

Marijuana: Challenges and Insurance Implications

CPCU – New Jersey I-Day

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Introduction

Legal / Regulatory Considerations

Insurance Implications

Employer Perspective

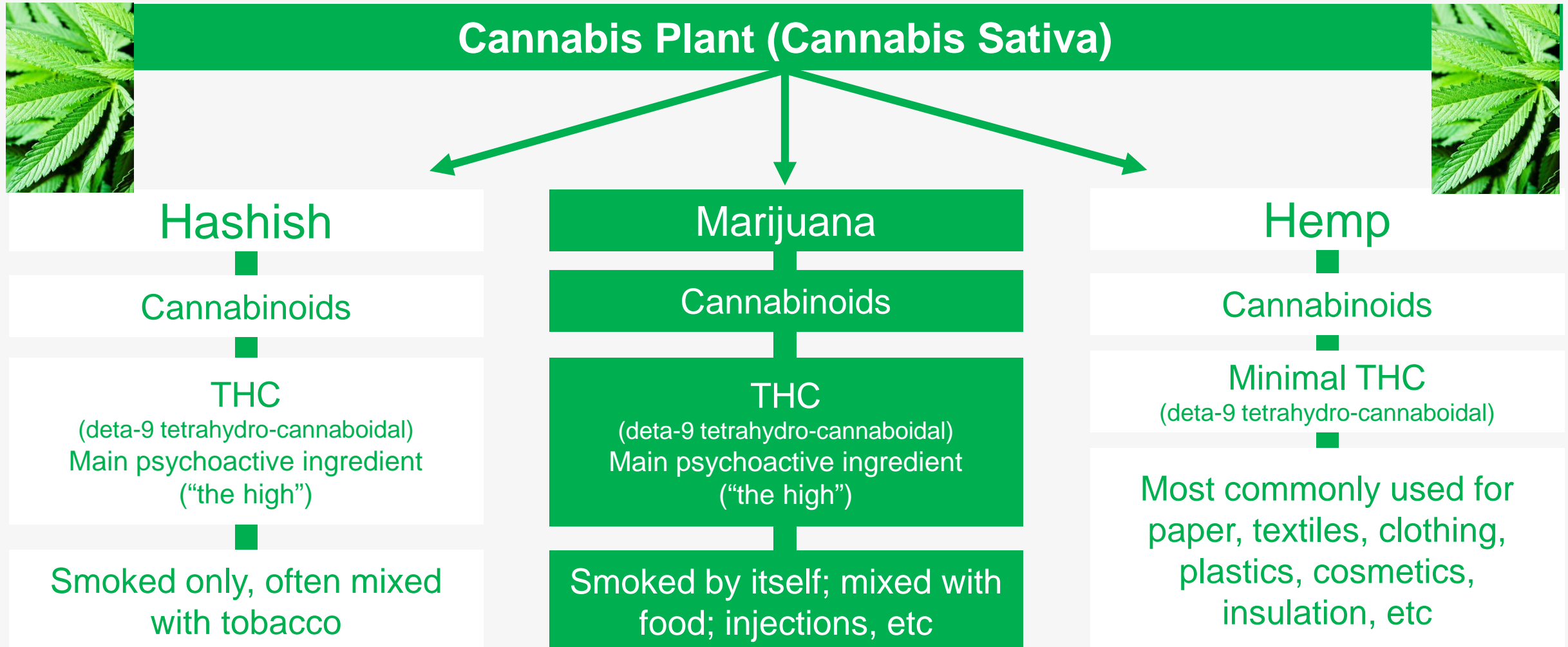
Closing Thoughts

A close-up photograph of several cannabis plants. The plants have bright green, serrated leaves and are covered in small, developing flower buds. The lighting is bright, highlighting the texture of the leaves and the structure of the buds.

1

Introduction

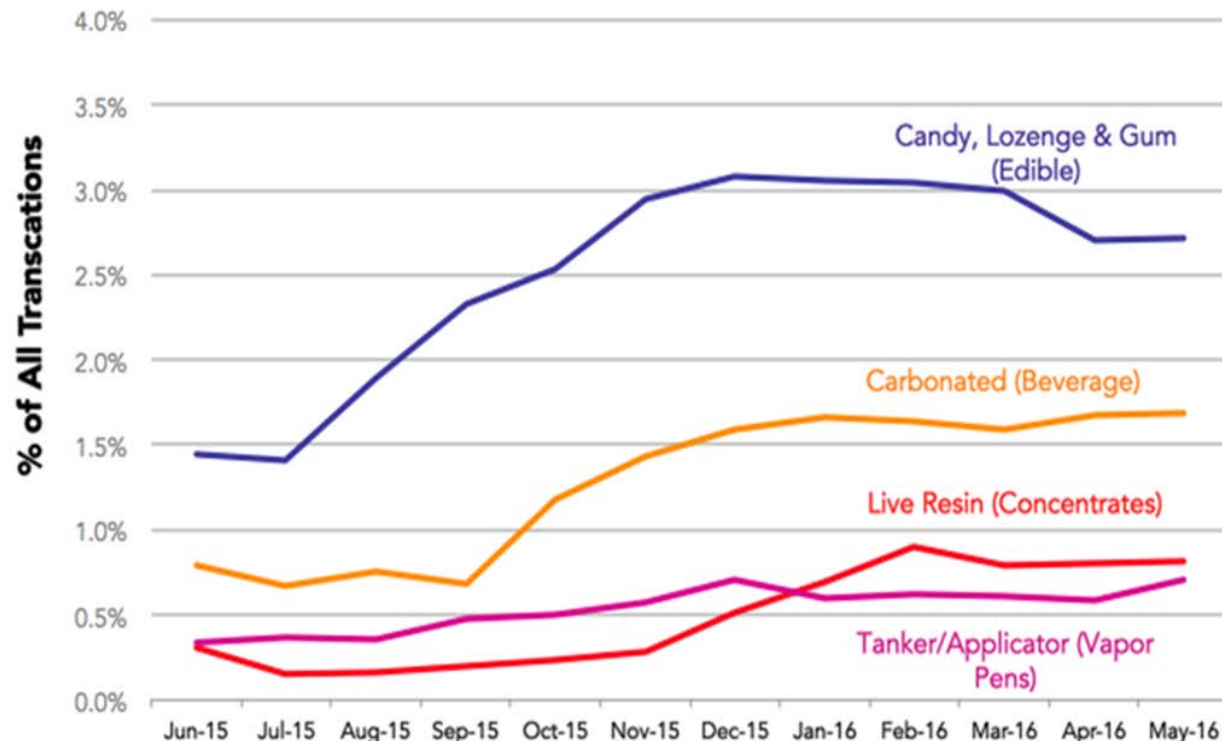
What it is



Marijuana Versatility

Which Products Are Becoming More Popular?

Less traditional products are accounting for a large % of Transactions



Note: Data via [Headset Inc.](#)

Multiple Ways of ingesting marijuana make it highly attractive for both Medical and Recreational use

- Smoked/Vaped (flower)
- Beverage
- Eaten (Candy, Lozenges, Brownies, Cookies, etc)

Short Term Effects (1-3 Hours) One or More of the Following

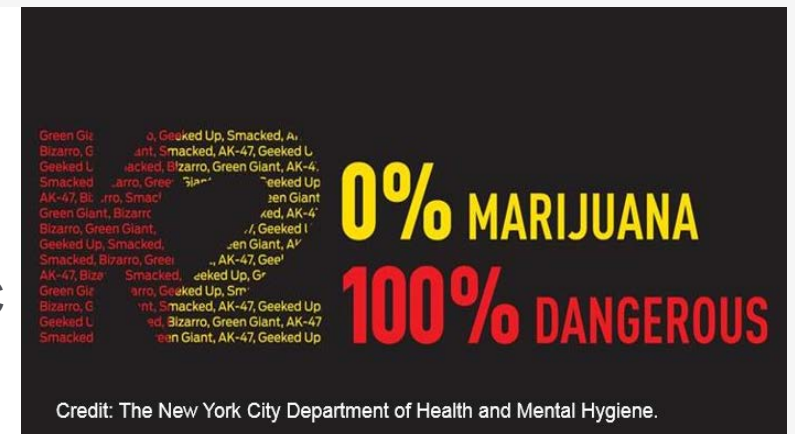
- Feeling of well-being
- Talkativeness
- Drowsiness
- Loss of inhibitions
- Increased appetite
- Loss of co-ordination
- Bloodshot eyes
- Decreased nausea
- Dryness of the eyes, mouth, throat
- Anxiety and paranoia

A Word About..... “Synthetic Marijuana” (“Spice”; “K2”)

Actually not marijuana:

- Designer drug consisting of herbs, incense, other leafy material
- Sprayed with lab created chemicals attempting to mimic the effect of THC
- Can be more potent than marijuana and may have dangerous side effects

Banned nationally in 2012...but FDA has approved one variant (Marinol) for treatment of migraines, epilepsy; Alzheimer's, HIV, etc.



Some Facts About US Marijuana Attitudes and Use

.....Increased Acceptance and Favor

- 3rd most used drug in the US (behind alcohol and nicotine)
- 2013 estimate 25m people use marijuana; 14m use it regularly*
- Harris 2015 Poll: 81% of population favored legalization (75% of 18-34 year old)
 - 41 point increase over 2010 Pew Poll
 - 69 point increase over 1969 Gallup Poll

Pew Research 4/14 Poll: % of US adults that viewed harm	Alcohol	Marijuana
Harmful to individual health	69%	15%
Harmful to society	63%	23%

