** Slower absorption rate over several hours, metabolized in the liver within 1-2 hours and causes a "high" that can last anywhere from **2-8+ hours**.  
Most behavioral and physiological effects return to baseline levels within **9-12+ hours after drug use**, although residual effects have been shown in behaviors up to **24-48+ hours after use**.




---

---

---

---


---

---

---

---

9



## Marijuana/Cannabis Effects

- **24-48 hour “Hangover”**
  - Does not come with the same symptoms as alcohol.
- “Legal” CBD from hemp can still impact you like marijuana and result in a positive drug test.
  - Not regulated and “legal” CBD could have THC levels that would make it marijuana rather than hemp.

◦ ◂ ◃ ◅

10

---

---

---


---

---

---

---

---



## Basic Law of Drug Testing (cont’d)

- Federal and Illinois law do NOT prohibit most Illinois’ private employers from implementing a drug free policy and/or program.
- Employers **MAY** prohibit:
  - Use of illegal drugs, alcohol and cannabis/marijuana while working or on the employer’s premises; and/or Being impaired or under the influence of illegal drugs, alcohol or cannabis/marijuana while working or on the employer’s premises.

◦ ◂ ◃ ◅

11

---

---

---


---

---

---

---

---



▶▶▶▶▶

**HOWEVER...**

- Other Federal and Illinois laws can impact drug testing.
  - ADA/IHRA: Disability Considerations
  - Title VII/IHRA: Discrimination Considerations
  - Illinois Right to Privacy in the Workplace Act: “Lawful products”
  - Illinois Workers Compensation Act: Retaliation Considerations.

◀◀◀◀◀

12

---

---

---


---

---

---

---

---

 ○ ☰ ☒

## ADA & Illinois Human Rights Act

**Pre-Employment Stage:**  
 ADA Prohibits "pre-employment medical examination" ... but excludes testing for presence of illegal drugs.

- Employers may **NOT** ask applicants to answer medical questions, take a medical exam, or identify a disability (including whether they are under a valid prescription).

For example:

- Employers may **NOT** ask job applicants if they have a disability (or about the nature of an obvious disability).
- An employer **MAY** ask job applicants whether they can perform the job, with or without a reasonable accommodation.

Generally... we cannot test for Lawful Drugs - but can test for Illegal Drugs (including THC b/c it is illegal under federal law).

13

---

---

---


---

---

---

---

---

 ○ ☰ ☒

## ADA & Illinois Human Rights Act

**After a job offer for employment:**

- Employers may condition the job offer on the applicant answering certain medical questions or successfully passing a medical exam;
- But only if consistent – i.e. all applicants hired for same position.

**Current Employees:**

An employer generally can only ask medical questions or require a medical exam if:

- The employee requests for accommodation; or
- The employer believes that an employee is not able to perform a job successfully or safely because of a medical condition (or drug or alcohol impairment).

14

---

---

---


---

---

---

---

---

 ○ ☰ ☒

## ADA & Illinois Human Rights Act: Prescriptions & Safety Issues

- When can you Refuse to Hire, Pull an Employee out of Work or Terminate an Employee?
  - When there is a "**direct threat**" to the **health or safety** of the individual or others in the workplace that cannot be eliminated or reduced by a reasonable accommodation.
  - Must be job related and consistent with a business necessity.**

15

---

---

---


---

---

---

---

---



**ADA & Illinois Human Rights Act:  
Prescriptions & Safety Issues**

**How to Handle?**

1. Policy addressing disclosure of Prescription or Over-the-Counter drug use that could impact ability to safely perform job.
2. Understand what you can and cannot ask – i.e. You **CANNOT** require disclosure of prescription.
3. Discussion with MRO on how to handle positive test.

**NOTE:**

- Status as former addict is protected.
- Current treatment status is protected.

