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Thank you David!

2 October 2026



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Medicinal Cannabis in the workplace

2 October 2026

About me – Daniel Patterson

- Forensic Toxicologist based in Australia.
- I have been in the drug and alcohol sector for 10 years as at 30 September 2026.
- Inventor of a drug testing buffer fluid (XenoLyte), 1 of 2 buffer fluids in the world that have been independently verified to AS/NZS 4760:2019.
- I currently appear in State and Federal courts in Australia and Singapore, sitting in their civil and criminal jurisdictions.
- I am working towards a Masters in Forensic Medicine (by research).





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The landscape in Australia

2 October 2026

Alternaleaf

PRESCRIBED MEDICINAL CANNABIS PATIENT

Daniel Patterson

Issue Date: 16/10/2025

Patient ID:

This patient has been prescribed a medicinal cannabis treatment by a registered medical practitioner in accordance with the access pathways administered by the Therapeutic Goods Administration.

Drugs I would have a harder time getting prescribed than “medicinal” cannabis

Schedule 4 (Prescription Only)

- Atropine
- Amiodarone
- Diazepam
- Methoxyflurane
- Phentermine
- Tramadol

Schedule 8 (Controlled drug)

- Dexamphetamine
- Morphine
- Oxycodone
- Methylphenidate
- Fentanyl
- Buprenorphine

I WAS GONNA WORK SAFELY



BUT THEN I GOT HIGH



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Australian Caselaw

2 October 2026

Sheldon Haigh v Platinum Blasting Services Pty Ltd

[2023] FWC 2465

- Mr Haigh worked in an extremely safety sensitive role (preparation and delivery of explosives).
- In 2021 he disclosed that he was getting “medicinal cannabis” from an online dispensary. The dispensary’s medical practitioner (950 km away from the patient) certified the patient was safe to work whilst using cannabis despite having never seen the patient. The employer refused to accept that medical advice (obviously).
- They sent him to a local medical practitioner who did not agree with the dispensary doctor and suggested a different medication (fluoxetine) which would not impair him.

Sheldon Haigh v Platinum Blasting Services Pty Ltd

[2023] FWC 2465 (cont.)

- The applicant stated he started to ‘withdraw’ from the cannabis.¹ He did not want to use the prescribed medication, so in secret (without notifying his medical practitioner or employer) he started taking Cannabis against the advice of his treating medical practitioner.
- On 2 February 2023 there was an incident that could have resulted in serious injury (near miss) on a machine Mr Haigh was operating. During the mandatory post-incident drug test, he disclosed he was using cannabis and may test positive.
- At no point did the employer or tribunal need to determine if he was impaired, merely that he was taking a drug that could have impaired him, had an incident, and mislead his employer as to the medication he was taking.² His dismissal was upheld as fair.

¹*Sheldon Haigh v Platinum Blasting Services Pty Ltd* [2023] FWC 2465 [15]

²*Sheldon Haigh v Platinum Blasting Services Pty Ltd* [2023] FWC 2465 [88]

The important thing to note

Whilst there is science around the 10 ng/mL number, it's much like the 0.050 g/210 L drink driving limit in Australia (0.0735 g/210 L in the UK) – these are indicators of where impairment starts.

The UK have adopted the older model that impairment from alcohol starts at around 0.080 g/100 mL (and 0.0735 BrAC is an attempt at an approximation using different units).

Australia has adopted a newer model that impairment starts at 0.050, neither country is wrong. There is evidence at a population level that impairment starts at around 0.050 and worsens considerably at 0.080, but that does not mean everyone is impaired at these arbitrary levels.

Impairment is, and must always be considered, as a subjective assessment of the individual.

There is no level at which someone is 'certainly unimpaired'. With alcohol some might be impaired at 0.020, some might not be impaired until 0.090. The same is true with cannabis. I would probably be impaired at 2 ng/mL, Snoop Dogg probably can't function until 10 ng/mL.

