

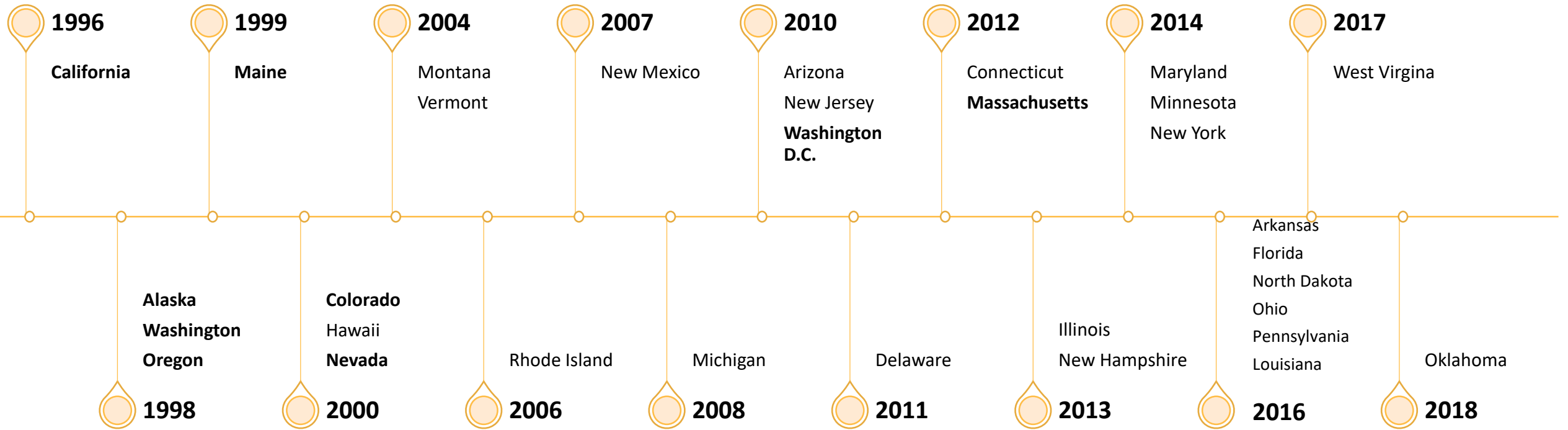
Is your Drug Policy up in
Smoke? – The Impact of
Legalized Marijuana on
the Workplace