16

---

---

---


---

---

---

---

---



**Family & Medical Leave Act**

**Basic Principles:**

- FMLA leave may *only* be taken for treatment for substance abuse by a health care provider **on referral** by a health care provider.
  - **“Self-referral”** does NOT trigger right to FMLA leave.
  - Absence because of the employee’s use of the substance, rather than for treatment, does not qualify for FMLA leave.
- An employee’s right to protected FMLA leave does not insulate him or her from disciplinary measures – up to and including termination – for violation of an employer’s established drug-free workplace policy.
  - Absences due to employee’s use of substance, rather than treatment, does not qualify for FMLA leave.

○ ◀ ▶ ☒

17

---

---

---

---

---

---

---

---



**Interplay with ADA, FMLA, & Illinois Human Rights Act**

ADA and FMLA do not recognize medical marijuana or illegal drugs as a medical treatment.

- Employers do not have to accommodate an employee’s disability or provide FMLA leave to allow use of marijuana or illegal drugs.

HOWEVER – remember and consider:

- **Underlying medical condition may be considered a disability.**

Keep up to date on law and drug classification!

- If marijuana is reclassified, it could be considered a prescription drug under the ADA – under the ADA employers may ask and test for prescription drugs only when “job related and consistent with business necessity.”

○ ◀ ▶ ☒

18

---

---

---

---

---

---

---

---

**Anti-Retaliation: The Law**

- The Illinois Work Comp Act specifically provides that "[i]t shall be unlawful for any employer \*\*\* to discharge \*\*\* an employee because of the exercise of his or her rights or remedies granted to him or her by this Act." 820 ILCS 305/4(h).
- To state a cause of action for retaliatory discharge, plaintiffs must show that: (1) they were employees of defendants before or at the time of the injury; (2) they exercised some right granted by the Act; and (3) their discharge was causally related to the exercise of their rights under the Act.
- Causation will **not** be met if employer can articulate and prove a valid, non-pretexual basis for discharge.

19

---

---

---

---

---

---

---

---

**Illinois Cannabis Law**      410 ILCS 705/1 — Cannabis Regulation and Tax Act

- Effective January 1, 2020.
- Illinois Resident and Non-Residents who are over 21 years old may purchase and use cannabis legally.
- Neighboring states have followed – e.g., Missouri (2022).

2020 Sales: January 1– \$3.17 million

First Week - \$13 million in sales

First 12 days - \$20 million in sales

First Month – \$39.2 Million in Sales (Note: \$8.6 million of which was to non-IL residents).

20

---

---

---

---

---

---

---

---

**Illinois Cannabis Law**      410 ILCS 705/10-50 — Employment: Employer Liability

- Nothing in this Act shall prohibit an Employer from:
  - Enforcing drug testing policies, including Zero Tolerance and drug free workplace, if applied in a non-discriminatory fashion.
  - Prohibiting employees from using, possessing, or being impaired while in the Workplace, Performing Job or while On Call.
  - Disciplining or terminating an employee for violating an employer's employment policies or workplace drug policy.

21

---

---

---

---

---

---


---

---

Illinois Cannabis Law o e x

### Protections & Exceptions

- **Section 10-50: Employers may:**
  - Prohibit employees from **using, possessing, or being impaired** while on Company property and while working,
  - Have zero tolerance and drug free workplace policies,
  - Subject employees and applicants to reasonable drug testing, random drug testing,
  - **Discipline, terminate, or withdrawal of a job offer due to failing a drug test.**
- **HOWEVER – MUST** provide employee a reasonable opportunity to explain before disciplining or terminating.
  - Employers must be aware of underlying medical conditions or disabilities.



22

---

---

---

---

---

---


---

---

Illinois Cannabis Law

### 820 ILCS 55/5 Right to Privacy in Workplace Act

- Except as provided in Section 10-50 of Cannabis Act, it is:
  - **UNLAWFUL** for Employers to refuse to hire, terminate or treat an individual differently based on their use of lawful products off the premises of the employer during nonworking and non-call hours.
- Lawful products means products legal **under State law**
- Does not apply to non-profit organizations, that one of the primary purpose is to discourage the use of one or more lawful products.



