

ASSP NORTHEAST FLORIDA CHAPTER NEWSLETTER – NOVEMBER 2019

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Eugene Peterson 40 Years

Donald Martín 40 Years

Philip Hinrichs 25 Years

Janíce Bequette 25 Years

Congratulations for reaching these ASSP Membership milestones



AMERICAN SOCIETY OF SAFETY PROFESSIONALS North Florida Chapter

Dank Dilemma: The Unregulated CBD Market and Drug Testing (Abridged)

Stephanie Valentic

The absence of federal oversight of cannabinol (CBD)-based products has given rise to predatory companies looking to capitalize on the burgeoning CBD market. One-owner smoke shops to mass retailers are entering the game in an unprecedented time when marijuana legislation is at the forefront of discussion and the opioid epidemic continues to ravage homes and workplaces across the country.

A 2019 Consumer Reports survey found that nearly 64 million Americans have admitted to using CBD for ailments ranging from chronic pain and anxiety to seizure disorders and cancer. With an unregulated market, variability in the potency and purity of CBD products is causing issues among consumers, including testing positive for Tetrahydrocannabinol (THC), the principal cannabinoid in cannabis.

It's in the Chemistry

CBD is one of more than 100 chemical constituents in the cannabis plant that cause a physiological affect once it is consumed. "In view of the proliferation of products containing cannabis or cannabis-derived substances, the FDA will advance new steps to better define our public health obligations in this area. We'll also continue to closely scrutinize products that could pose risks to consumers. Where we believe consumers are being put at risk, the FDA will warn consumers and take enforcement actions," states **FDA** Commissioner Scott Gottlieb.

The popularity of CBD skyrocketed after widespread, aggressive marketing to users who desire alternatives to prescription medicines as well as the absence of the psychoactive effects associated with cannabis. Because CBD is extracted from the cannabis or hemp plant, users who ingest products that contain the derivative in theory will not test positive for THC.

With so many options on store shelves, consumers are rolling the dice when it comes to what they use, unless they are purchasing from a qualified, legal dispensary or trusted source. Both proponents and opponents of cannabis legalization are weighing in on the issue, agreeing that federal oversight is needed.

"Unregulated CBD products can contain THC, which could adversely affect a consumer's career," says Stacey Worthy, legal counsel to Aimed Alliance. "Some products are marketed as containing only CBD; however, lab testing revealed that these products contained elevated levels of THC, which can show up on an employee's drug test. Consumers could purchase a product like this unaware of the product's THC content and they could lose their job because of it."

"Regulating these products would prevent this from happening because the government could require that these products undergo laboratory testing to verify their contents and to ensure they do not contain THC over 0.3%," says Worthy.

Standard workplace testing for cannabis identifies the presence of a specific metabolite known as carboxy-THC. CBD does not convert into carboxy-THC, explains Paul Armentano, National Organization for AMERICAN SOCIETY OF SAFETY PROFESSIONALS

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the Reform of Marijuana Laws (NORML) deputy director.

"The issue, unfortunately, for some employees is that oftentimes, these commercially available products are of inconsistent or variable purity, and as a result, they contain other unwanted substances not identified on the label, like THC," he says. "In a case of where an employer may inadvertently fail such a test by taking a CBD product, it's not because of the CBD itself, it's because the product was of inferior quality and actually contained THC."

Public Perception

Americans wants a solution to unregulated CBD, and it isn't prohibition. The FDA recently sought public comment on products containing cannabis or cannabis-derived compounds, receiving more than 4,200 responses overwhelmingly supporting decriminalization of marijuana as well as CBD.

Many respondents compared CBD to daily supplements such as multivitamins, which are readily available on store shelves. Some comments detailed the alleged negative side effects of popular prescription drugs. "We know it is impairing, and we do believe there will be safety impacts in workplaces and on the roads," says Jane Terry, NSC senior director of government affairs.

