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SAPC BULLETIN NO. 16-06

December 21, 2016

TO: Executive Directors

FROM: Wayne K. Sugita, Interim Director
Substance Abuse Prevention and Control 

SUBJECT: PROPOSITION 64 AND WORKPLACE DRUG POLICIES

This is in response to recent inquiries regarding the impact of Proposition 64, Adult Use of Marijuana Act (AUMA) on workplace drug policies.

AUMA explicitly does not affect the rights and obligations of public and private employers to maintain a drug- and alcohol-free workplace. It also does not require employers to permit or accommodate the use of marijuana in the workplace.

To note, AUMA does not amend, repeal, affect, restrict, or preempt:

“The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.”

(AUMA Sec. 11362.45(f))

Thus, AUMA does not interfere with the 2008 ruling by the California high court that allows employers to refuse employment to individuals who fail a drug test, even if the applicant was legally using marijuana under the Compassionate Use Act (Ross v. Raging Wire, 42 Cal. 4th 920 (2008)). The Court further stated that employers are not required to permit or accommodate marijuana use as a reasonable accommodation under the Fair Employment and Housing Act.

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Furthermore, under the federal Controlled Substances Act, marijuana remains a Schedule I drug. Thus, employers may continue to prohibit the use of marijuana by employees and prospective employees, and still comply with State and Federal law.

With the passage of Proposition 64, it is important that contracted provider agencies review existing workplace drug policies and clearly communicate them to all staff to avoid any confusion regarding marijuana use. All policies must be applied equally to all applicants and employees. Train your supervisors to identify signs of drug or alcohol use, and to make appropriate referrals to treatment when necessary.

WKS:dd

c: Wesley L. Ford
John M. Connolly
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