23

---

---

---

---

---

---


---

---

▶▶▶▶▶

## “Workplace”

- **It is not just the building.**
  - This includes buildings, real property, and parking areas under the control of the employer, or an area used by an employee while in performance of the employee's job duties, and vehicles, whether leased, rented, or owned.
  - “Workplace” may be further defined by the employer's written employment policy, provided that the policy is consistent with the underlying law.
  - **410 ILCS 705/10-50(h).**

◀◀◀◀◀  


24

---

---

---

---

---

---

---

---




▶▶▶▶▶

## “On Call” Workers

- When employee is scheduled with at least **24 hours’ notice** from the Employer to be on standby or otherwise responsible for performing tasks related to his or her employment.
- Either at the employer’s premises or other previously designated location, by his or her employer to perform a work-related task.
- **410 ILCS 705/10-50(i)**

◀◀◀◀◀



25

---

---

---

---

---

---

---


---

### Illinois Recreational Cannabis Law

## 410 ILCS 705/10-50(e)

Nothing in Act shall be construed to create or imply a cause of action against an employer for:

2. **Actions**, including discipline or termination, based on the Employer’s **“Good Faith Belief”** that
  - Use/Possession while in the Workplace, Performing Job, or On Call; or
  - Impairment or Under the Influence.
3. **Third parties MAY** have claims against Employers for damages/injuries caused by employee if the Employer **knew or had reason to know** the Employee was impaired.



26

---

---

---

---

---


---

---

---

### Legal Exposure and Claims

- **Right to Privacy in the Workplace Act**
  - **File a complaint with the IDOL**
    - Complaint must be filed “within **180 days** after termination or the complained of incident.”
  - **After IDOL has tried to resolve, can file lawsuit**
    - Cannot file a lawsuit until exhausted administrative remedies.
- **Damages**
  - Actual damages, plus costs.
  - For willful and knowing violation – Actual damages, \$200, costs **AND reasonable attorney’s fees**.



27

---

---

---

---

---

---

---

---

○ ◉ ☒

### Other Liability Risks

- Negligent hiring/ retention/ supervision Claims,
- Wrongful Termination,
- ADA/IHRA Disability Discrimination,
- Third Party Claims,
- Potential class action vehicle.



THE COOK GROUP

28

---

---

---

---

---

---


---

---

○ ◉ ☒

### Overall: Shift from Use to Impairment

- "Use" does not automatically equate to impairment.
- **The most defensible position is still:**
  - Documented "symptoms" by trained manager;
  - A confirmed Positive Drug Test through an MRO, where proper collection, chain-of-custody and lab procedures have been followed;
  - Provide Employee opportunity to explain.
  - Team decision regarding results and investigation.



THE COOK GROUP

29

---

---

---

---

---

---

---

---

○ ◉ ☒


### Federal Law: Cannabis

**Now: Schedule 1 Illegal Substances**

- Marijuana, Heroin, LSD, Mescaline, Peyote, and others with no medical use...
- Dept. of Justice is still prosecuting marijuana offenses.

**Proposed: Schedule 3 Illegal Substance**

- Proposed in May, 2024 – in Comment period.
- Implications
- Reduced down to schedule of other highly regulated drugs.
- Banks could be allowed to loan to cannabis businesses.
- Could affect accommodations required to be made if for medical use, under Federal law.
- Safety-sensitive and federal employees: will still be prohibited.



THE COOK GROUP

30

---

---

---

---

---

---

---


---

▶▶▶▶▶

**Best Practices, Recommendations & Strategies**

- Update policies and forms, including defining "workplace" and "on call" (if applicable), reasonable suspicion.
- Check your testing panels and levels.
- Training for managers/supervisors and employees.
- Be Aware of FMLA/ADA/Disability Implications
- Remember often Multiple Reasons for termination... Choose the path of least resistance.
- Seek Advice of Employment Counsel with Difficult Employees or Potentially Risky Discipline/Termination.