Despite widespread CBD use, organizations such as the National Safety Council (NSC) continue to caution against the use of cannabis and its derivatives, especially on the job.

"We know it is impairing, and we do believe there will be safety impacts in workplaces and on the roads," says Jane Terry, NSC senior director of government affairs. "Whether it be alcohol, opioids, over the counter – using those and doing some of these safety-sensitive tasks just don't mix, period."

Exercising Caution

Individuals who live in states that have decriminalized marijuana currently are able to purchase CBD products that have been tested for efficacy and purity. Consumers purchasing online or at unlicensed retailers are taking a risk of products that contain THC and additives such as pesticides or chemicals. Because CBD is an organic component of marijuana, by default, in those jurisdictions, products that are available to stateregistered patients must go through a specific regulatory process, he says. Before those products hit the shelves at state-licensed dispensaries, they must be tested to make sure the product does not contain high levels of adulterants or solvents.

The drug testing landscape will continue to evolve as regulation is defined. Companies that employ federal workers or public workers oftentimes are subject to federal drug testing guidelines, and those guidelines haven't changed as a result of state-level changes in marijuana policy.

Navigating the changing legislative landscape is a maze employers face. While the answer is black and white for most public entities, private employers have entered gray areas when it comes to updating substance use policies to comply with changing cultural and legal status of marijuana in their respective jurisdictions.

EHS Today Online Edition August 1, 2019 <u>EHSToday</u>



Toxic fumes from accidental mix of acid and bleach killed Buffalo Wild Wings manager (edited)

The accidental mix of two cleaning agents, an acid and bleach, created toxic fumes that killed a manager at a suburban Boston Buffalo Wild Wings.

The accident occurred after a worker began cleaning the kitchen floor. The worker unknowingly poured the chlorine-andbleach-based cleaner Super 8 onto the floor where an acid-based cleaner, Scale Kleen, had spilled earlier.

While the worker fled the kitchen having difficulty breathing and with burning eyes, the manager tried to push the chemicals out of the restaurant and into a drain with a squeegee before he was unable to continue.

He later died at Lahey Hospital & Medical Center in Burlington.

New York Daily News Online Edition November 8, 2019 NY Daily News





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MD Court Says Tyson Was Co-Employer of Worker at Uninsured Chicken Farm (edited)

Thomas A. Robinson, J.D.

In this case, the chicken farm owner has limited knowledge of raising chickens and exercised minimal control over his employee manager of the farm. The owner contracted with Tyson Farms, Inc., to raise chickens according to strict Tyson guidelines and best practices. Tyson also maintained substantial control over the day-to-day functions of the employee manager. A Maryland appellate court determined Tyson could be properly determined to be a coemployer, [Uninsured Employers' Fund v. Tyson Farms, Inc., 2019 Md. App. LEXIS 1023 (Nov. 22, 2019). Accordingly, where the chicken farm owner failed to maintain workers' compensation coverage and employee manager sustained a work-related occupational disease to his lungs, Tyson would be liable for the employee's benefits.

Background

The appellate court initially noted, with some degree of irony, that Tyson Farms, Inc. [emphasis added] did "not own a single chicken farm". Rather, the company contracts with individual farmers to raise its chickens; the farmers own and operate the farms, while chickens are raised by the farmer according to Tyson's guidelines and best practices. At all times relevant to the dispute, Tyson retained ownership of the chickens.

In 2009, Garcia was hired to work at a chicken farm owned by Terry Ung. At first, Garcia performed routine maintenance and other chores under Ung's direction. When Ung became ill toward the end of 2009, Garcia began managing the firm. Upon Ung's death in late 2009, Ung's wife, became the owner of the farm.

She was unfamiliar with raising chickens and so, Tyson's representatives taught Garcia how to operate the farm according to its standards. In 2013, Mrs. Ung sold the farm to Dai K. Nguyen, an absentee owner, who also knew nothing about raising chickens. Tyson agreed to contract with Nguyen only if Garcia remained on site as the resident manager of the farm.