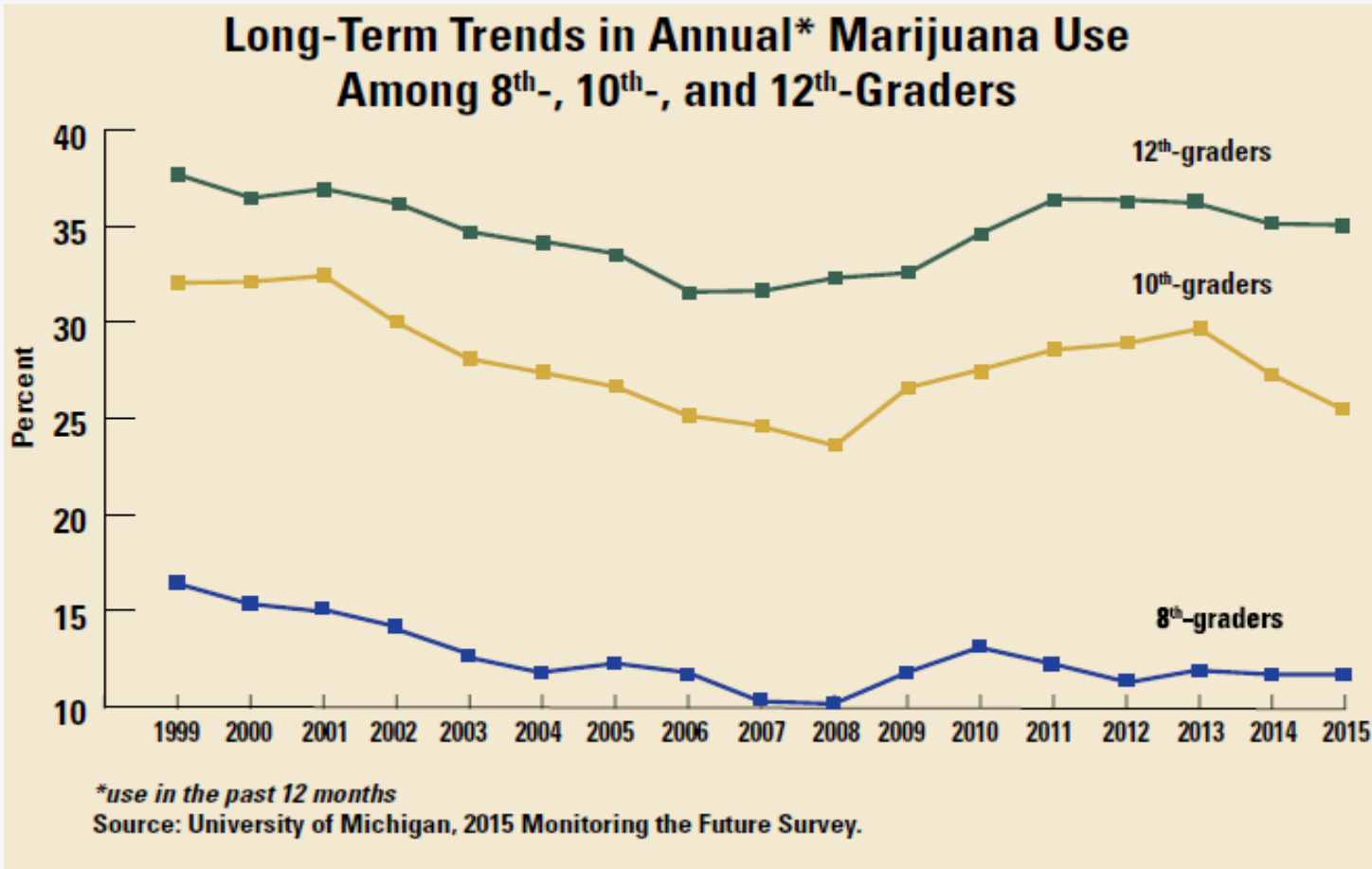
* Dr, Barry Logan, VP Forensic Science Initiatives and chief of Forensic Toxicology at NMS labs as reported by the AAA Foundation

Cannabis derivatives (other than hemp): (2012 National Survey on Drug Use and Health)

- Most widely “illicit” drug in the US
- 7.3% of Americans age 12 and older had used marijuana in the past 30 days
- 17.9 years - Average age at first use (Rising use: Caucasian males >35 years of age)



National Institute of Health March 2016 Study



Estimates of % use in the last 12 months by grade:

Level or Decreasing over 16 years

12th Graders.....35%

10th Graders.....25%

8th Graders.....12%

**Since spike in 2008 – 10....
..... has leveled off or decreased**

**Medicinal..... Recreational
Legal.....Not legal**

Noted Benefits/Positives (Not Universally Accepted)

Medical Value Reported

Multiple conditions, including:

Stress, anxiety, migraines, PTSD, chronic pain, glaucoma, etc

Neurodegenerative diseases such as:

- Alzheimer's
- Multiple Sclerosis
- Cerebral Palsy
- Epilepsy
- Parkinson's

Cancer/HIV

- Treats side effects of treatments – pain; nausea; vomiting;
- Increase appetite

Economic Benefit Reported

Jobs (production, dispensing, etc)

- 1994 estimate (NORML):
 - 100,000 jobs created if marijuana legalized nationally.....but
- 2015: 10,000 jobs created in Colorado aloneso potential is much higher than 100,000

Tax Revenue: (Fed, State, Local);

- e.g.: 2015 Colorado alone: \$135m in tax revenue on \$996m sales
- \$28b - Projection if marijuana legalized nationwide
(Tax Foundation Analysis reported by NORML 5/19/16)

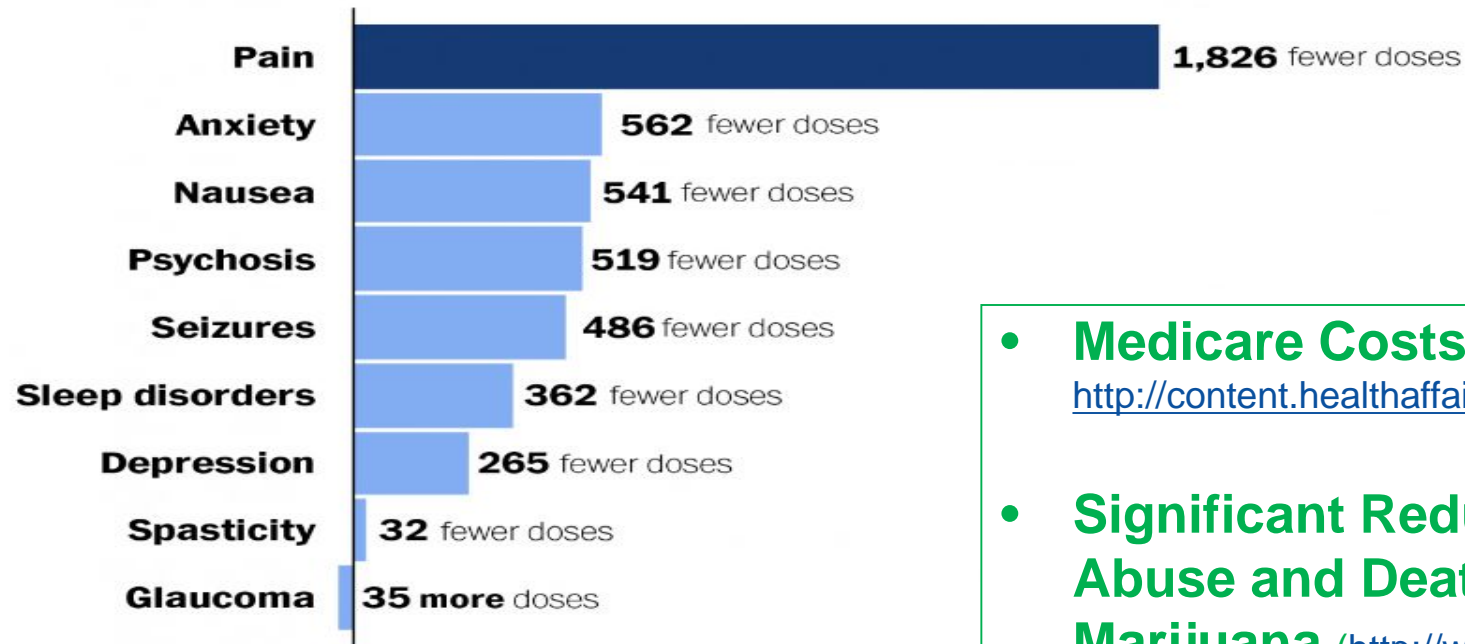
Marijuana

....Health Care Impact...(Studies)

Pharmaceutical Industry...Marijuana Reduces Use of Prescription Narcotics

Fewer pills prescribed in medical pot states

Difference between annual drug doses prescribed per physician in medical marijuana states, and in states without medical marijuana laws, by drug category



- **Medicare Costs Decreased** (U. of Georgia Study - <http://content.healthaffairs.org/content/35/7/1230.abstract>)
- **Significant Reduction in Prescription Painkiller Abuse and Deaths in States with Medical Marijuana** (<http://www.nber.org/papers/w21345>)

Noted Benefits/Positives - Medical (Studies)

Marijuana vs. Opioids....Marijuana Wins???

2016 Center for Disease Control Report

- **2014 - EVERY DAY 46 people die from an overdose of painkillers** such as Opioids, Vicodin, OxyContin, Opana or Methadone
- **2012 - Doctors write 259m prescriptions for painkillers**

2014 Journal of American Medical Assoc. Report

- **Annual Opioid Deaths decreased 25% between 1999 and 2010 in states that legalized marijuana**

2015 RAND Study Conclusions

- **States with legalized medical marijuana.....experience decreases in both opioid addiction and opioid deaths** compared to states without legalized medical marijuana



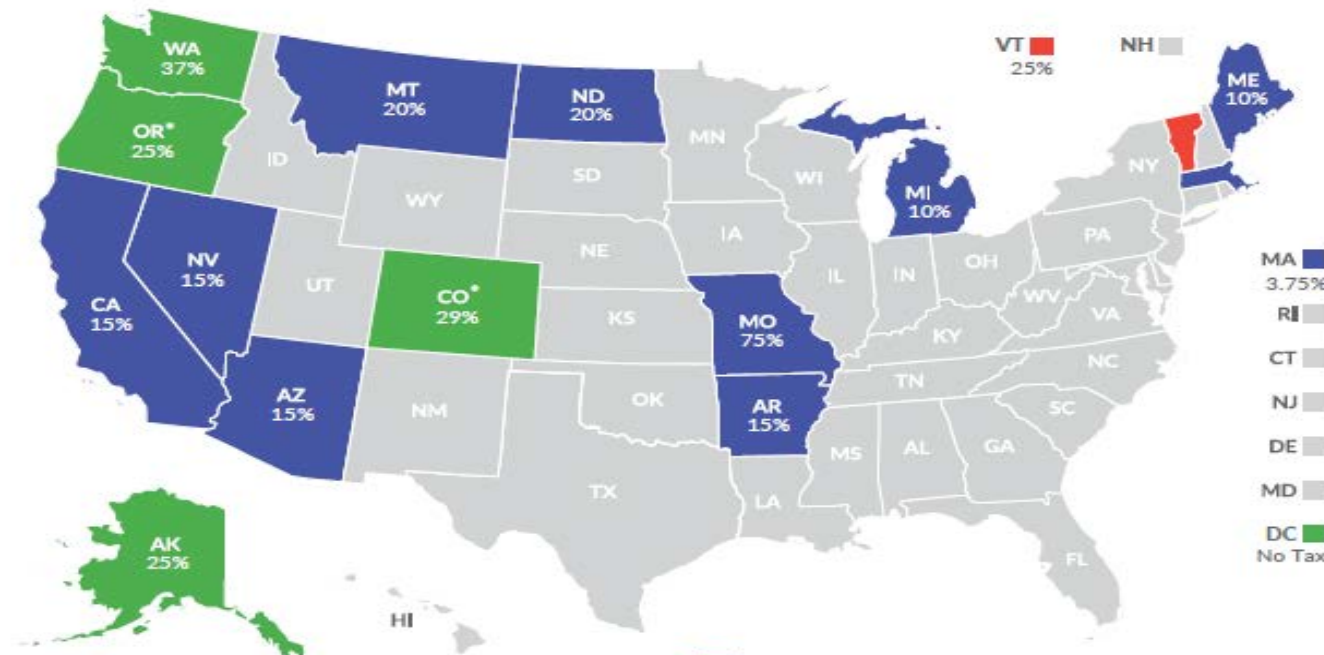
<http://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>

Noted Benefits/Positives (Not Universally Accepted)

More on Marijuana Tax Revenue

How High Is the Tax on Recreational Marijuana in Your State?