◀◀◀◀◀



31

---

---

---


---

---

---

---

---

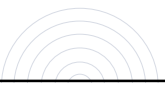


**Drug Testing Facts**

**Types of Tests:**

- **Urine tests** – Most common
  - Tests for the non-psychoactive metabolite THC-COOH (non-active), showing whether marijuana has been used, not impairment.
- **Blood tests** can show levels of active psychoactive component.
- **Saliva tests** can show use within several hours (approximately 6 to 12 hours) by testing for active THC. Reliability is still a question, but more research is leading to better tests.
- **"Field Sobriety Tests" or Behavioral test** –
  - No proven tests for Marijuana yet...

**CRITICAL: NO SUBSTANCE TEST RECOMMENDED FOR EMPLOYERS MEASURES IMPAIRMENT!**



32

---

---

---


---

---

---

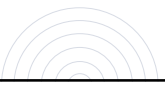
---

---



**Different Types of Drug Testing**

1. Post Offer Screening of Candidates.
2. Random Drug Testing.
3. Post-accident / Post-Injury Testing...
  - o Be aware of OSHA Rules.
4. Reasonable Suspicion.
5. Caught in Act.
6. Return to Work.
7. Follow-up Testing (Last Chance Agreement).
8. **DOT Drug Testing.**



33

---

---

---

---

---

---

---

---

## Testing Levels

Do you know what levels will result in a positive drug test?

- Illinois set levels for Driving While Impaired (DWI).
  - **Presumption of Impairment** – If THC levels of 5 nanograms or more in whole blood or **10 nanograms or more in any other bodily substance.**
  - **No Presumption, but...** – If THC levels are less than 5 nanograms in whole blood or less than **10 nanograms in any other bodily substance.**
    - "but such fact may be considered with other competent evidence in determining whether the person was under the influence of cannabis."



34

---

---

---

---

---

---

---

---

## Training for Managers/Supervisors

- Drug and Alcohol Training:
  - Reasonable Suspicion Training
  - DOT Reasonable Suspicion Training Video
  - Drug and Alcohol Impairment Identification Training
- Legal Training:
  - Federal, State and Local laws that impact Drug and Alcohol testing
  - Impact of Marijuana/Cannabis legalization on Drug and Alcohol testing.
- Conflict Resolution:
  - Addressing difficult topics/issues with employees
  - Avoiding and/or De-escalating Conflicts



35

---

---

---

---

---

---

---

---

## Basics of Reasonable Suspicion Training

What should management be trained on?

1. Role of supervisor.
2. Drug and Alcohol Policy.
3. Types of drug testing done.
4. Company's process for drug testing.
5. Reasonable Suspicion forms and how to fill out.
6. Recognizing behaviors or conduct.
7. Documenting behaviors and conduct.
8. Good and bad Documentation.
9. Confronting the Employee.



36

---

---

---


---

---

---


---

---



### Role of Supervisor

- Be a role model.
- Educate your employees.
- Know the rules.
- Observe your staff...know the signs.
  - Identify unusual or inappropriate behavior
- Follow your policy.
  - Document behaviors and signs,
  - Determine if testing required,
  - Implement policy.



37

---

---

---


---

---

---

---


---



### Recognize Common Enabling Behaviors

**Understand you may be reluctant to address because of friendship, loyalty, or other reasons...**

- Ignoring job performance problems – with the hope that they will be resolved, are temporary, or will go away.
- Believing and accepting apologies and excuses (i.e. just this one time).
- Threatening disciplinary action without follow through.
- Enabling by covering for employee or doing some of the employee’s work because s/he is in a bad spot or working around the person.
- Considering someone a “functional” user, or that their drug or alcohol use does not affect you or impact their work.



38

---

---

---

---

---

---

---


---

▶▶▶▶▶

### Areas of Potential Legal Challenges

- Reasonable suspicion testing based on assessment made and conducted by **untrained** personnel.
- **Ambiguous** policy language that fails to properly define what circumstances trigger testing.
- **Inconsistent** policy implementation: unequal treatment will be used to show bias!