Faith Dylewski

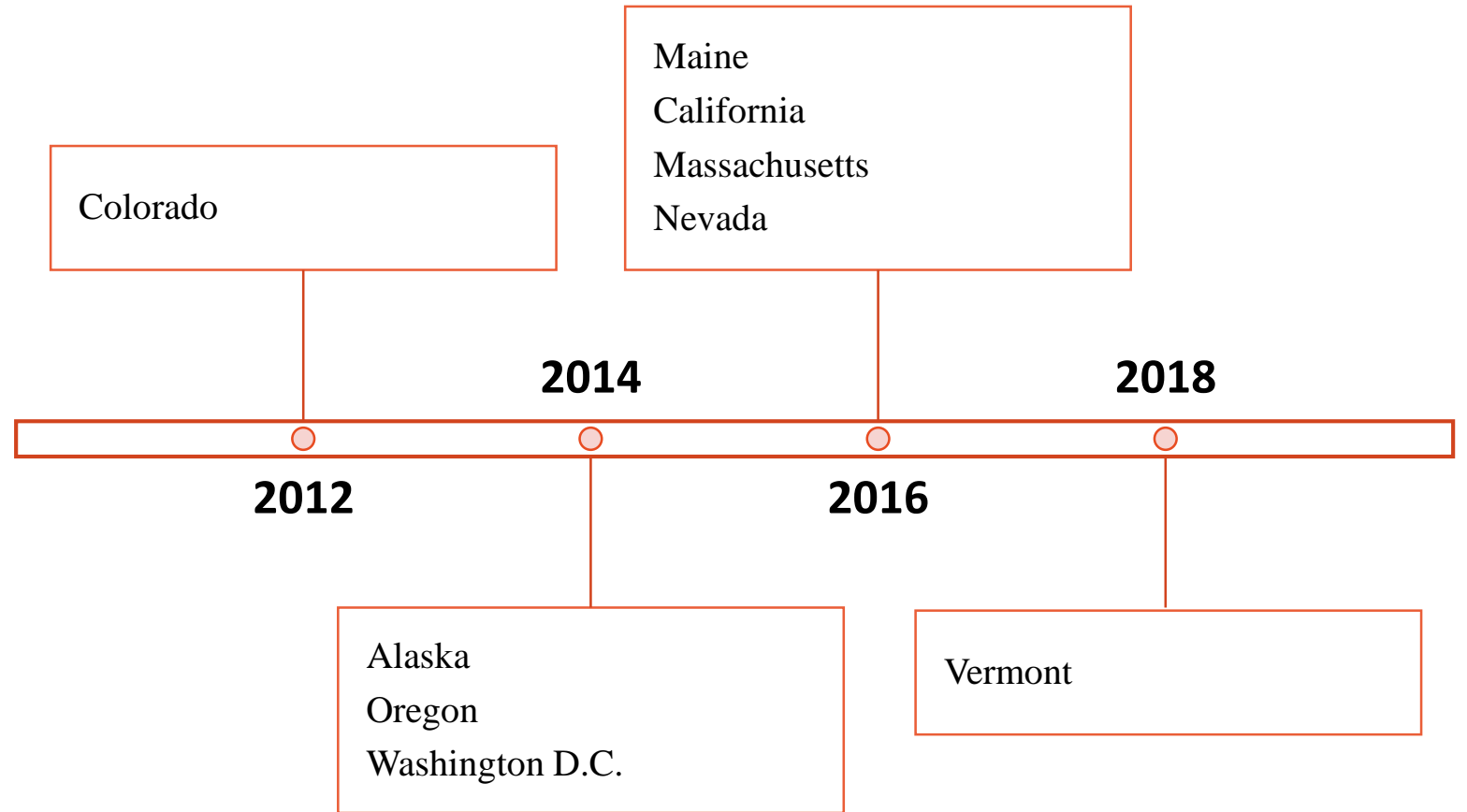


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Medical Legalization Timeline



Recreational Legalization





Recreational Marijuana

In Colorado, in 2017, there were more marijuana stores than McDonalds and Starbucks combined.



Weeding out Big Business?



- According to the Canton Repository this is not the case.
- It is anticipated that licensees will invest 100 million in Ohio before the 1st sale takes place under the law

Fading Issue?

- 250 Doctors Certified
- Provisional licenses granted to
 - 26 Growers
 - 4 testing labs
 - 40 processors
 - 56 dispensaries





Federal Law

- Still a Schedule 1 drug under the Controlled Substances Act
- Federal Law Prohibits Marijuana use
- Department of Transportation Drug and Alcohol testing requirements
 - May not use marijuana irrespective of what State law may allow



ADA
AMERICANS WITH
DISABILITIES ACT

Americans with Disabilities Act

The ADA is not violated by drug testing and adverse employment actions for drug policy violations even in states win which medical marijuana is legal.

Ohio Revised Code 3796.01

Regulated By:

Ohio Department of
Commerce

- Regulates the licensing of cultivators, processors, and laboratories

State Board of
Pharmacy

- Licenses retail dispensaries and Registers patients and caregivers

State Medical Board

- Oversees physicians' requirements and procedures for applying for certificate to recommend

**Weed it and Reap it:
Ohio Revised Code
3796.01**

Qualifying Medical Conditions:

- Acquired immune deficiency syndrome
- Alzheimer's disease
- Amyotrophic lateral sclerosis
- Cancer
- Chronic traumatic encephalopathy
- Crohn's disease
- Epilepsy or another seizure disorder
- Fibromyalgia
- Glaucoma
- Hepatitis C
- Inflammatory bowel disease
- Multiple sclerosis
- Pain that is either of the following: Chronic, severe, or intractable
- Parkinson's disease
- Positive status for HIV
- Post-traumatic stress disorder
- Sickle cell anemia
- Spinal cord disease or injury
- Tourette's syndrome
- Traumatic brain injury
- Ulcerative colitis
- Any other disease or condition added by the state medical board under section 4731.302 of the Revised Code.



Forms of Medical Marijuana

Ohio Revised Code 3796.06

Permitted:

- Oils
- Tinctures
- Plant Material
- Edibles
- Patches

Prohibited:

- Smoking or Combustion

Forms of Medical Marijuana

Ohio Revised Code 3796.06

Any form or method that is considered to be attractive to children is prohibited.



Employer Concerns

Workplace Safety

Insurance Claims

Workers Compensation Claims

Employee Productivity

Rights of Employers

Ohio's Medical Marijuana Control Program

Ohio Revised Code 3796.28

Rights of Employers

- Employers are not required to accommodate an employee's use, possession, or distribution of medical marijuana

Rights of Employers

- An employer is free to refuse to hire, discharge, discipline or otherwise take an adverse employment action against a person because of that person's use, possession or distribution of medical marijuana.

Rights of Employers

- An employer can still establish and enforce a drug testing policy, a drug-free workplace policy or a zero-tolerance policy.

Rights of Employers

- Ohio's law does not interfere with any federal restrictions on employment - including specifically the Department of Transportation Regulations.