State Excise Tax Rates on Recreational Marijuana, 2016



Notes: (*) Oregon's state tax rate on recreational marijuana will drop to 17 percent in late 2016 and Colorado's rate will drop to 27 percent in July of 2017.

Source: Tax Foundation; compilation of state laws and proposals.

- States Where Recreational Marijuana is Legal
- States With Proposed Ballot Initiatives to Legalize Recreational Marijuana
- States With Legislative Proposals to Legalize Recreational Marijuana

The Tax Revenue: An important part of the marijuana debate, because marijuana legalization is, at the end of the day, a political matter

Various Types of Taxation:

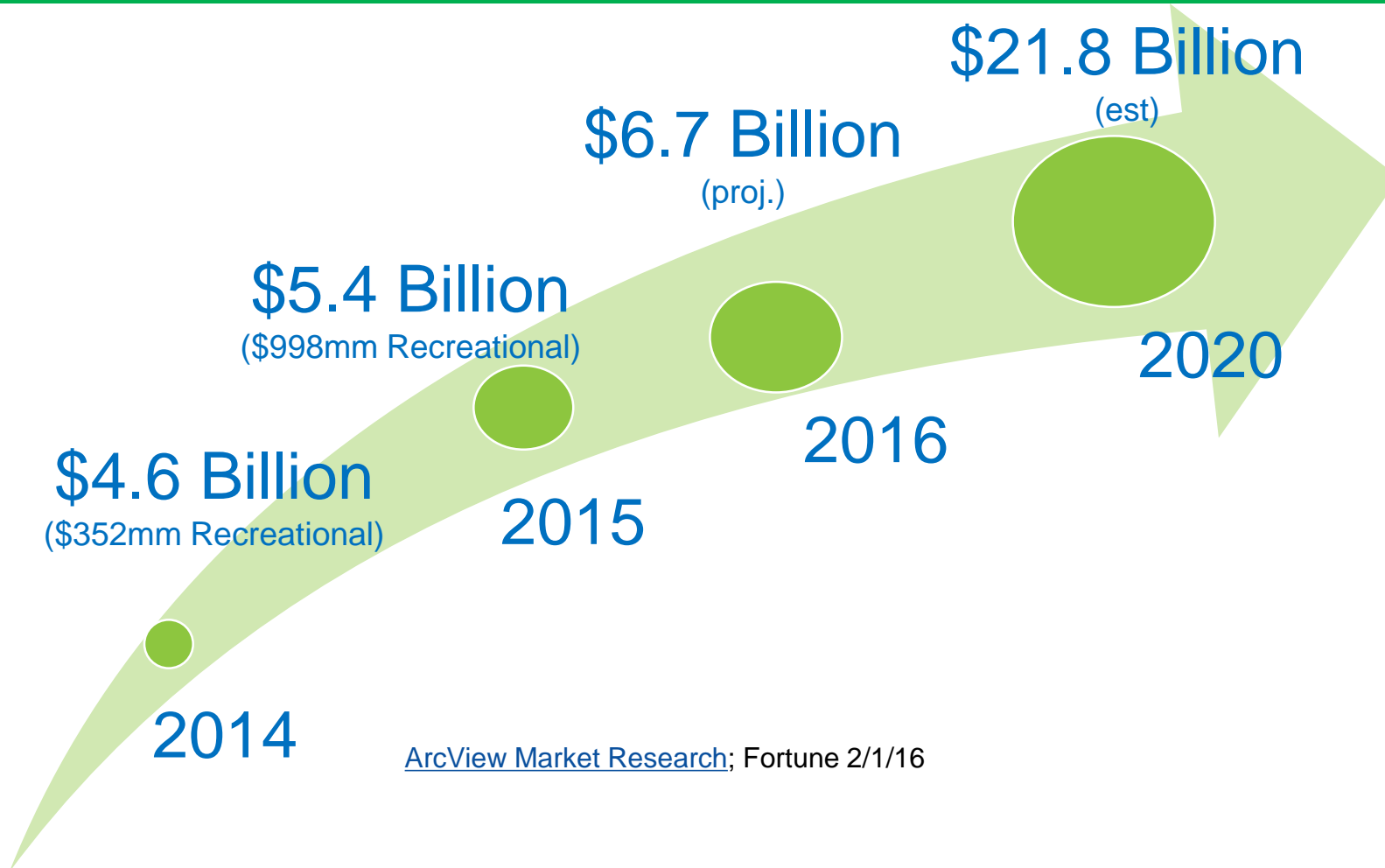
- Retail sales – most effective
- THC levels
- Marijuana plants
- Production/processing

Federal Tax (section 280E of Tax Code).....intended to penalize drug dealers.....

Effective tax rate of 70% - legislation in the works to modify (Small Business Tax Equity Act proposed)

Noted Benefits/Positives (Not Universally Accepted)

Legal Marijuana Sales Growth = Economic Growth (Medical and Recreational)

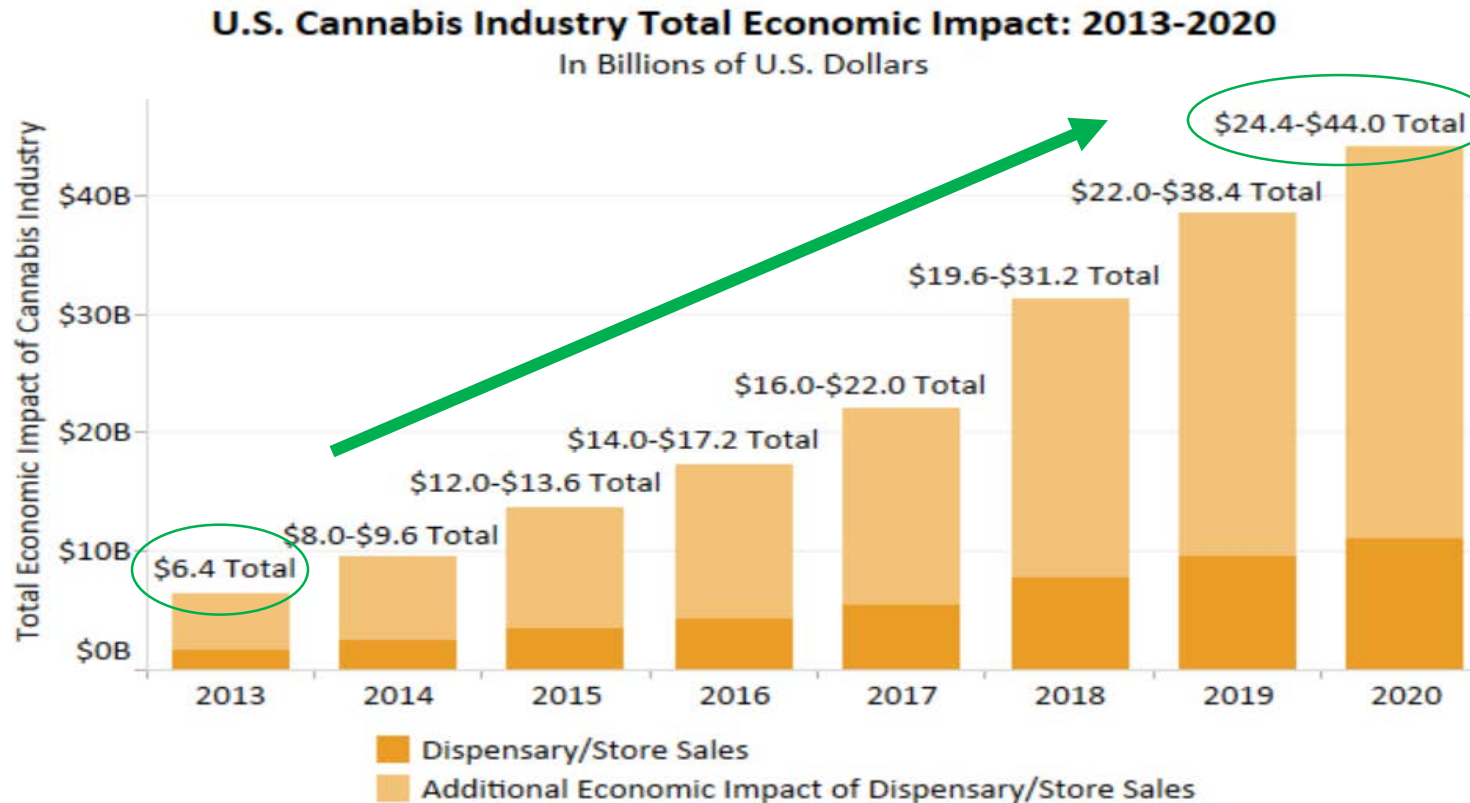


[ArcView Market Research](#); Fortune 2/1/16



Noted Benefits/Positives (Not Universally Accepted)

Economic Impact Growth (Beyond Sales)



Source: Marijuana Business Factbook 2016

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Economic impact reflects the marijuana business total financial contribution to the US economy

Estimates depend on:

- Extent and rate of legalization
- Regulations
- Hurdles and delays faced by any new market

<http://norml.org/>

Noted Concerns/Negatives (Not Universally Accepted)

Short Term Effects:

- Impaired cognitive capability (impact school, driving, etc.) for 1-3 hours
- THC may remain in the body for days or weeks (complicates testing)
- Extreme doses may lead to anxiety, fear, acute psychosis rather than a relaxed euphoria

Addiction:

- “Marijuana Use Disorder” (MUD) - form of dependence in about 30% of regular marijuana users
- Those that started young are more prone
- Severe cases of MUD may lead to addiction in extreme cases

Long Term Effects:

- Gateway Drug - Possible if other factors are at play (e.g., life style/social environment, propensity for addictions, etc)...Probably no more so than over use of nicotine, alcohol, opioids and other pain remedies
- Regular use by Teen Boys – Increased risk of psychotic symptoms e.g., paranoia, hallucinations (American Journal of Psychiatry 8/16)

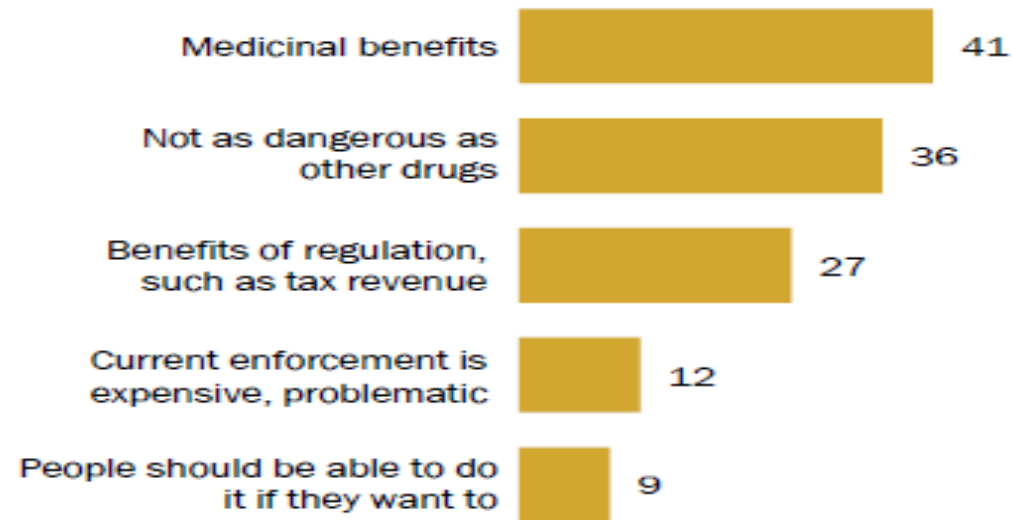
- Inconclusive...but possible
- No evidence of decreased IQ

Key Question: Do the health and economic benefits make the risks worth taking?
.....Further Research and Study needed

Arguments For.....And AgainstStill much is less than conclusive

Many Supporters of Legalization Cite Marijuana's Health Benefits

Among the 53% who think marijuana should be legal, main reason why you feel this way ... (%)

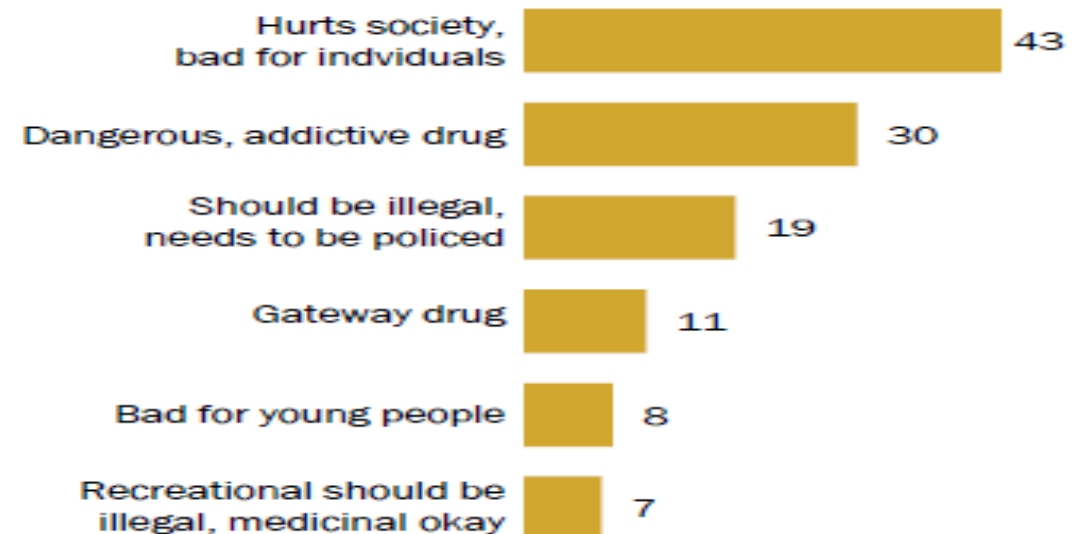


Survey conducted March 25-29, 2015.
Open-ended question. Total exceeds 100% because of multiple responses.

PEW RESEARCH CENTER

Opponents of Legal Marijuana Cite Dangers to Individuals and Society

Among the 44% who think marijuana should be illegal, main reason why you feel this way ... (%)



Survey conducted March 25-29, 2015.
Open-ended question. Total exceeds 100% because of multiple responses.

PEW RESEARCH CENTER

What Do You Think?

How Does Marijuana Compare?	Is Marijuana Better (More Benefit)?	Is Marijuana Worse (More Risk or Harm)?
Cigarettes		
E-Cigarettes		
Alcohol		
Opioids and other pharma		
Sugar		
Football		



Just some food for thought.....but keep in mind, all of the listed items are legal

A close-up photograph of cannabis plants with green serrated leaves and developing flower buds. The plants are densely packed and fill the background of the slide.

2 Legal / Regulatory Considerations

Key Federal law

- **Marijuana Tax Act – 1937** – Intent is to discourage production
- **Controlled Substances Act (CSA) – 1970**
 - Marijuana classified as a Class I Controlled Substance
 - Illegal to grow, cultivate, posses, use or distribute
 - No accepted medical use; high potential for abuse; lack acceptable safety evidence
- **Drug Free Workplace Act – 1988** – Requires larger federal contractors to maintain drug-free workplaces
- **Omnibus Transportation Employee Testing Act – 1991** – Requires drug and alcohol testing for drivers, pilots and other “safety-sensitive” jobs
- **OSHA – General Duty Clause** – May apply to marijuana – requires employers to maintain safe workplaces



Controlled Substance Act of 1970....(part of the “War on Drugs”)

Schedule Level	Potential for Abuse	Medical Value	Potential Negative Impact of Abuse (Physical or Psychological)	Examples
I	High	None	Severe for both	Heroin; LSD; Marijuana
II	High	Yes	Severe for both	Cocaine; Opium; Oxycodone; methadone
III	High, but less than Schedules I and II	Yes	Moderate or low physical dependence; High psychological dependence	Anabolic steroids; Marinol (synthetic marijuana)
IV	Lower than Schedule III	Yes	More limited than Schedule III	Ambien, Valium
V	Lower than Schedule IV	Yes	More limited than Schedule IV	Cough suppressants (Codeine) other preparations that contain Opium

Even so, US holds patent (No. US 6,630,507 B1) specifying Marijuana's multiple therapeutic benefits

Drug Enforcement Administration August 2016 Ruling

Bad News For Marijuana Proponents

DEA Refused to Reclassify Marijuana from Schedule 1 to Schedule 2

.....despite a petition to do so from the banking, pharmaceutical, insurance and investing communities.



Good News For Marijuana Proponents

Promoted Expanding Medical Research by the FDA....

.....Discontinued the monopoly the growth of marijuana for research (administered by the National Institutes on Drug Abuse)

.....opening the door for more federal approval of medical value...the basis for moving from Schedule 1 to 2



Medical Marijuana ResearchThe Future

More Robust.....

Cannabis and Cannaboid Research— Peer Reviewed Open Access Medical Marijuana Journal
..will move medical research forward to:

- Verify currently indicated marijuana medical impacts (both positive and negative)
- Explore new impacts (both positive and negative)

<http://www.medicalmarijuanainc.com/>



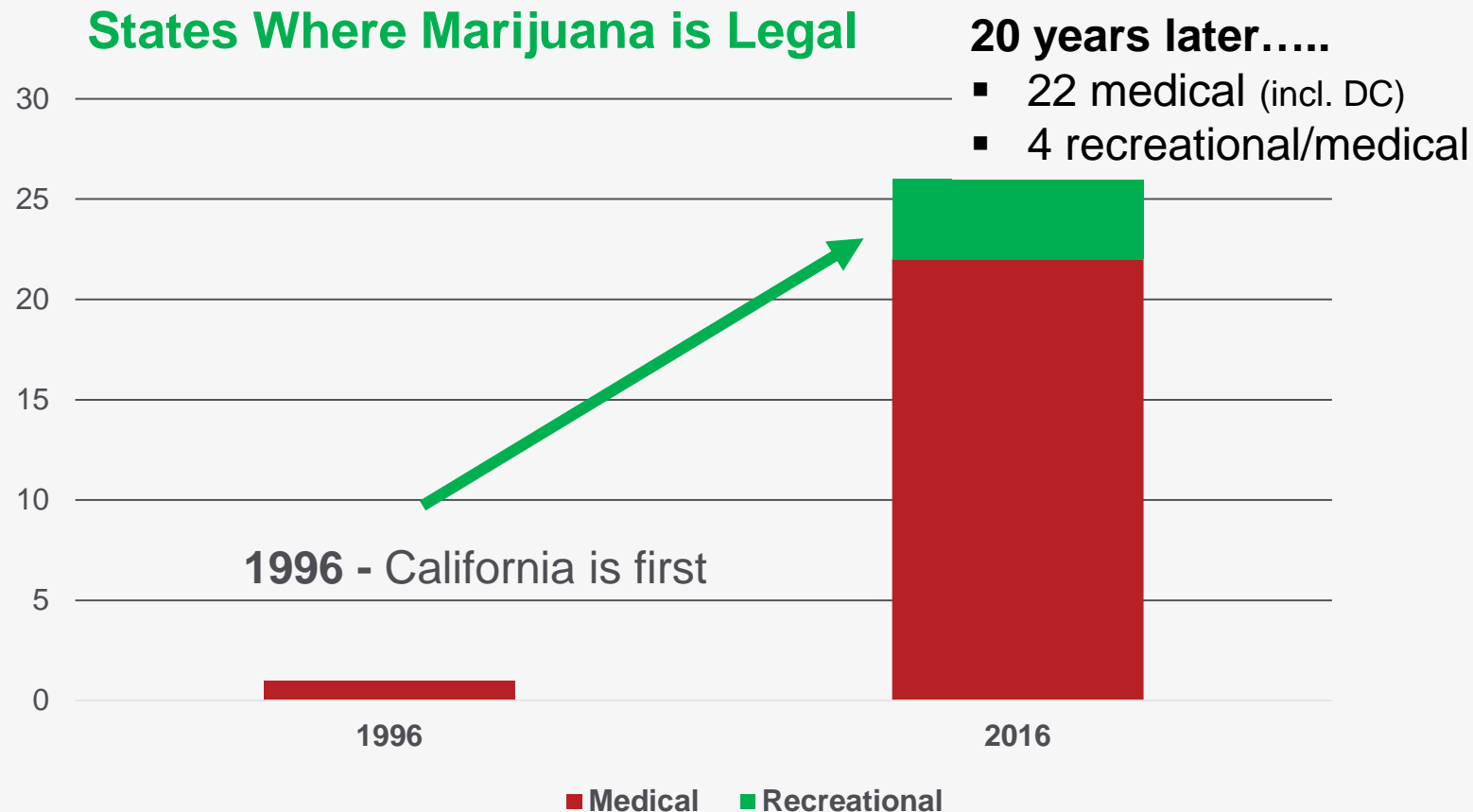
**Easier, Legal,
More Affordable
Access**