◀◀◀◀◀



39

---

---

---

---

---

---

---

---

o e x


### Reminders

**Do you have to be right? NO!!!!!!**  
**What if you're wrong?**  
 It happens.... At that point move forward... You were merely trying to maintain a safe & healthy work environment.

**What are the repercussions of being wrong?**  
 If you are acting in good faith, NONE.

**Do you have to identify the drug? NO!!!!!!**

- You are simply identifying *symptoms* and behaviors that would indicate drug or alcohol use or impairment
- You are recording *facts*.
- You are not making determinations based on anything other than observable indicators.



40

---

---

---

---





---


---

---

---

### Four Basic Criteria for "Reasonable Suspicion"

<p>Appearance</p> 	<p>Behavior</p> 
<p>Speech</p> 	<p>Body Odor</p> 



41

---

---

---

---

---

---

---

---


▶▶▶▶▶

### Symptoms Marijuana Use and the Law

410 ILCS 705/10-50 – Can discipline/terminate if "Good Faith Belief" employee manifests **specific, articulable symptoms while working:**

- Decrease or lessen the employee's performance of the duties or tasks of the employee's job position
- Symptoms of speech, physical dexterity, agility, coordination,
- Demeanor, irrational or unusual behavior, or
- Negligence or carelessness in operating equipment or machinery
- Disregard for the safety of the employee or others,
- Involvement in any accident that results in serious damage to equipment or property;
- Disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others.

◀◀◀◀◀



42

---

---

---

---

---

---

---

---

**Reasonable Suspicion Checklist**

<p><b>Step 1</b> Know the warning signs.</p>	<p><b>Step 2</b> Document, get a witness &amp; escort for testing.</p>	<p><b>Step 3</b> Determine reasonable suspicion.</p>
<p><b>Step 4</b> Take action.</p>	<p><b>Step 5</b> Finalize the Report.</p>	



---

---

---

---

---

---

---

---

43

**What to do if you suspect someone is Impaired**

- Fill out Reasonable Suspicion checklist.
- Follow Drug Testing procedures.
- **IMPORTANT** – Provide Reasonable Opportunity.

**Medical Marijuana User** – **MUST** provide Employee a reasonable opportunity to explain impairment before making ultimate decision.

**Recreational User** – If discipline based on employee being under the influence or impaired by cannabis **MUST** provide a reasonable opportunity to contest the basis of the determination.



---

---

---

---

---

---

---


---

44

○ ◻ ✕

**Discipline Considerations**

- **Consider basis for discipline** – Often multiple reasons for termination...
- **Choose the path of least resistance.**
- Have you provided Employee an opportunity to explain?
- Last Chance Agreements?
- Referral for treatment/rehabilitation?



---

---

---

---


---

---

---

---

45

 ○ ◻ ✕

### So how do you apply Reasonable Suspicion?

- **Keep your eyes open!** – Notice changes in conduct, behaviors, appearance, and smell.
- **Notify Human Resources of concerns** – work with them through the process!
- **Observe and document** current indicators of an individual with a witness. Note whether possession of paraphernalia or substance.
- **Make a determination** whether testing is needed.
- **Confirm with Human Resources and identify next steps** to take with them.
- **Meet with employee. Arrange for testing and transportation.**
  - Know how to respond if employee refuses testing.

46

---

---

---


---

---

---

---

---

 ○ ◻ ✕

### How to Address the Employee

- Escort from the workplace discreetly and as soon as reasonable suspicion is determined.
- Take to a private office to address.
- Tell the employee they are being sent for a reasonable suspicion drug and alcohol test.
- Explain to the employee how they will be transported to testing facility.
  - Do you let them drive themselves? – **NO**
- Require them to sign Consent form.
- Respect the employee's confidentiality.

