

Medicinal Cannabis Webinar | FAQs

It was great to have so many questions during our medicinal cannabis webinar on 22/4/2021. Below is a summary of the key issues raised by participants along with our response. We hope this Q&A simplifies what can be a complex topic.

If you require clarification of anything below or would like to discuss further, please contact us at info@dasanet.au

General

Could you please confirm if medicinal cannabis has had the THC removed from the product?

Medicinal cannabis may be THC, CBD or a combination of these. CBD products may have THC present as a "contaminant". If there is THC present in the medicinal cannabis product being taken, then it may produce a positive result on a drug test.

I often get asked how many days it takes for THC to get out of the system.

It varies depending on whether use is one-off or regular and the type of test used to detect it. The impairment period for THC is 4 to 6 hours and this is reflected in the detection period when using an oral fluids test. If a urine test is used detection can be longer. With occasional use, it takes hours to days to get out of the system. With regular use, it takes longer, up to weeks, to be out of the system. That is why urine testing can detect THC long after use, i.e., outside the impairment window.

Use of recreational cannabis as "medicinal cannabis".

Medicinal cannabis does not include recreational cannabis. Medicinal cannabis are specific products and can not legally be substituted with recreational cannabis.

Medicinal cannabis products are not on the Pharmaceutical Benefits Scheme and so are very expensive. This leads people to self-medicate with recreational cannabis (which is generally illegal in Australia), or to purchase online from overseas (illegal as a prohibited import) even if a valid prescription is held.

A person taking medicinal cannabis will have a valid prescription and will have purchased the product in Australia from a pharmacist (or directly supplied by the doctor).

Impairment

Can we discuss the impact of medicinal cannabis on heavy machinery and motor vehicles? What notifications required to employer or policy required for no-driving under influence?

THC is impairing. Sativex and most (if not all) of the registered medicinal cannabis products are labelled that "Patients should not drive or operate machinery while being treated with medicinal cannabis."

An employer needs to handle it as you would any other impairing substance and ensure it is written into your drug and alcohol policy. Even if a legal and valid prescription is held for these products, it is still illegal to drive a vehicle in most states.

What is the legal limit for workers regarding impairment with medicinal cannabis?

According to the Australian and New Zealand drug testing standards (for both oral and urine testing), cut-off levels are set for each of the drug classes tested, including THC. If a worker returns a drug test result above the THC cut-off level, they are impaired. If the worker's drug test result is below the THC cut-off level, this is a negative result. It is important to note that the cut-off levels apply regardless of whether the worker has used medicinal or illicit cannabis.

If a drug test result where the THC level is above the cut-off is subsequently confirmed as a positive test result by the laboratory, how it is managed at the workplace will depend upon the source of the cannabis:

- Does the worker have a legitimate prescription and the cannabis is sourced legally?
- Does the worker have a legitimate prescription, but the cannabis is from an illegal source?
- Is it recreational/illicit cannabis?



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Testing

What is the difference between oral testing and urine testing regarding identifying amounts in system?

Oral fluid testing more closely correlates with the period of impairment as it samples residual THC in the mouth which can be detected up to 6 hours after ingestion. Urine testing will detect THC in whatever form it is administered, however it misses the peak period of impairment as it can't be detected in urine for 4 to 6 hours after ingestion. THC is also detected in urine days and weeks after its use and therefore those workers taking medicinal cannabis regularly will be detected for some time after they have finished treatment. Therefore, if you need to know whether a worker is potentially impaired by medicinal cannabis at the time of testing, oral fluids is the more appropriate method.

Workplace implications

How does an employer go about assessing an employee in a safety critical role?

Sativex and most (if not all) of the registered medicinal cannabis products are labelled that ***"Patients should not drive or operate machinery while being treated with medicinal cannabis."***

It is important to check that a valid prescription is held, and that the product has been sourced legitimately (a true medicinal product, purchased from an Australian pharmacy).

If THC is part of the product, then it is important that you have a conversation with the worker, just as you would if they are taking an opioid or benzodiazepine. The worker may wish to speak with their doctor about alternative, less impairing medications.

Thinking of our drug and alcohol procedure - should we specify that someone needs to have a prescription and produce evidence that it was supplied by doctor or pharmacist?

To be robust, a workplace drug and alcohol policy or procedure should cover both illicit and prescription medication. In the event of a positive drug test, many workplace drug and alcohol policies require the individual to show a prescription as evidence of legitimate medication use. In the case of medicinal cannabis, evidence of legitimate supply would also be prudent.

What type of testing do you recommend?

It depends on how you are using the two types of tests. As indicated, oral fluids will tell you whether a worker has recently taken the medicinal cannabis and therefore is potentially impaired, whereas urine will indicate whether the worker has taken medicinal cannabis over a period of time. Urine is therefore important in a pre-employment setting or if there is the risk that a worker has not disclosed the use of medicinal cannabis. Oral fluids testing is more useful to determine if the worker is potentially impaired by the medicinal cannabis whilst at work.

As a business, are we permitted to request medical evidence/ confirmation that an employee is prescribed medical cannabis if they return a positive test result? Also, what are an employee's obligations when it comes to disclosing that they have been prescribed cannabis for medical purposes?

FairWork Australia has indicated that it is problematic for an employer to ask an employee about their medications prior to the return of a non-negative result in workplace AOD testing. If, however, they return a non-negative drug test result, the drug and alcohol tester will ask if they want to disclose any medications and this information is shared confidentially with the laboratory. When conducting confirmatory testing, the lab is then able to determine if the result is due to a prescription product having been taken properly, an illicit substance, or a prescription medication being used illicitly. It would be reasonable on the return of a positive drug test when medicinal cannabis is claimed to ask for evidence of a prescription. Then consideration should be given to 'fitness for work'.

We would like to stress the importance of creating a culture of confidential discussion so workers can raise medications and the workplace implications with their employers. Education/training is important for workers and supervisors.

For further information on medical or fitness for work issues please contact Associate Professor David Allen at info@dasa.net.au