Future Research Focus...including Clinical Trials

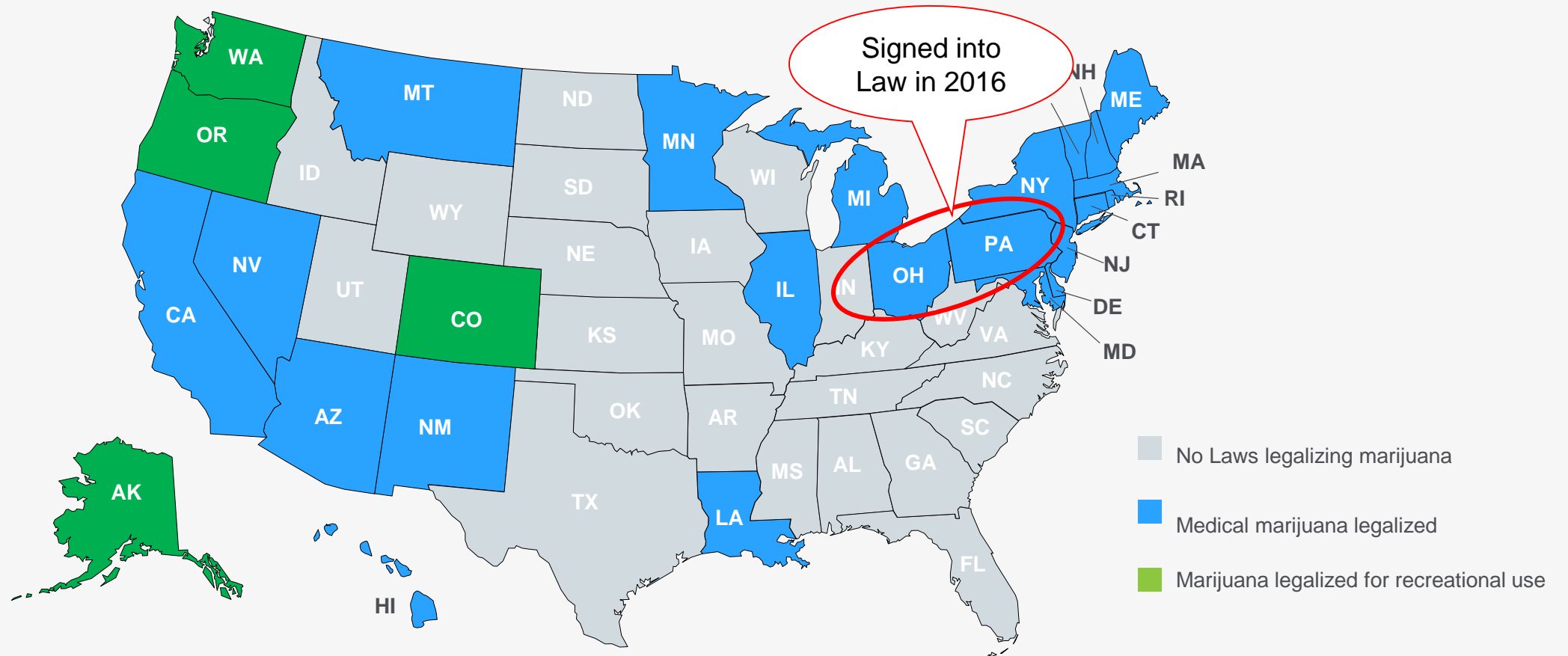
- Marijuana as a Cancer Treatment
- Impact on the Brain
- What Dosage & Strains have Optimal Medicinal Benefits
- Relationship between Marijuana and Anxiety – As a Treatment or Cause
- Can marijuana end the Opioid Epidemic
- What are the Consequences of Long Term Use

<http://time.com/4448757/7-scientific-effects-of-marijuana-that-experts-want-to-study/>

Marijuana Legalization.....a “Growing” Phenomena



State of the States @ June 2016



State Marijuana Laws @ June 2016

Legal Medical & Recreational Use	Medical Use Legal / Decriminalized		Limited Access Laws (Low THC/High Canibiidiol) Medical or Legal Defense Only	
Alaska Colorado Oregon Washington	Arizona California Connecticut Delaware District of Columbia Hawaii Illinois Maine Maryland Massachusetts Michigan	Minnesota Montana Nevada New Hampshire New Jersey New Mexico New York Ohio* Pennsylvania* Rhode Island Vermont * 2016 Laws	Alabama Florida Georgia Iowa Kentucky Louisiana* Mississippi Missouri	No. Carolina Oklahoma So. Carolina Tennessee Texas* Utah Virginia Wisconsin Wyoming
4 States	21 States + DC		17 States	

*Law is considered non-functional as it requires a physician "prescription" which can't be done as long as it is illegal at the federal level.

State Marijuana Laws Post Election @ November 9, 2016

9 States Have Ballot Initiatives

(Subject to Last Minute Legal Response to remove it from the Ballot)

Recreational

Arizona

California

Maine

Massachusetts

Nevada

Marijuana Map Potentially Changed



Source <http://norml.org/act/ballot-proposals>

Medical

Arkansas

Florida

Montana

Oklahoma

State Laws Vary Tremendously

Often Regulated (similar to the sale of liquor)...but with more limitations

Who can “prescribe”
(recommend)

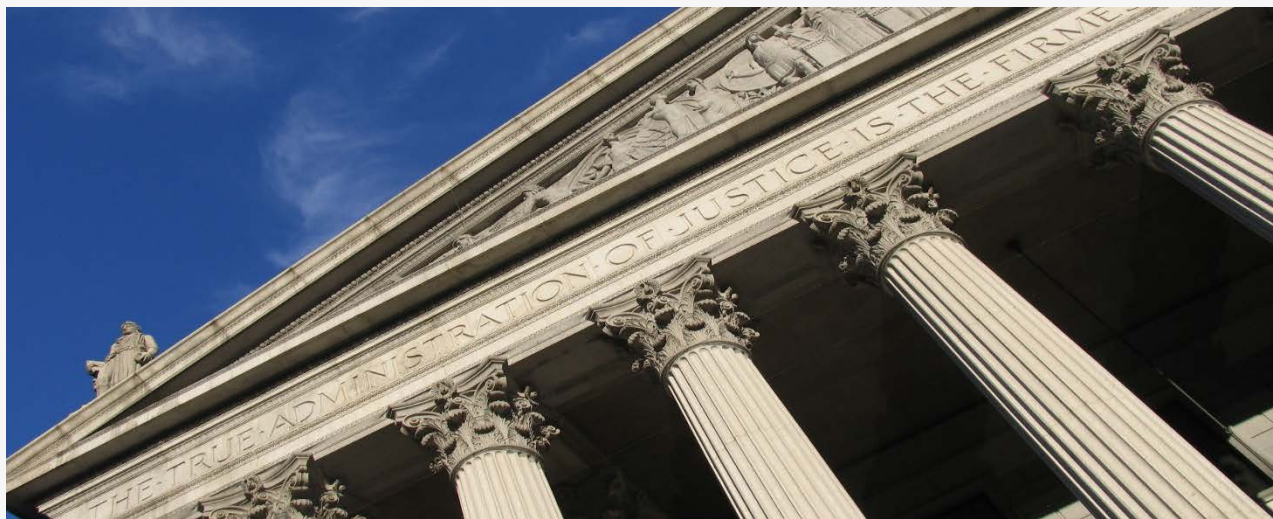
Quantity and dosage

Legal if it doesn’t get
you high

Not Legal ..but no jail
time

Legal for Rec. use if
over a certain Age
(usually 21)

Eligible Medical Conditions (Usually very specific)



Who Can Buy or Sell
(age limits, licensed dispensaries; certification often required)

Who can
grow, produce or process

Form
(smoke, food, pill)

Employment previsions:
Employee or employer
protections

Taxes and fees

Where it can be used
(public, private)

Constantly Evolving
(e.g., in 2016 both IL and NJ expanded use for PTSD; IL reduces Marijuana Penalties)

Federal vs. State Legal Uncertainty

Federal

Federal: Continues to be classified as Illegal – Schedule 1 Substance



State

States: Increasingly Legalizing Marijuana – Medical and Recreational

**Obama Administration and DOJ position:
Will not enforce Federal law if marijuana activities are consistent with state law
.....The next administration??????**

State/Federal Law Reconciliation

- **2005 - Gonzales v. Raich** - US Supreme Court Established Federal Preemption for Marijuana
(Commerce Clause of the US Constitution allows the federal government to enforce the CSA even in states where medical marijuana use is legal.)
- **2009 - Department of Justice (DOJ) Memo** – Would not enforce Federal Preemption (Federal resources should not focus “on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.”)
- **2015 – Congressional Budget** – Wants to prohibit Federal Intervention in State Marijuana laws
(Continued to include a 2 year old rider that prohibits the DOJ and DEA from using federal funds to “prevent” states from “implementing” marijuana laws.)

Net Effect:

Federal Government will not impose Federal Preemption; Seeks to “Decriminalize”

Dynamic Legislation and Litigation Landscape ...some examples

Restrictive Positions taken by courts in 2 states take even though it is legal:

- **Hartwick (2016; MI Circuit Ct.)** — Found guilty of illegally growing and processing marijuana (between 5 and 45 kg) in violation of state medical marijuana law even though he was registered to use marijuana.
- **MT Supreme Court (2016)** - Upheld a 2011 amendment to the 2004 Medical Marijuana Law that limited how much and who can sell marijuana.

US Supreme Court (2016)

- **“Punts” (for now)** — Declined to hear a case brought by OK and NE seeking to amend the CO marijuana law claiming that their residents were smuggling product bought in CO into their states in violation of their state law.