**Best Practice:** At least two supervisors/managers.

- Be confident, diplomatic and respectful.
- Don't approach employee from a confrontational standpoint.
- Stick to the salient points – not subjective, but **objective**.
- Give the employee the opportunity to describe and explain the events from their viewpoint.
- Reiterate that you are sending employee for testing.

47

---

---

---


---

---

---

---

---

 ○ ◻ ✕

### Final Thoughts

- **Consistently and fairly enforce your Drug and Alcohol program** –
  - Inconsistent application will invite discrimination claims and increase morale problems.
- **Document Reasonable Suspicion** –
  - Without documenting the physical and behavioral symptoms, there is a chance that your suspicion will be deemed UN-reasonable!!
- **Human Resources should be given all records!** -
  - Medical Information **MUST** be kept separate from other personnel records.
- **Work with Human Resources** –
  - **IMMEDIATELY** notifying them of any suspicion and then working with them through the process!!!

▲  
▲  
▲

48

---

---

---

---

---

---

---

---



### Cannabis in the Workplace

August 29<sup>th</sup>, 2024

#### **Chad Thompson**

- SHRM-SCP
- Blackburn College
- 30 years in Human Resources
- World Color, Heartland Dental & North American Lighting
- St. Louis Business Health Coalition Board
- Effingham Career Academy Board
- Unit 40 School Board

#### **North American Lighting**

- Largest Automotive Supplier in North America
- Division of Koito Mfg, Japan
- 41 years in operation
- Customers include Toyota, Honda, Ford, Nissan, GM & Subaru
- 6,000 Team Members in seven locations (IL, AL, MI, IN & CA)
- 3,500 Team Members based in IL (Flora, Salem & Paris)

49

---

---

---

---

---

---

---

---

---

---

#### **NAL Drug Testing/Employment History**

- . Prior to 2020, NAL conducted pre-employment, random and post-accident testing at all facilities.
- . Zero-Tolerance Policy.
- . Fully staffed in all three Illinois facilities.
- . Rarely used staffing agencies.
- . Turnover was less than 2%.
- . EAP utilization was around 12-15 Team Members per facility annually.



50

---

---

---

---

---

---

---

---

---

---

#### **NAL Drug Testing/Employment History**

- . After new IL cannabis law in 2020, NAL initially kept cannabis on pre-employment screening.
- . During same year after COVID shutdown, NAL struggled to fill about 100 openings in each plant.
- . Turnover spiked to 8% and applications dropped dramatically.
- . Removed cannabis from screening and scaled back random testing in August 2020 in order to meet labor demands.
- . In October of 2020, implemented Reasonable Suspicion to testing policy and post-accident investigations.
- . By 2021, NAL was employing out-of-state workers to sustain production in two Illinois facilities.



51

---

---

---

---

---

---

---

---

---

---

**Current NAL Drug Testing**

- Ensure Team Members are aware of drug testing policy and understand they cannot be impaired while at work.
- Conduct 9-panel drug screens for Pre-Employment, Reasonable Suspicion and Post-Accident.
- Panel includes depressants, opiates, PCPs, cocaine, meth, amphetamines, cannabis, barbiturates, narcotic pain relievers and oxy related drugs.
- Utilize third party testing and MRO to manage results.
- No testing onsite.
- Everchanging



52

---

---

---

---

---

---

---

---

**NAL Pre-Employment Testing**

- A positive cannabis result does not exclude you from employment **UNLESS**:
  - Exhibit symptoms to be under the influence during an interview or plant tour
  - Background check shows history of substance abuse
  - Local police or court report shows pending legal action
  - Applying for rehire after failing drug screen during previous employment with NAL



53

---

---

---

---

---

---

---

---

**Reasonable Suspicion**

- Since most of our drug testing utilizes urine tests and doesn't provide specific levels, Reasonable Suspicion became a big part of our testing policy.