Rights of Employers

- Ohio Revised Code 3796 does not create a cause of action against an employer for any adverse employment action, or failure to hire related to medical marijuana.

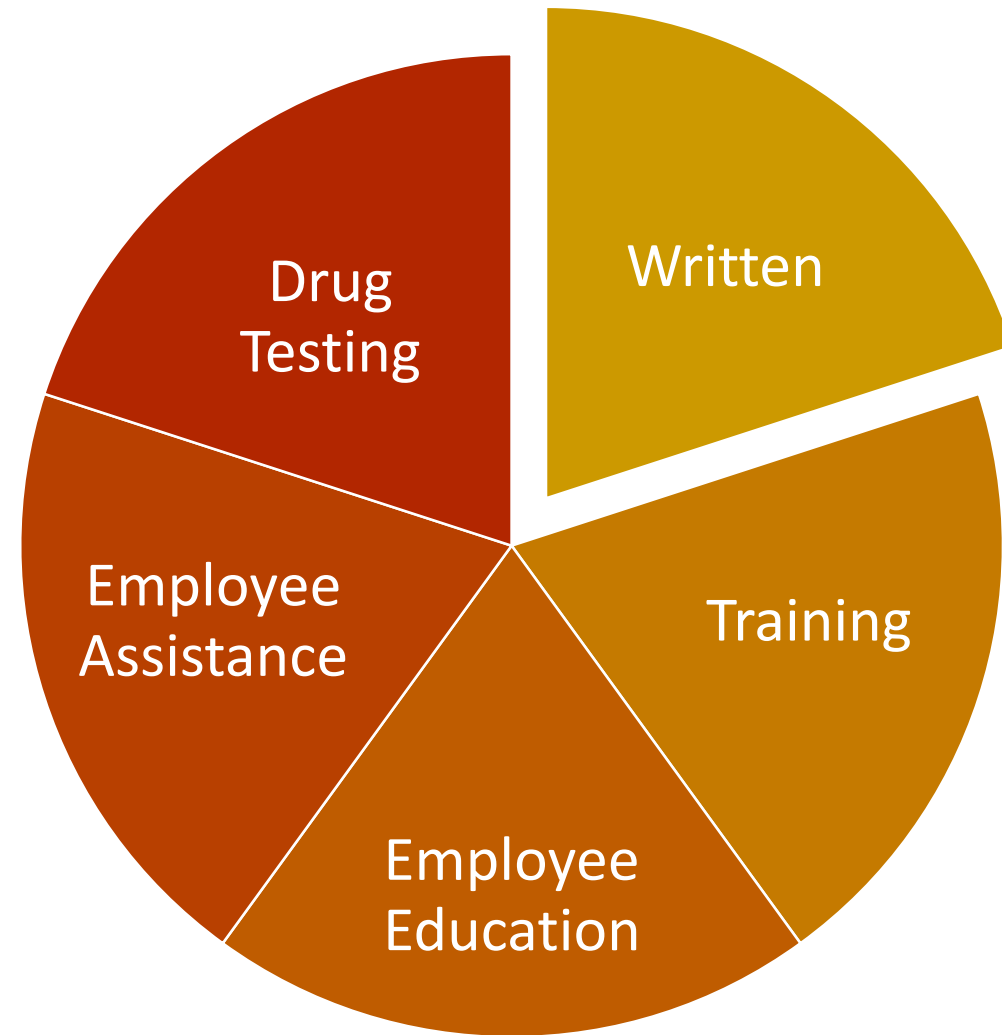
Rights of Employers

- The Administrator of Workers Compensation is still authorized to grant rebates or discounts on premiums to employers who participate in a drug free workplace program in accordance with Ohio Revised Code 4123.

Rights of Employers

- If an employer has adopted and implemented a drug free workplace policy, a zero-tolerance policy, or a policy regulating the use of medical marijuana, and a person is discharged pursuant to such policy, the discharge is for just cause.

Key
Components of
a Drug
Free Workplace
Policy



Written

Why is it important?

Clearly set forth prohibitions and expectations.

Consequences for violation.

Regulatory Requirements (if applicable)

Supervisor Training

1. Know the policy and their role.
2. Observe and document poor job performance.
3. Follow company procedures to address performance issues.
4. Ensure consistent, fair, non-discriminatory application of the drug policy.
5. How to refer employee suspected of having a problem to those qualified to diagnose / offer assistance.

Employee Education

All employees should be given a copy of policy.

Dangers and effects of substance abuse.

Effects on the workplace and consequences.

Describe procedures and policy.

Employee Assistance

- At a minimum should have a list with local resources, treatment program options and Help line numbers
- Confidential

Drug Testing

Who

What

When

How