Federal Legislature (2015) moves to decriminalize and expand use

- **Veterans** — The US Congress passed legislation to allow the VA hospitals to utilize medical marijuana for treatment of Vets in states where it is legal even though it remains illegal at the Federal level. Reconciliation of House and Senate bills is in the works and then it will go to the President.
- **Reclassification** — Senators Gillibrand, Booker and Paul — sponsored a bill to move marijuana as a Schedule II drug.

State Activity More states allow or expand use

- **FL (2016)** — Governor allows use of marijuana for terminally ill in advance of Nov. vote to legalize medical marijuana.
- **Other (2016)** — Multiple states (NJ, CT, IL, KS, LA, ME, NH, RI) passed/expanded marijuana laws

Banking

Banks - Prohibited by Federal Law from

- Taking or lending funds from marijuana business (Criminal money laundering (18U.S.C. 1956, 1957))
- Processing marijuana transactions (Accessory liability under the Controlled Substance Act)

The Problem...Marijuana Business Can't:

- Transactions - Get loans, Deposit their funds or Process Credit Card
- Taxes/Profit Margins - Take Typical Business Federal Tax Deductions (US Tax Code 208E)...Squeezes Profit Margins

Result

- Cash Business - including Tax funds (harder for Tax Authorities to Audit)
- Growth of Marijuana Business – Hindered...more complex, risky



Marijuana Business Banking Act – S1726/HR2076: If passed would prevent Federal Banking Regulators from penalizing banks that supported marijuana businesses in states where it is legal.

Social Media Impacted too.....

2016 Facebook shuts down medical marijuana page in NJ and other states:
....Advertising policy: Bans promotion drug, tobacco or gun sales



2016 Chase Bank closed customer's banking account (Green Flower Media).... Even though they did not sell or promote...only discussed marijuana health benefits

Chase concern: Reputational risk



A close-up photograph of several cannabis plants. The plants have bright green, serrated leaves and are covered in small, developing flower buds. The lighting is bright, highlighting the texture of the leaves and the structure of the buds.

3 Insurance Implications

The Evolving Science.....

Impairment Challenge

- Measurement
 - Duration...does marijuana in the system always mean “impairment”?
 - Detection...is current drug testing a valid indicator of impairment?

Enforcement Challenge

- Employees
- Drivers
- Students

Underwriting Challenge

- Coverage
- Legal aspects
- Pricing



Primary Lines of Business Exposed (1/5)

Homeowners & Farmowners

Exposure:

1st Party - Growth or storage on premises

3rd Party - Liability arising out of or contributed to by use

Coverage:

- 1st Party - Silent - likely excluded where illegal
- 3rd Party - Controlled substance exclusion...exception for prescription drug use...does it apply to marijuana?
- Business pursuits – HO: sale or distribution excluded
- Need to revisit treatment of “plants, trees, shrubs, growing plants indoors, theft, etc”

Early HO Litigation

Favorable Insurer Ruling

- USAA did not have pay for the destruction of marijuana as “trees, plants and shrubs” under a HO policy claiming that such plants were illegal under federal law (Tracy v USAA, HI District Court, 2012)

Primary Lines of Business Exposed (2/5)

Commercial Property

Exposure

Growth or storage on premises.....processors, dispensaries, etc.

Coverage

- Growing crops typically not covered
- Harvested crop inventory???

Early Commercial Property Litigation

Mixed Ruling (Green Earth Wellness v Atain Specialty Ins. Co., 2016)

– CO medical dispensary inventory and growing crops destroyed by wildfire. Carrier asked court to determine if cannabis (a federally criminal act) is insurable under a commercial property policy

– The court said “yes”; but....the court found that the “growing crops” exclusion applied to unharvested marijuana on site. Remanded to trial.

Primary Lines of Business Exposed (3/5)

General Liability

Product Liability & Recall

Professional Liability

Exposure

- “Prescription” recommendation and dispensing errors
- Growth, processing, sale, distribution – Product quality, labeling, pollution, etc
- Liability arising out of the use of marijuana.....activities influenced by Marijuana

Coverage

- No exclusions (other than pharmacists professional liability) apply where marijuana is legal
- Generally covered in the absence of specific applicable exclusions

Early Liability Litigation

- **Favorable Carrier Ruling** - Insured's use of marijuana did not preclude his intentional misconduct and thus coverage does not apply due to the intentional act (Western National, 1986)
- **Pending Suit** – Sons of a mother that was murdered by their father is suing CO dispensary and manufacturer of for failing to properly label about potential psychotic side effects of eating too much marijuana infused candy (Kirk v Nutritional Elements and Gaia’s Garden, CO, 2016)

Primary Lines of Business Exposed (4/5)

Auto Liability

Transporting marijuana

Coverage

Transporting marijuana for a fee

- Coverage under commercial auto if legal
- No coverage under personal auto

Exposure

Driving while impaired

Coverage

Driving while impaired

- Coverage applies (similar to alcohol);
- **Impairment testing not credible**

Early Developments

- **AAA study** – Post 2012 Recreational Use Law in WA, fatal auto crashes involving marijuana double from 2013-2014 (<http://publicaffairsresources.aaa.biz/wp-content/uploads/2016/04/Prevalence-of-Marijuana-Involvement-Report-FINAL.pdf>)
- **AAA study** - Suggests scrapping marijuana DUI tests...not possible to set a blood-test threshold for THC.
- **State laws vary tremendously** – Including 18 that have zero tolerance or non-zero Per Se laws. (http://www.ghsa.org/html/stateinfo/laws/dre_perse_laws.html)
- **Laws still evolving in several states.....**frequent revisions either tightening or loosening

Primary Lines of Business Exposed (5/5)

Crime

- **Largely a cash business**
- Banks concerned about the contradictory state and federal laws

Life/Health

- Medicinal purposes
- **Without FDA approval most carriers consider marijuana an “experimental” drug ...most policies excluded experimental treatment.**
- FDA supports testing and research....., but..
..... other than Marinol (treatment of migraines, Epilepsy, Alzheimer's, HIV, etc.) have not tested/approved medical marijuana usage because it is still illegal at the federal level

School Board LL

- **Student and teacher use**
- Inability to credibly test for impairment...similar issues to auto

Insurance Market in Transition

Current Market
Limited due to
Federal Status

Special
Programs and
Captives
Showing
Interest

If/When
Federal Law
changes the
market will
expand
tremendously

Potential Market


- Farms
- Manufacturing/Processing
- Wholesale/Distributing
- "Prescriptions"
- Retail Dispensing

Already Exposed

- Workers Compensation
 - Auto
 - Employment Practices
- Already Covered**

Lines of Business

- Farm/Homeowners (1st and 3rd)
- Commercial Property
- General Liability
- Product Liability
- Malpractice/E&O

A background image of a cannabis cultivation facility. The image shows several cannabis plants with serrated, green leaves and developing flower buds. The plants are densely packed, and the lighting is bright, highlighting the green color of the foliage. The text '4 Employer Perspective' is overlaid on a white rectangular box in the upper left portion of the image.

4 Employer Perspective

Workers Compensation Issue.....Injuries

- Will workplace safety be compromised by increased marijuana use?
- Will employers treat legal marijuana the same as alcohol?
- Will the standard of “intoxication” need to be changed in view of nature of marijuana impairment and testing weaknesses?
- Will employers liability be a focus of coverage?



Current Status

- **Intoxication Defense** - Most state laws exempt employers from paying for an injury sustained while under the influence of alcohol or illegal drugs (some are sole cause; others contributing cause)
- Proving intoxication as the cause of injury may be challenging

Workers Compensation Issue.... Costs

- Will WC insurers be obligated to pay for medical marijuana that is part of the treatment of a WC claim?
- Is marijuana preferred to opioids?
- States will have to amend their WC statutes to clarify the issue....Some already specifically allow WC payments for marijuana treatment – CO, MI, MO, OR, VT – but most are silent... **CLARITY NEEDED**

Current Status – WC statutes that don't specifically address the issue are being litigatedwith mixed results...but leaning toward covering:

Covered - “as reasonable and necessary” treatment for a WC (State law Applies)

- NM, *Vialpando v Bens Automotive*, 2014
- LA *Creole Steel v Ricky Stewart*, 2012

Not covered –

- CA, *Cockerell v Farmers Insurance*, 2012- (CA WC Appeals Board reversed lower court and returned case to trial court on the basis that a portion of the state Health Code prohibited reimbursement...
.....Asked Court to determine in WC is health Insurance)

Legislation Proposed – NM Legislation (HB195) proposed to relieve WC insurers/employers from paying for marijuana as part of treatment for workplace injuries...in response to the NM WC Administration and 3 separate earlier NM Supreme Court rulings ordering otherwise.



Employment Practices Liability...Issues

- Americans with Disabilities Act (ADA)Do employers have a duty to accommodate medical marijuana?
- Do workplace safety/drug free workplace rules apply to legal use of marijuana?
- Will terminations under drug free workplace rules be considered “for cause” (no unemployment obligations)
- How are employers that are regulated (e.g., trucking) or work with the federal government impacted?
- Impairment testing not credible.
- Can Marijuana related Harassment or Discrimination be established?

Current Status... Evolving/ Mixed (but leaning toward carrier/employer)...some examples

Unfavorable Carrier/Employer Rulings

- **RI District Court** found a company to be in violation of the **RI Medical Marijuana Law (which specifically prohibits employment discrimination)** by refusing to hire an intern who used medical marijuana. Case allowed to move forward (Callaghan v Darlington Fabrics).

Favorable Carrier/Employer Rulings

- **CO Supreme Court** upheld firing of employee for using marijuana for medical reasons; Stated that to be “lawful” the use had to be lawful under both state and federal law (Coast v Dish Network, CO, 2015)
- **NM District Court** dismissed employee suit stemming from termination due to failing a drug test at work even though he was using marijuana in accordance with state law as **there was a difference between WC payment of medical marijuana for employee injuries and employment decisions** (Garcia v Tractor Supply Co., 2016)
- **Several case support a zero tolerance drug policy** ruling that **state law didn’t change the fact that marijuana is illegal federally** (Ross v. Raging Wire Telecommunications, Inc.; Roe v. TeleTech Customer Care Mgmt. (Colorado) LLC, 2011, and Savage v. Maine Pretrial Servs., Inc., 2013)

Workers Compensation and Employment Practices Present Tendencies

Workers Compensation

- State law based (WC statute)
- Cases more likely to follow state marijuana law where marijuana is legal


Employment Practices

- Federal law based (EEOC, ADA)
- Cases more likely to follow federal law (Marijuana is illegal)

Will the reclassification of marijuana to a Schedule 2 drug..... possibly by year end, change things ...



