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Workplace Law
& Advocacy

THE POT THICKENS: MANAGING CANNABIS USE AND IMPAIRMENT IN THE WORKPLACE

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Can you be a pot smoker and work a safety sensitive job?

Case Study 1:

The Chronic User

"It's no big deal"

Experts agree on a few things:

1. Impairment can last beyond 24 hours
2. Testing doesn't tell you when someone last used cannabis

Drug testing may not tell you much…but you should still do it

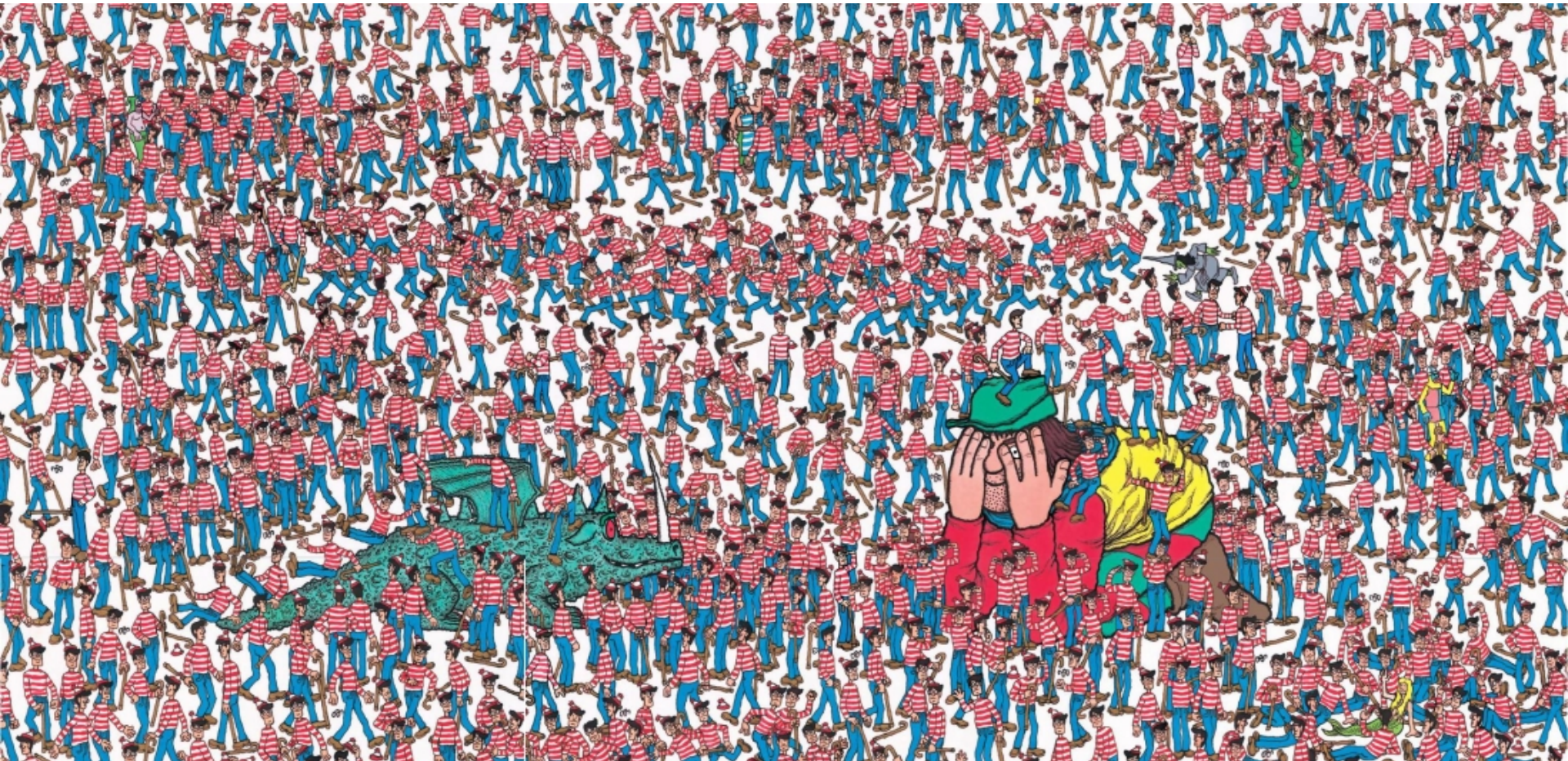
Canada balances interests

Scope of permissible testing

- Reasonable cause
- Accident or near miss
- Return to work

…but only if safety sensitive

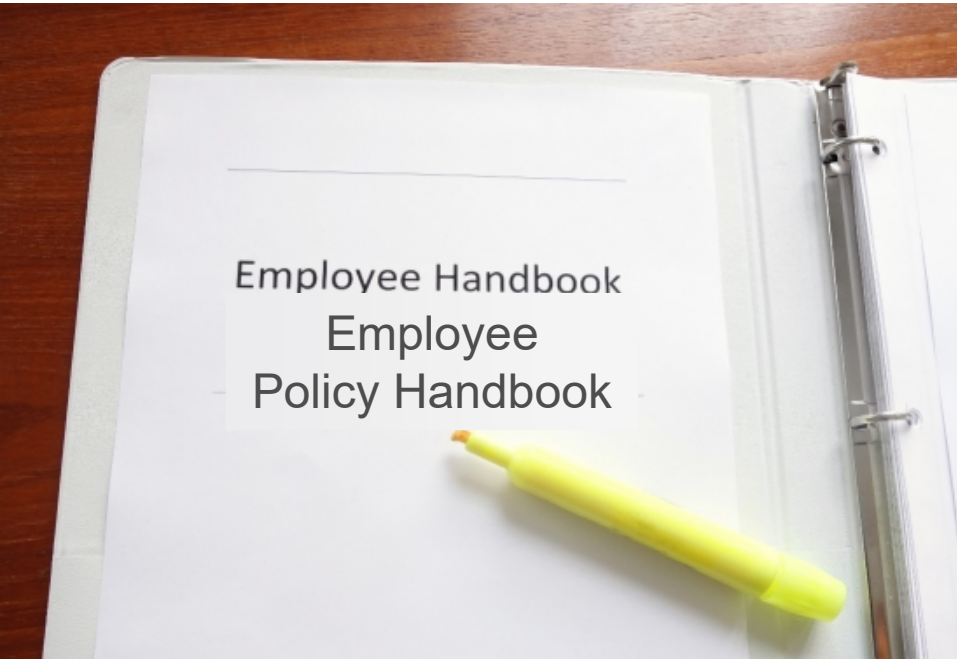
Random drug testing

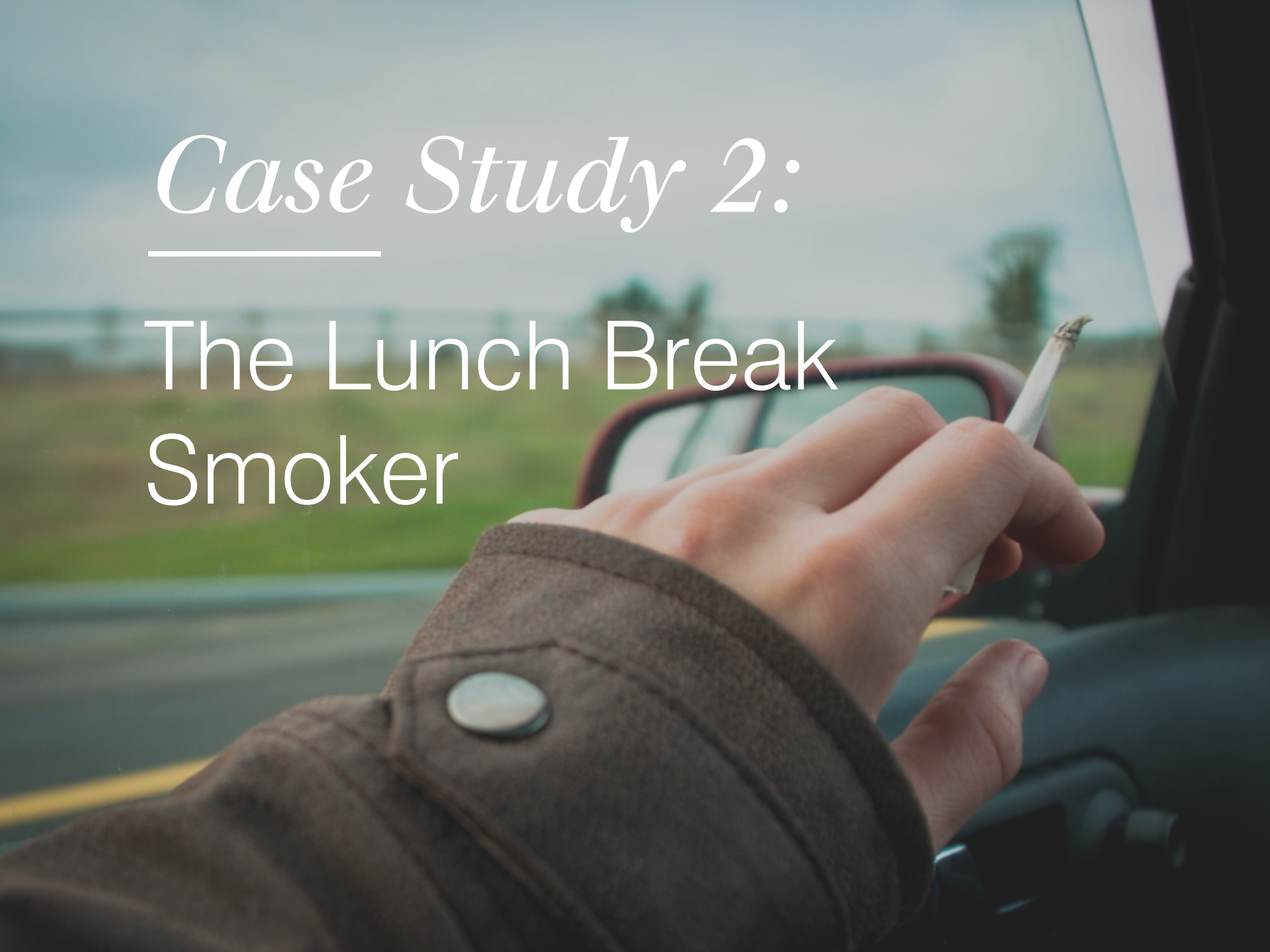


Pre-employment drug testing?

Drug and alcohol policies

- The importance of communicating expectations
- Time limits are probably a bad idea





Case Study 2:

The Lunch Break Smoker

Type of use matters

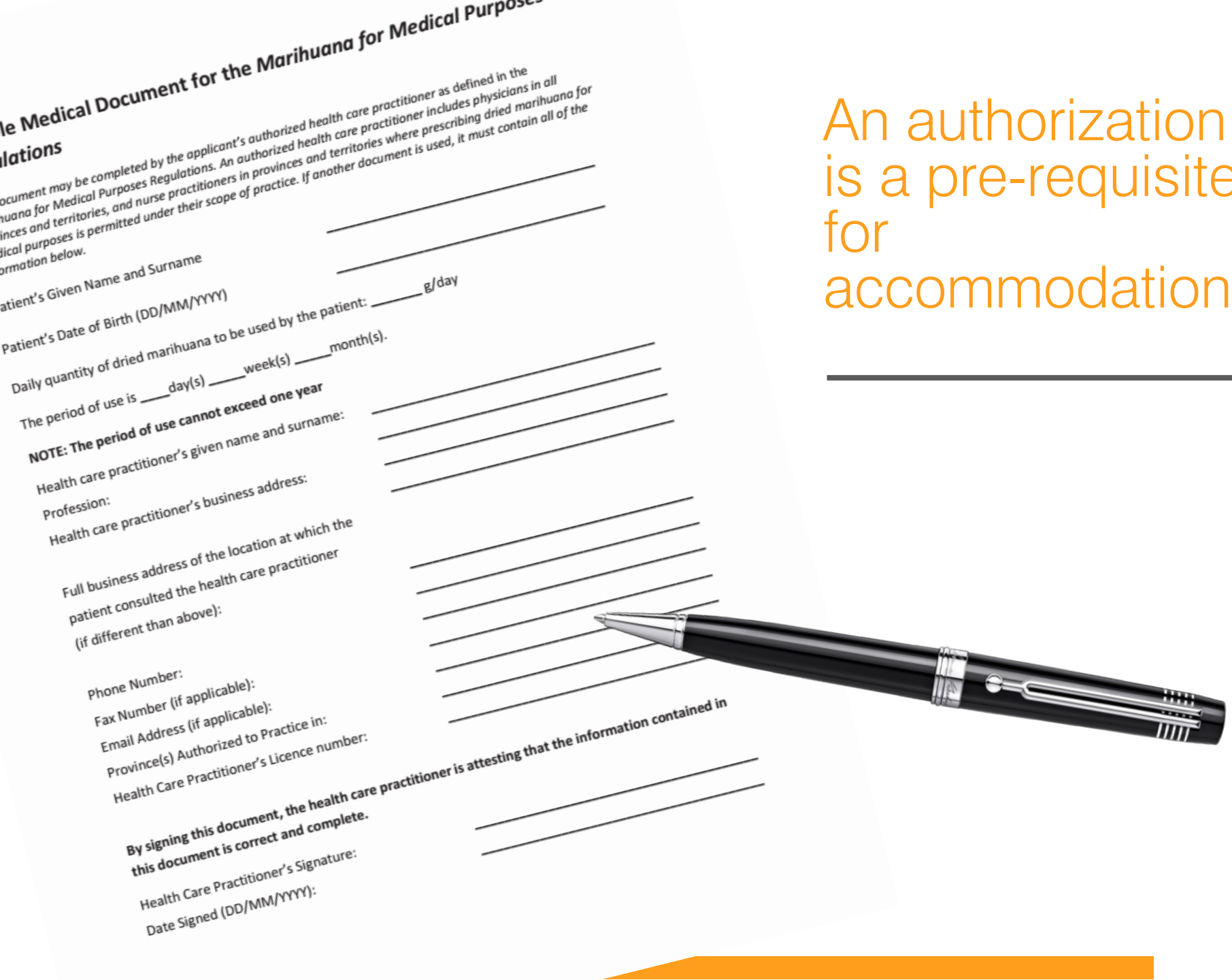
The nature of the position matters

Occupational Health & Safety Regulation

Section 4.20

Case Study 3:

The Medical User



An authorization is a pre-requisite for accommodation

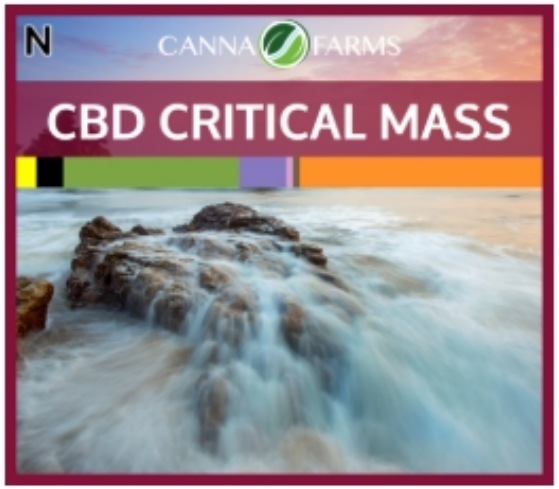
Medical cannabis ≠ Non-impairing

THC = 15.2% | CBD = <0.05% | $7.50/g

THC = 18.9% | CBD = <0.05% | $7.50/g

THC = 20.1% | CBD = <0.05% | $7.50/g