Commission's Determination

Garcia filed a claim for benefits against Nguyen. The Uninsured Employers' Fund ("UEF") was made a

party to the claim when it became clear that Nguyen did not possess workers' compensation insurance. Garcia and UEF then impleaded Tyson into the claim. Following a hearing, the Workers' Compensation Commission declared that Garcia's injuries arose out of and in the course of his employment, and that both Nguyen and Tyson were coemployers of Garcia at the time of his injuries. Tyson appealed the Commission's decision to the Circuit Court for Worcester County.

Following a two-day trial, both UEF and Tyson made motions for judgment. The circuit court denied both motions and let the matter proceed to the jury. The jury returned a verdict that Tyson was not a co-employer at the time of Garcia's injuries. UEF appealed.

UEF's and Tyson's Contentions

UEF contended that "the inescapable conclusion" was that Tyson was Garcia's employer as a matter of law. To support the argument, UEF pointed to Tyson's:

- 1. Training of Garcia;
- 2. Sending a representative to review farm operations one to three times a week;
- 3. Informing Garcia of the tasks that needed to be done; and
- 4. Having the right to take control of its chickens and terminate the contract upon

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failure to comply with the conditions in the Contract.

Tyson, on the other hand, argued that its so-called "minimal contact" with Garcia did not establish an employment relationship. Tyson specifically argued that Nguyen, the owner of the farm, was an independent contractor for Tyson, and that the fact that Tyson had the right to inspect its flock did not mean that it was in control of Nguyen's employee, such that an employment relationship could be said to have existed. Tyson further supported its argument by noting the ability of Nguyen alone to hire, pay, and terminate Garcia, as well as the right to terminate the contract at will.

Five-Factor Employment Test

The appellate court noted that Maryland highest court, in Mackall v. Zayre Corp., 293 Md. 221, 230, 443 A.2d 98 (1982), had established five criteria to determine whether the employeremployee relationship existed. Those factors include:

- 1. The power to select and hire the employee,
- 2. The payment of wages,
- 3. The power to discharge,
- 4. The power to control the employee's conduct, and
- 5. Whether the work is part of the regular business of the employer.

Control is the Most Important Factor

According to the Mackall Court, the factor of control stands out as the most important.

The appellate court concluded that here, Tyson's control over Garcia's work was more than sufficient to establish an employment relationship as a matter of law. Specifically, as a condition of its contract with Nguyen, Tyson required that Garcia remain on the farm 24 hours a day, 7 days a week, to manage its operation. In the contract itself, Tyson's 18-page "Broiler Growing Guide" detailed instructions and requirements for how to raise the chickens at each stage of their life cycle. This Guide included detailed instructions on how Garcia should adjust various factors such as the chickens' food intake, light exposure, and ventilation, on a weekly, if not daily, basis.

Moreover, Tyson's employees taught Garcia everything he needed to know about raising the chickens, including how to operate the various systems involved in the process. Tyson's employees inspected the farm before every new flock of chickens was delivered, came to the farm one to three times a week to evaluate how Garcia was raising the chickens, and

subsequently informed Garcia of the tasks that he needed to complete to improve his performance. Importantly, Tyson held the unilateral ability to terminate its relationship with Nguyen if Garcia did not comply with the requirements in the Contract or those given to him by Tyson employees.

The court also stressed that the fact that Garcia was also an employee of Nguyen at the time he was injured did not alter the court's conclusion that Tyson was a co-employer. The court observed that at the end of the two-day jury trial, both Tyson and Garcia moved for judgment, "thereby signaling their common understanding that Tyson's status as a coemployer should be decided as a matter of law." The appellate court agreed with the parties' common understanding that there was no material factual dispute and that the outcome depended solely on the application of the law to the undisputed facts. Thus, because Tyson was a coemployer of Garcia at the time he was injured, the court held the circuit court erred in not granting UEF's motion for judgment.