<http://norml.org/>

A close-up photograph of several cannabis plants. The leaves are bright green and serrated, with prominent veins. The plants are densely packed, and the focus is sharp on the central plant, with others slightly blurred in the background.

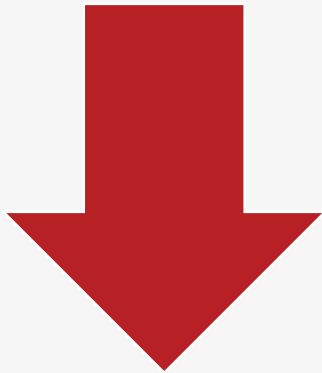
5 Closing Thoughts

Marijuana - Indicated Positives and Negatives

Medical



Indicated
Medical Benefits

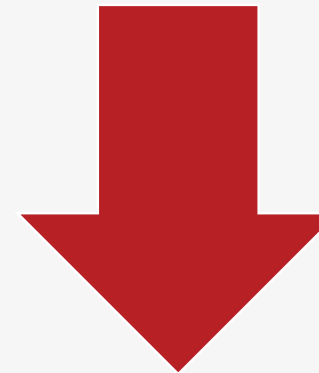


Potential Long
Term Impact
Questions

Economic



Tax Revenue



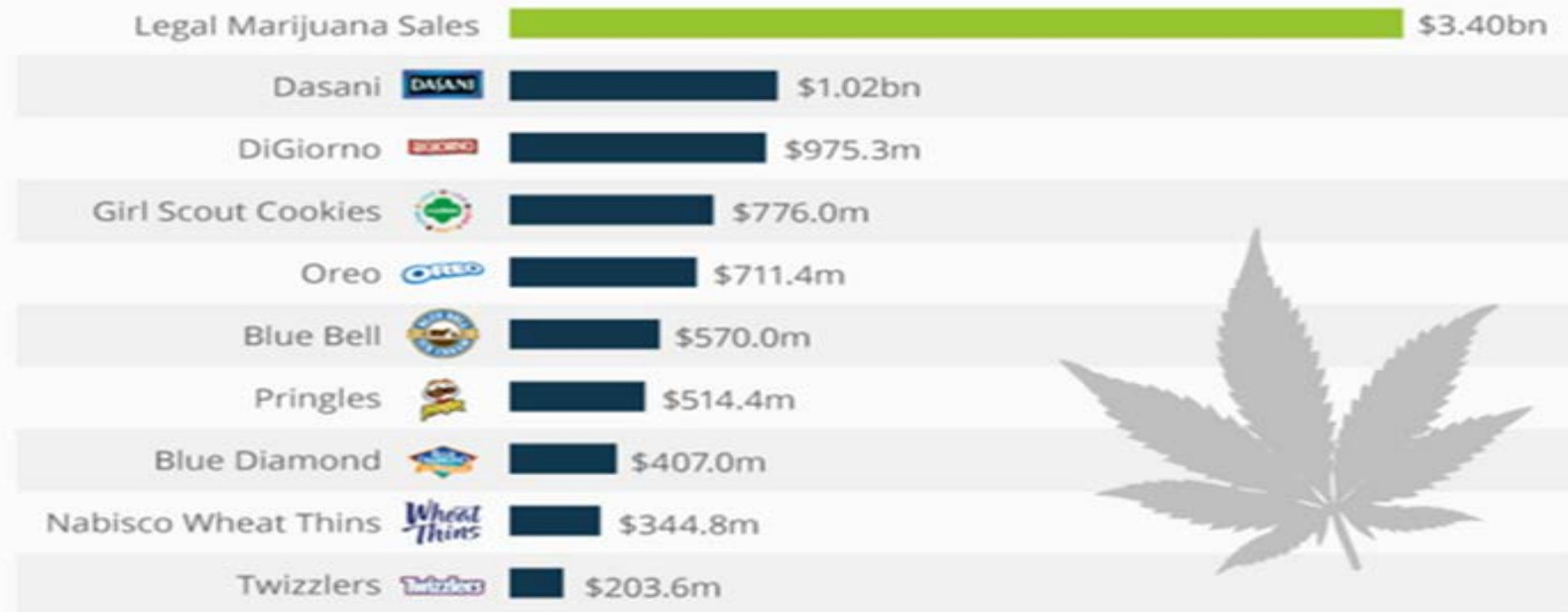
Enforcement
Costs (Modified)

Is There Potential Latent Systemic Risk From Long Term Use???

How Big is Marijuana Already?

America's 2015 Marijuana Sales In Context

2015 legal marijuana sales and selected 2014 company sales in the U.S.*



*52 weeks ending Jan 2015. Oreo & Dasani fiscal year ended April & May 2015 respectively
Source: Company Reports

statista 

Image source: [Statista](#) based on data from Marijuana Business Daily.

Two Medical Marijuana Doctors lose their MA licenses

– Improperly Certifying patients as eligible highlighted by the death of a pregnant woman and a man under the influence crashing into a police car

(Medical marijuana doctor losses license to practice - Boston Globe 6/3/16)

The
Bad

Husband high on marijuana kills wife in CO

– Children file wrongful death suit against a marijuana candy maker and the distributor of the candy for failure to warn about potential paranoia resulting from over consumption

(He got High and killed his wife. - LA Times 6/1/16)

Marijuana trafficking declines

Number of people sentenced for federal marijuana trafficking offenses, 2005 – 2015



WAPO.ST/WONKBLOG

Source: United States Sentencing Commission

(Federal marijuana smuggling is declining in the era of legal weed Washington Post 5/26/16)

The
Good

Legal Marijuana results in decrease of teen use

– Study: Teen pot use decreased 10% between 2002 -2013 suggesting legalization is not dangerous for adolescents

(Medical use and abuse rates decline among US teens The Guardian 5/25/16 and Medical use of marijuana Doesn't Increase Youths Use, Study Finds NY Times 6/15/16)

Life/Health Insurance

- Buyers:
 - Mutual of Omaha denies (6/13/16) coverage for people engaged in the Marijuana Business
- Sellers:
 - How often recreational users smoke pot is a key question for life insurers (even though many do not consider such users to be “smokers”)
 - Not an Issue for Health Insurance

????

The Right to Bear Arms Denied

- Federal Government Ban on Sales of Guns to Medical Marijuana Card Holders does not violate 2nd Amendment Rights (9th US Court of Appeals, August, 2016)

Question: Can the Following Buy Guns.....?

- Alcoholics
- “Illegal” Drug Users (or Dealers)
- Opioid users
- Other Legal Drug Users

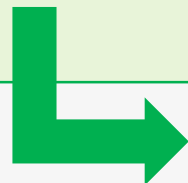
(Note: They Don’t carry “Cards”)

Microsoft Enters the Marijuana Business.....What?????

Teaming with *KIND* (ATM mfg)...

Develop software to help sell.... and
track marijuana sales....through
MARAJUANA ATMs

Will Use Microsoft AZURE Cloud HIPPA
(compliant)



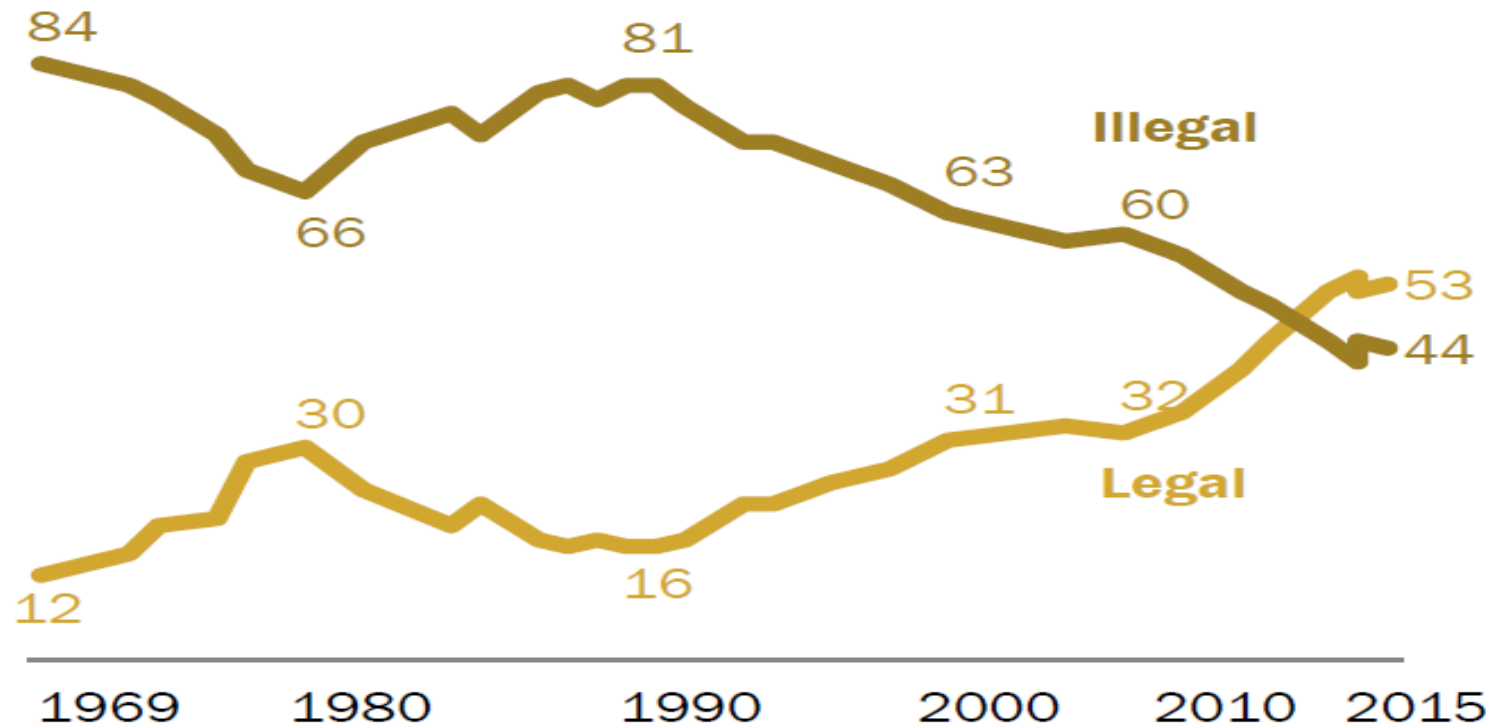
Sign of the Marijuana Mainstreaming??