THC = 5.1% | CBD = 9.5% | $7.50/g



THC = 4.6-5.9% | CBD = 9.1-10.5% | $7.50/g

THC = 0.6% | CBD = 13.4% | $7.50/g

THC = 6.2-7.1% | CBD = 9.6-10.6% | $7.50/g

THC = 6.8% | CBD = 10.4% | $7.50/g

Who bears the risk?

What is the *duty to accommodate?*

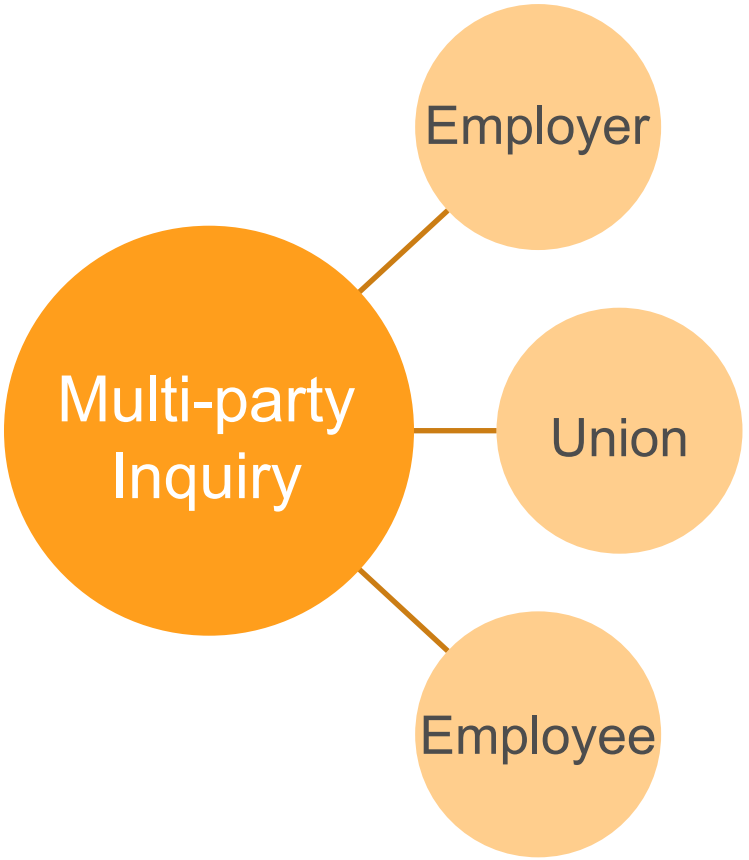
- Protection against discrimination on "prohibited grounds"
- Includes a positive duty to accommodate
- Duty to accommodate up to point of undue hardship