The Workcomp Writer

Blog November 26, 2019 the workcomp writer



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OSHA Stresses Limits on Online Training

The digital age allows us a number of ways to process and relay information, and online training simulations and courses are well intended and received. However, OSHA reminds employers of its policy that online and computer training alone for employees is simply not enough to meet federal training requirements.

"One of the keys that OSHA emphasizes in all of its efforts is the importance of training," OSHA Acting Chief Loren Sweatt declared in a recent speech. "Training must be provided to workers who face hazards on the job. It's the law, and it's also good for every business. A highly trained workforce can minimize unnecessary costs and disruptions from an illness, injury, or fatality." The availability of computerbased training and online courses is understandably a appealing option for employers, but it should not be treated as a training alternative.

OSHA states that its training must "result in mastery of the training material," leading to the conclusion that online training must be supplemented by interactive and physical components, such as putting on and removing personal protective equipment (PPE), according to one EHS Today article.

Plus, in-person and interactive training for workers is important because it creates a space for questions, feedback from a qualified trainer. Online training that does not give workers with this opportunity would not comply with OSHA's worker training requirements. "Training with no interaction, or delayed or limited interaction, between the trainer and trainee may halt or negatively affect a trainee's ability to understand and/or retain the training material," said OSHA.

OSHA says one way employers can give workers this opportunity in the context of a computer-based program is by providing a telephone hotline so that workers will have direct access to a qualified trainer during the conduct of the online training. But even still, this is not considered optimum by the agency in regard to certain kinds of training.

For training to be considered adequate, OSHA says a qualified trainer must supplement and facilitate any appropriate hands-on training or demonstration (for example, how to use a tool, perform a task or don appropriate PPE) as

WHILE COMPUTER-BASED TRAINING CAN BE A GREAT ENHANCEMENT TO VARIOUS TRAINING, OSHA REMINDS EMPLOYERS THAT THEY MUST OFFER INTERACTIVE AND HANDS-ON OPPORTUNITIES WITH QUALIFIED TRAINERS.



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necessary for the employee to learn the proper safety and operational techniques, and for the trainer to assess the employee's mastery of them.

Plus, timing is an important factor. A qualified trainer must be available in a "timely manner" to answer questions during the training. "Training with no interaction, or delayed or limited interaction, between the trainer and trainee may halt or negatively affect a trainee's ability to understand and/or retain the training material," said OSHA.

OSHA offers a number of training videos and computer-based training programs for sale on its website, and many private companies market DVDs and computer-based OSHA training programs covering OSHA topics. While these are great supplemental resources to training, OSHA still stresses the importance of hands-on, in-person training.

"Perhaps over the next 25 years advances in virtual reality, interactive holographic imagery or robotic android technologies may afford a viable substitute for the way interactive employee training can be delivered," said OSHA. "But for now, the letter of interpretation serves as a reminder to employers that some things still need to be done the oldfashioned way."

OH&S Online Edition November 20, 2019 OHS Online

8 Essential Qualities That Define Great Leadership

Kimberly Fries

Company leaders are facing a crisis. Nearly one-third of employees don't trust management. In addition to this, employers now have to cater to the needs of the millennial generation. On average, after graduating from college, a millennial will change jobs four times before they are 32. Most of them also don't feel empowered on their current jobs.

It's clear that many leaders are failing to foster a sense of trust and loyalty in their employees. Fortunately, that doesn't have to be the case. Managers who show great leadership qualities can inspire their teams to

accomplish amazing things, according to Daniel Wang, the creator of Loopring Protocol and founder of the Loopring Foundation. Loopring is a decentralized automated execution system that trades across the crypto-token exchanges. The platform reduces the cost of trading and shields users from counterparty risk. I've distilled my conversation with Wang to eight of the most essential qualities that make a great leader.