Marijuana Summary

.....Public Opinion

Do you think the use of marijuana should be made legal, or not? (%)

All adults



Increasing Public support for Marijuana legalized based on a 2015 PEW Research Study...**Now a Majority**

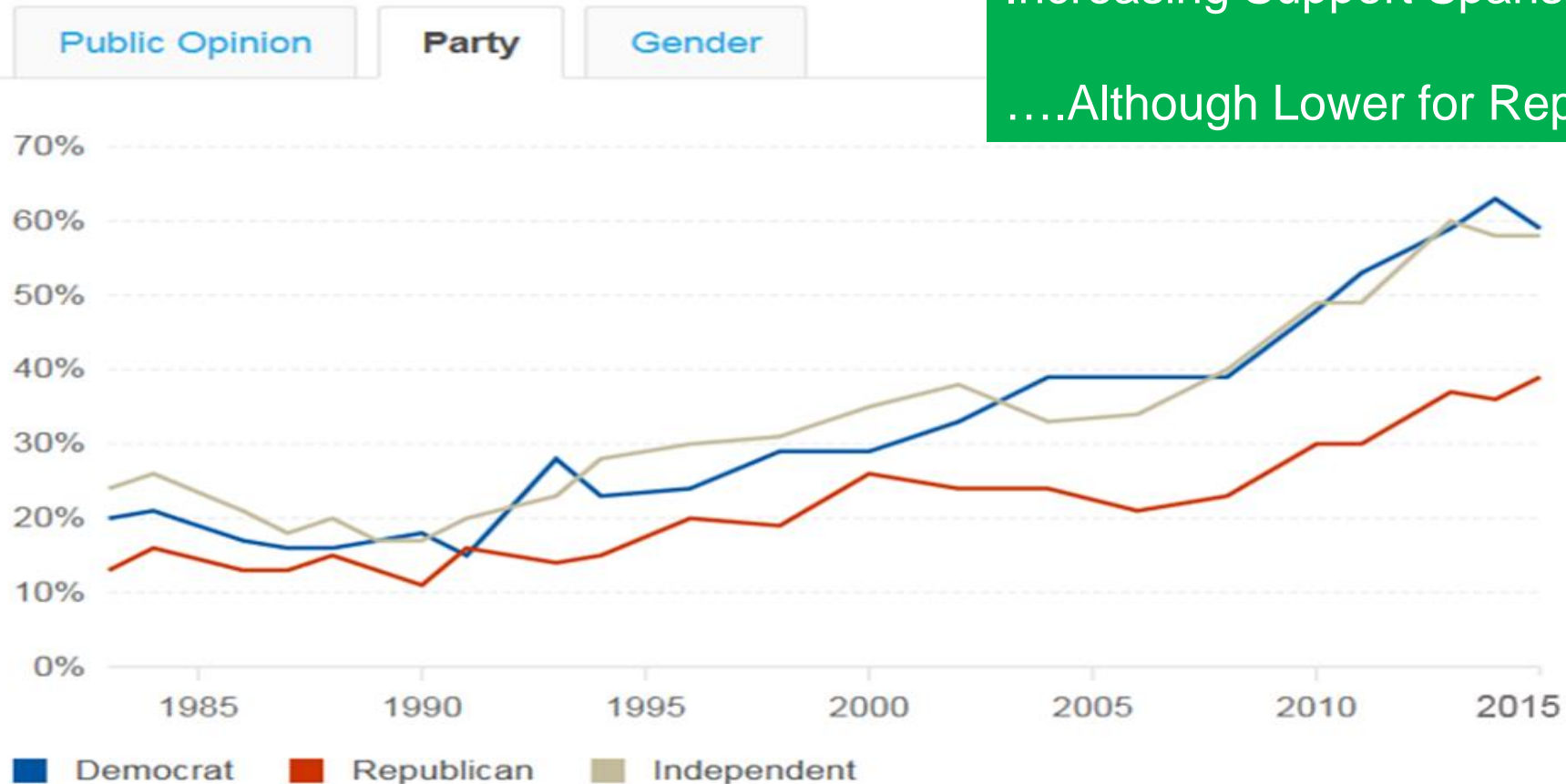
.....we'll see how this translates in the 2016 Elections

Federal Legalization may Spur Additional Acceptance

Marijuana Summary

.....Public Opinion

Marijuana Support Over Time



Increasing Support Spans Political Parties.....
....Although Lower for Republicans

Source: [Pew Research Center](#). Survey last conducted in March, 2015

Marijuana Summary

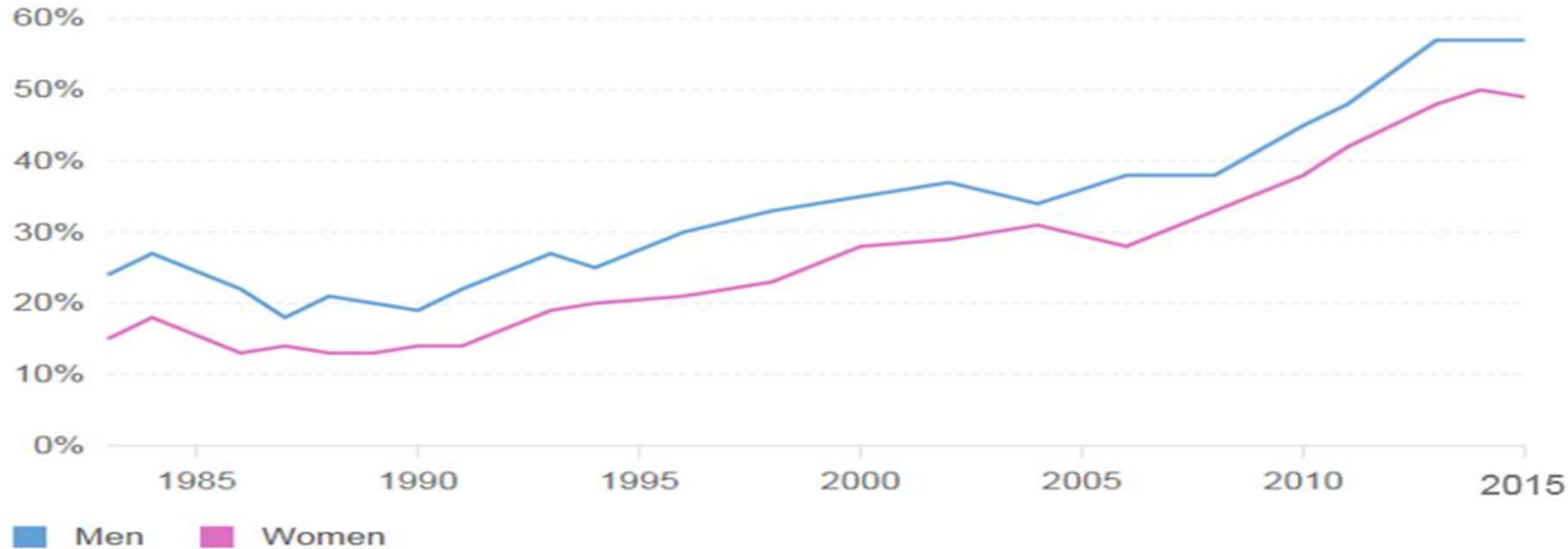
.....Public Opinion

Marijuana Support Over Time

Public Opinion

Party

Gender



Increasing Support Spans Gender.....

....Although Lower for Women

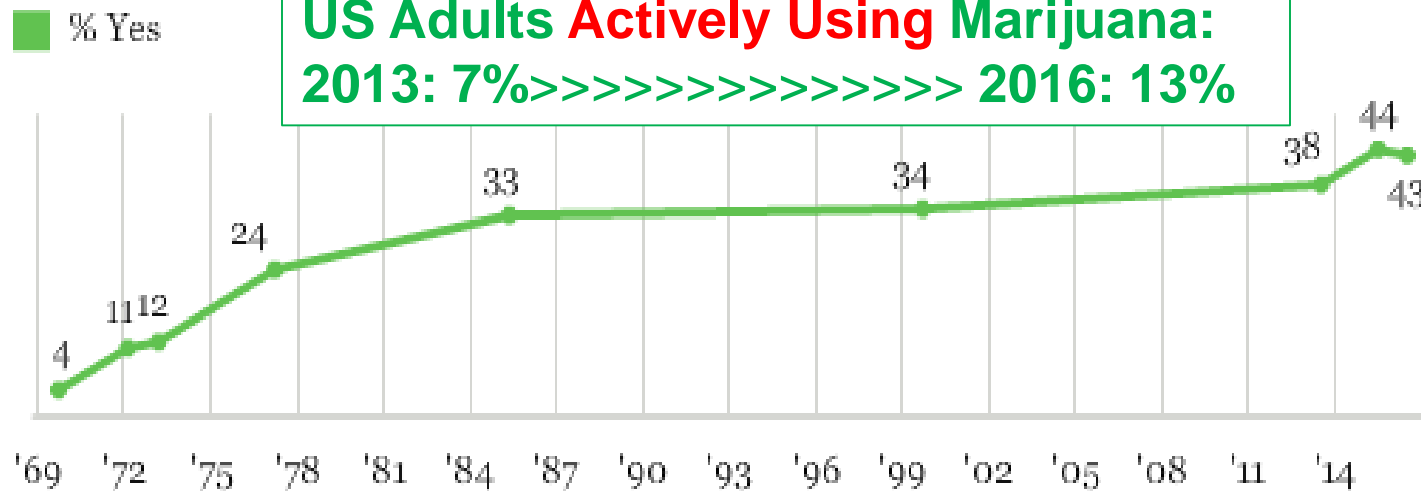
Source: Pew Research Center. Survey last conducted in March, 2015

Marijuana Summary

.....Actual Use

Americans Who Say they have Tried Marijuana

Keeping in mind that all of your answers in this survey are confidential, have you, yourself, ever happened to try marijuana?



Latest data asked of half sample of 507 national adults

Question wording for 1969-1985 trend: Have you, yourself, ever happened to try marijuana?

GALLUP®

US Marijuana Usage and Experimentation by Subgroup

	Smoke marijuana	Have tried marijuana
	% Yes	% Yes
Men	12	48
Women	7	34
18 to 29 years old	19	38
30 to 49 years old	9	50
50 to 64 years old	7	48
65+ years old	3	21
Annual income less than \$30,000	14	41
Annual income \$30,000 to <\$75,000	9	41
Annual income \$75,000+	9	43
High school education or less	9	40
Some college	11	43
College graduate	11	42
Postgraduate	6	38
Attend church seldom/never	14	52
Attend church nearly weekly/monthly	7	36
Attend church weekly	2	26
East	9	38
Midwest	9	41
South	6	38
West	14	47

BASED ON AGGREGATED DATA FROM JULY 10-14, 2013; JULY 8-12, 2015; AND JULY 13-17, 2016

Opportunities..



...Underwriting and Claims
Challenges in Short Term



Thank You

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