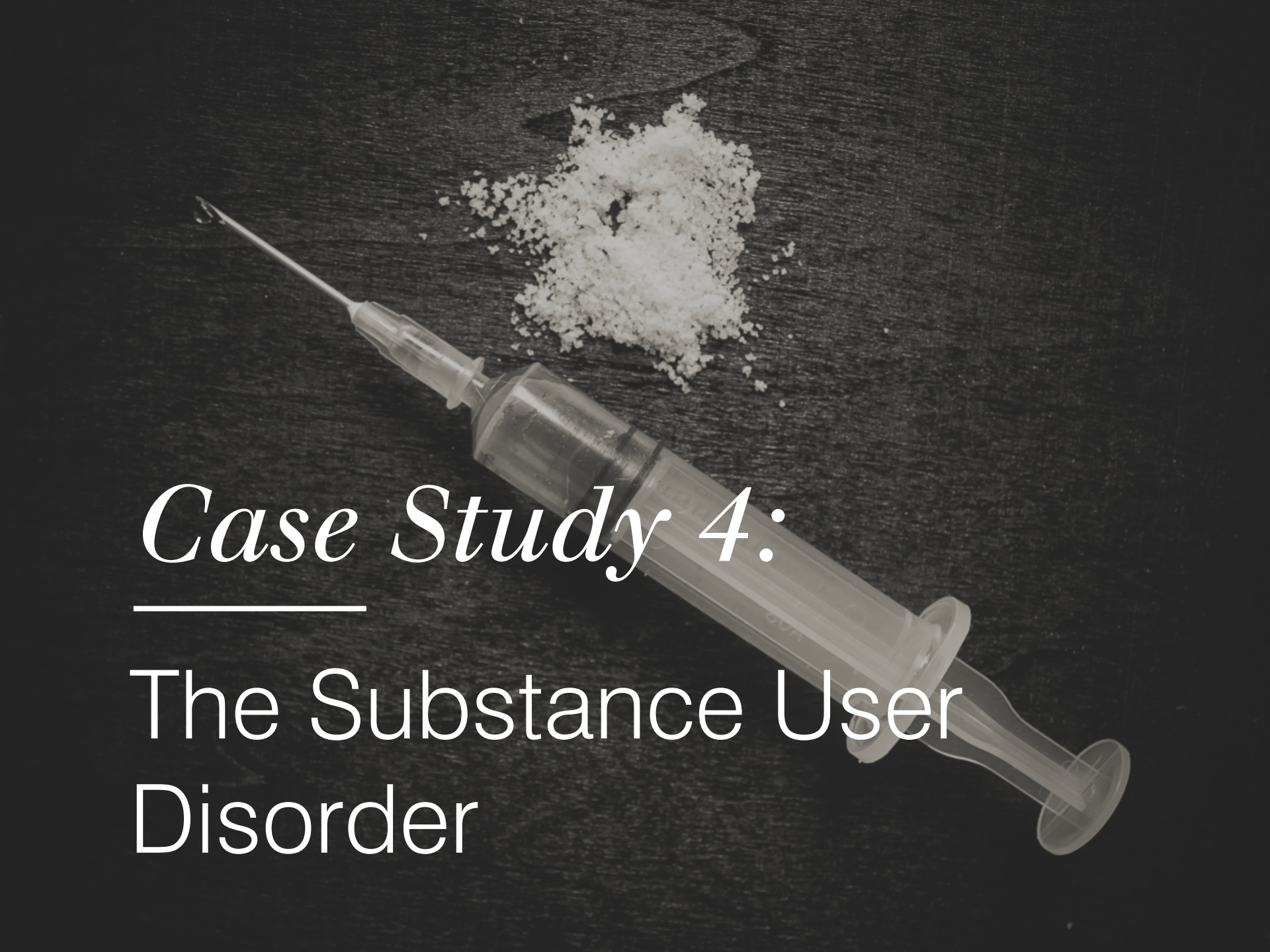
Undue hardship is a limit on accommodation