In cases where NAL has reasonable suspicion to believe a Team Member has reported to work or is working under the influence of a prohibited substance, the Team Member will be subject to substance screening. Reasonable suspicion testing may be based upon, among other things:

- Observable phenomenon, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
- A pattern of abnormal conduct or erratic behavior;
- Receiving an injury which requires medical attention (even if the Team Member declines attention), injuring another employee, or being involved in an industrial accident stemming from carelessness;
- Arrest or conviction for a drug-related offense, or the identification of a Team Member as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
- Information provided either by reliable and credible sources or independently corroborated; or
- Evidence that the Team Member has tampered with a previous drug test.



54

---

---

---

---

---

---

---

---



**Testing Cooperation**

- A Team Member’s cooperation greatly impacts our administration of the policy as well as how the results are managed.

Refusal by a Team Member to cooperate in the testing process, including a refusal to execute consent forms, constitutes insubordination which is grounds for discharge. A Team Member who cooperates in the testing process shall be accorded a reasonable opportunity to rebut and/or explain the results of a drug test.

- Management should always be professional and respectful.
- Team Member should always be allowed to explain potential substances that may impact results related to their health.



58

---

---

---

---

---

---

---

---

**Managing Results**

- Team Members are suspended pending results.
- Results are communicated directly to Team Member from MRO then HR follows up.
- If results are “negative”, Team Member is paid for their time off.
- If results are positive, Team Member will be consulted by MRO regarding potential protected factors.
- MRO follows up with HR regarding next steps for Team Member to return to work or be terminated.
- Must maintain confidentiality throughout process including supervisors.



59

---

---

---

---

---

---

---

---

**Managing Positive Results**

- HR team always manages follow up communication regarding positive test.
- Retesting is only allowed if recommended by MRO.
- Ensure follow up is respectful and compassionate.
- If termination is warranted, communicate ALL circumstances that led to decision including OSHA, state, federal or company guidelines that were violated.
- If anyone asks why Team Member was terminated, “They violated company guidelines”.



60

---

---

---

---

---

---

---

---

**Employee Assistance Program**

- . Ensure you have a program to support Team Members with drug problem just like alcoholism.
- . Support Team Members that come forward before an incident.
- . Test your EAP Program yourself.
- . Ensure your policy will support random testing as necessary.
- . EAP utilization up to 12-15 employees PER MONTH since COVID.
- . Local EAP services and virtual support.



61

---

---

---

---

---

---

---

---

**Eligibility For Rehire**

- . Team Members who left NAL in good standing but failed a drug/alcohol screening are eligible for rehire after one year after passing our pre-employment screening.
- . Rehired Team Members are subject to random testing for a period of two years after rehire.
- . Team Members that fail NAL's drug/alcohol testing policy a second time are not eligible for rehire.



62

---

---

---

---

---

---

---

---

**Thank You**

**Chad Thompson**  
**Chad.Thompson@nal.com**  
**(217) 465-6600**

63

---

---

---

---

---

---

---

---

*Thank you!*



**BUSINESS NAVIGATOR ALLIANCE**  
OF ILLINOIS CENTRAL & SOUTH CENTRAL REGIONS

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



**COLES Together**

**SULLIVAN ILLINOIS**  
CHAMBER & ECONOMIC DEVELOPMENT



**CCDA**  
Crawford County Development Association



**MARSHALL AREA COLLEGE OF COMMERCE**



**PEDCO**



**The Alliance**  
Effingham County Economic Development

**Coles County Contact:**  
Dr. Ronda Sauget  
217-258-5627  
ronda@colesntogether.com

**Moultrie County Contact:**  
Laurie Minor  
217-728-4223  
director@sullivanchamber.com

**Crawford County Contact:**  
Resa Shaner  
618-546-1412  
rshaner@crawfordcountyll.com

**Clark County Contact:**  
Nora Swalls  
217-826-2034  
nswalls@marshall-il.com

**Edgar County Contact:**  
Bob Colvin  
217-465-5306

**Effingham County Contact:**  
Courtney Yockey  
217-342-4214  
cyockey@groweffinghamcountyll.com

---



---



---



---



---



---



---