Zachary Wight v Queensland Rail Limited [2025] FWC 1758

- Mr Wight worked as a shunter, a person who couples and decouples or otherwise assembles trains. A safety sensitive role that affects public transport.
- As it was allegedly known by Queensland Rail that he used illicit cannabis, he was explicitly told by Christine McNeil (CMO of Queensland Rail) he cannot use or be affected by cannabis at work.⁵
- During a routine drug test on 15 August 2024 17 ng/mL of THC was detected in his oral fluid. Multiple bad faith arguments were made by Mr Wight, with no scientific basis (i.e. that THC remains detectable for at least 72 hours, which is demonstrably false). The actual detection window for THC in oral fluid is about 3 hours.⁶ I usually advise 7 hours to be safe.

⁶*Zachary Wight v Queensland Rail Limited* [2025] FWC 1758 [3]

⁷T. Arkell et al., 'Detection of Δ^9 THC in oral fluid following vaporized cannabis with varied cannabidiol (CBD) content: An evaluation of two point-of-collection testing devices', *Drug Testing and Analysis*, vol. 11, no. 10, 2019, pp. 1486-1497.



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Was Mr Wight impaired?

(Discuss)

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Australian Legal Considerations

2 October 2026

New South Wales – the scary unknown

Road Transport Legislation Amendment (Medical Cannabis and Driving Offences) Bill 2026 (NSW)

- All but legalises driving whilst impaired by raising the cut-off for THC (if you get a ‘prescription’) from 10 ng/mL to 50 ng/mL. This would be like raising the drink driving limit for alcoholics that are ‘prescribed’ alcohol to 0.250 g/210 L.
- This law comes into effect late 2026 or early 2027 (it has passed parliament, just waiting assent from the Governor).
- The cannabis advocates will say “*impaired driving remains an offence, so it’s not like we are driving stoned*”. To that I would say I’ve been doing this 10 years and I’m yet to see NSW Police charge for impaired driving unless you’ve killed/injured someone and a hospital blood test revealed a shockingly high level of a drug.

What does this mean for workplaces in NSW?

- Nothing changes really:
 - Workplaces (PCBU) still has the primary duty of care for safety.⁷
 - Workplace drug and alcohol policies, including zero tolerance ones, remain valid provided the primary interest is safety.
 - (For policies notified to the worker and safety based) A worker still commits a crime if they refuse a drug/alcohol test⁸ and/or remain at work after refusing/failing a drug/alcohol test and being directed to leave.⁹
- This means a solid drug and alcohol policy is needed. Transport companies will no longer be able to say “provided it passes NSW Police rules, it’s ok”

⁷Work Health and Safety Act 2011 (NSW) s 19

⁸Work Health and Safety Act 2011 (NSW) s 28(d)

⁹Work Health and Safety Act 2011 (NSW) s 28(c)

For all other states

There's no drastic change in any other state/territory drug driving law happening in the near future, so as long as your policy is purporting to benefit workplace safety and is aligned with Australian Standards for drug testing, I would think you will be ok.

Recommendations for policy review

- Ditch urine if possible (other than for pre-employment).
 - **Why:** Over the past decade FWC have been ruling against urine testing more and more as it can't be used to even infer recency of use/likelihood of impairment.
- All saliva tests and practices to comply with AS/NZS 4760:2019.
- Use external providers if possible
 - **Why:** External providers are easier to see as unbiased. If I'm the HR for Mondelez and I tell Luke he's an unprofessional jerk and then he fails, the immediate accusation is "I was only selected because Daniel hates me" or "Daniel fabricated my test". It also provides a barrier in the Fair Work Commission against unfair dismissal.
 - **Also:** If the testing company turns out to be dodgy, and dismissal for a positive was justified based on the circumstances and policy, you acted on the advice of a professional that turned out to be unreliable. The decision will be reversed (you'll have to reinstate the worker etc.) but you likely won't be found to have done anything wrong.