Duty to enquire

- Positive obligation to seek further information
- Must not “turn a blind eye”
- Be aware of more subtle signs of issues

Duty to Accommodate

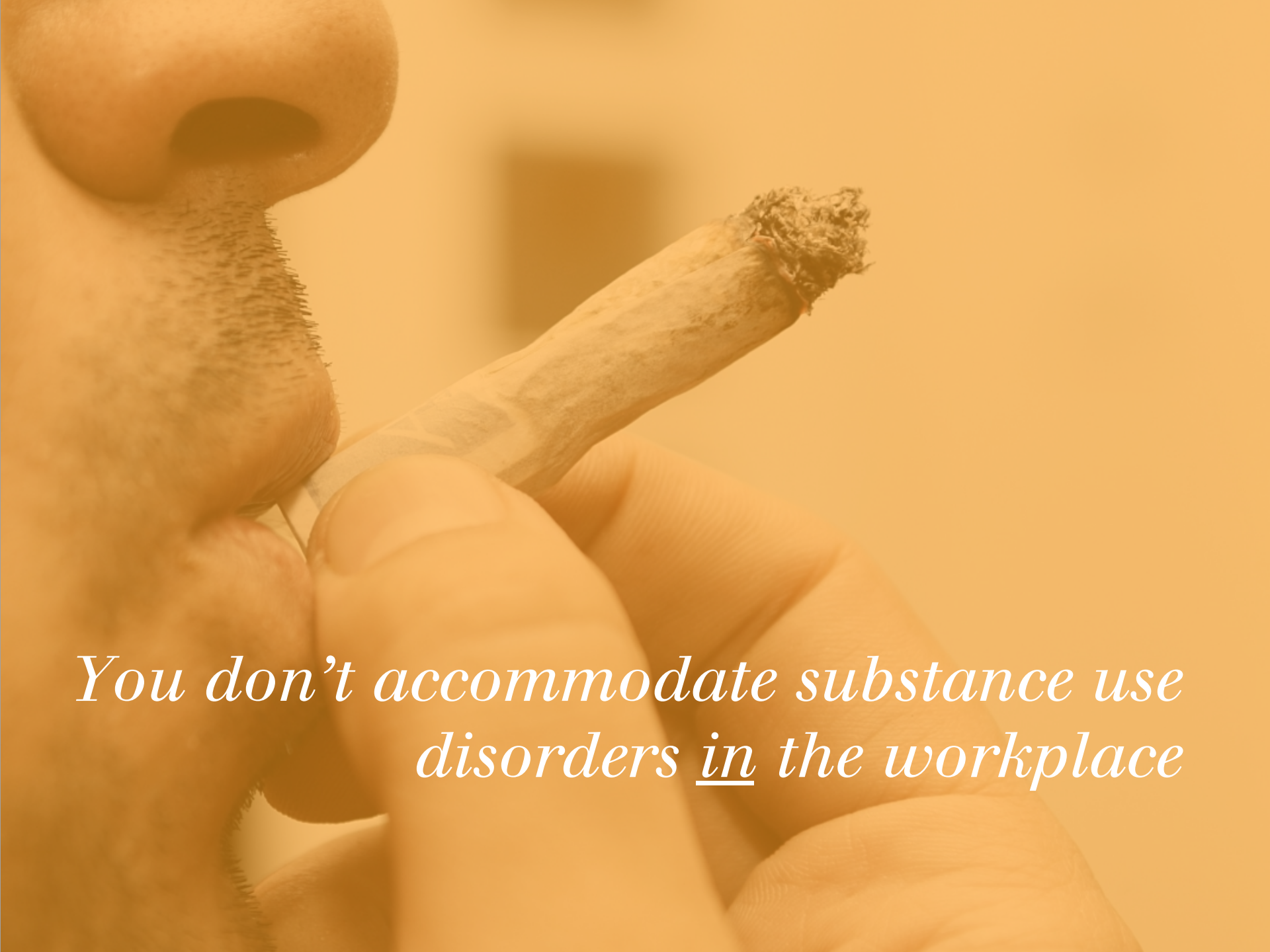




Case Study 4:

The Substance User Disorder

Marijuana Anonymous


You don't accommodate substance use disorders in the workplace

Return to work agreements

Components:

- Therapy
- Meetings
- Abstinence

Edibles are coming…

THANK YOU

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