1. Sincere enthusiasm

True enthusiasm for a business, its products, and its mission cannot be faked. Employees can recognize insincere cheerleading from a mile away. However, when leaders are sincerely enthusiastic and passionate, that's contagious. For instance, someone who worked with Elon Musk on the early stages of his SpaceX project said that the true driver behind the success of the project was Musk's enthusiasm for space travel.

2. Integrity

Whether it's giving proper credit for accomplishments, acknowledging mistakes, or putting safety and quality first, great leaders exhibit integrity at all times. They do what's right, even if that A S AM

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isn't the best thing for the current project or even the bottom line.

"When people see evidence that leaders lack integrity, that can be nearly impossible to recover from," Wang said. "Trust lost is difficult to get back."

3. Great communication skills

Leaders must motivate, instruct and discipline the people they are in charge of. They can accomplish none of these things if they aren't very skilled communicators.

The best leaders understand that true loyalty is reciprocal

Not only that, poor communication can lead to poor outcomes. Leaders who fail to develop these skills are often perceived as being weak and mealy-mouthed, according to Wang. It's also important to remember that listening is an integral part of communication.

4. Loyalty

The best leaders understand that true loyalty is reciprocal. Because of this, they express that loyalty in tangible ways that benefit the member of their teams. True loyalty is ensuring that all team members have the training and resources to do their jobs. It's standing up for team members in crisis and conflict.

"Great leaders see themselves as being in a position of service to their team members," Wang said. "Employees who believe leadership is loyal to them are much more likely to show their own loyalty when it matters."

5. Decisiveness

A good leader isn't simply empowered to make decisions due to their position. They are willing to take on the risk of decision making. They make these decisions and take risks knowing that if things don't work out, they'll need to hold themselves accountable first and foremost.

Further, bosses who aren't decisive are often ineffective. Too much effort working on consensus building can have a negative effect. Rather than simply making a decision, many leaders allow debate to continue, and then create a piecemeal decision that satisfies no one.

6. Managerial competence

Too many organizations try to create leaders from people who are simply good at their jobs. To be clear, those who emerge as being very good workers often have important qualities. They are the ones who have a strong understanding of the company's products and services. They understand company goals, processes, and procedures. All of these are important.

On the other hand, being good at one's job doesn't prove that someone possesses the other competencies they need. For example, can they inspire, motivate, mentor and direct? Wang illustrates with major league baseball. While nearly all coaches have backgrounds as major league players, the most winning players aren't necessarily the most successful coaches.

7. Empowerment

A good leader has faith in their ability to train and develop the employees under them. Because of this, they have the willingness to empower those they lead to act autonomously. Wang says this comes from trusting that their team members are fully up to any challenges they face. When employees are empowered, they are more likely to make decisions that are in the best interest of the company and the customer as well. This is

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true, even if it means allowing workers to go a bit off script.

8. Charisma

Simply put, people are more likely to follow the lead of

Every one of these qualities is absolutely essential to great leadership

those they like. The best leaders are well-spoken, approachable and friendly. They show sincere care for others.

"People at all levels of an organization find it easy to relate to them and follow their lead," Wang concluded.

Every one of these qualities is absolutely essential to great leadership. Without them, leaders cannot live up to their full potential. As a result, their employees will never perform as well as they can either. Because of this, organizations must learn the best ways to identify and also to develop these necessary traits in existing and emerging leaders.

Forbes

Online Edition February 8, 2018 Forbes Online

Fall protection gear recalled: Stop use immediately



Pure Safety Group has issued a recall of fall protection gear.

Pure Safety Group (PSG) has recalled Guardian Fall Protection and Web Device 3- Way Rescue and Retrieval Self-Retracting Lifeline (SRL) units.

There have been no reported incidents or injuries related to this recall.

This recall affects the following products: Guardian #10974 (50') and #10981 (65'), and Web Devices #0501312 (50') and #0651312 (65'). Any and all custom or private-labeled 3-Way SRLs and 3-Way SRLs sold in Arc-O-Pod kits #s #20001, #20004 are also included in the recall. Under certain circumstances, braking forces may cause gear misalignment, potentially resulting in diminished rescue/retrieval functionality. The safety of our end users is of utmost priority.

All units manufactured prior to March 2019 should immediately be taken out of service.

Please contact PSG Customer Service at 1.800.466.6385 or email: recall@puresafetygroup.com to coordinate the repair of the unit(s).

For additional information about the affected products, repairs and updates please visit:

https://www.puresafetygroup .com/news/pure-safetygroup-recalls-guardian-andweb-device-3-way-srlsimmediate-stop-use-required

All units manufactured prior to March 2019 should immediately be taken out of service.

Safety | NewsAlert Online Edition

November15, 2019 Safety News Alert



North Florida Chapter

Local Chapter Officers and Chairs

Elected Officers

- President Bob Dooley
- President Elect Eric Gray
- Secretary Steve Wilson
- Treasurer Ravyn Tyler
- Delegate Yaniv Zagagi

Appointed Chairs

- Membership Chair
 Mark Gibson
- Newsletter Chair Allen Davis
- Nominations Chair
 Steve Brown
- Past President
 Steve Brown
- Program Chair
 Dan Hempsall
- Social Chair

Open

- Social Media Chair
 Vernon Adams
- SPY Awards Chair
 Open

Local Chapter Information

The North Florida Chapter of the American Society of Safety Professionals, formerly the American Society of Safety Engineers, was chartered in 1952 and currently has approximately 200 members.

Professional meetings are held nine times per year in the Jacksonville area. Meeting notices are distributed, and RSVP's are returned by email. If you are a member of ASSP and are not receiving notices by email, please email the

Chapter Secretary.

ASSP Chapter Links

Find us on the web at: <u>ASSP NFL</u> Find us on Facebook at: <u>ASSP NFL</u>

Job Market Links General Employment Links

Golder Associates Inc. is currently seeking a mid-level CSP for the Jacksonville, FL office. This individual will provide construction safety support on a variety of construction projects locally and throughout the United States - <u>Golder Associates Inc</u>

<u>ASSP</u>

BCSP General Safety Jobs BCSP Construction Safety Jobs BCSP Industrial Hygiene Jobs EHS Careers

Volunteer Leadership Needed

If you are interested and able to devote time to the local chapter, please contact <u>Steve Brown</u>, Nominations Chair, for details.

We believe that you will enjoy the experience and comradery and we most-certainly appreciate your help.



Local Chapter Meeting Schedule

December 18, 2019 Winter Social – 6:00 PM Light Dinner - Cash Bar Elks Lodge 4280 Oldfield Crossing Drive Jacksonville, FL 32223 RSVP – Secretary@nfl.assp.org

January 15, 2020 Alternative Confined Space Entry Processes - Maritime

Location: NEFSC 1725 Art Museum Drive Building B, Classroom D Jacksonville, FL 32207 11:30 Lunch & Networking 12 Noon Meeting

February 19, 2020 Active Shooter/Workplace Violence

Location: NEFSC 1725 Art Museum Drive Building B, Classroom D Jacksonville, FL 32207 11:30 Lunch & Networking 12 Noon Meeting

March 18, 2020 Annual OSHA Update

Location: NEFSC 1725 Art Museum Drive Building B, Classroom D Jacksonville, FL 32207 11:30 Lunch & Networking 12 Noon Meeting

April 15, 2020 Ergonomics

Location: NEFSC 1725 Art Museum Drive Building B, Classroom D Jacksonville, FL 32207 11:30 Lunch & Networking 12 Noon Meeting April 24, 2020 Worker's Memorial

Location: NEFSC 1725 Art Museum Drive Building B, Classroom D Jacksonville, FL 32207 11:30 Lunch & Networking 12 Noon Meeting

May 20, 2020 TBA

For all meetings, please RSVP to Steve Wilson at <u>steven_wilson1@me.com.</u>

Cost: Members: \$15 Non-Members: \$20

