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Compliance & Risk Management: What Every Leader Should Know *Terminations & Medical Marijuana*

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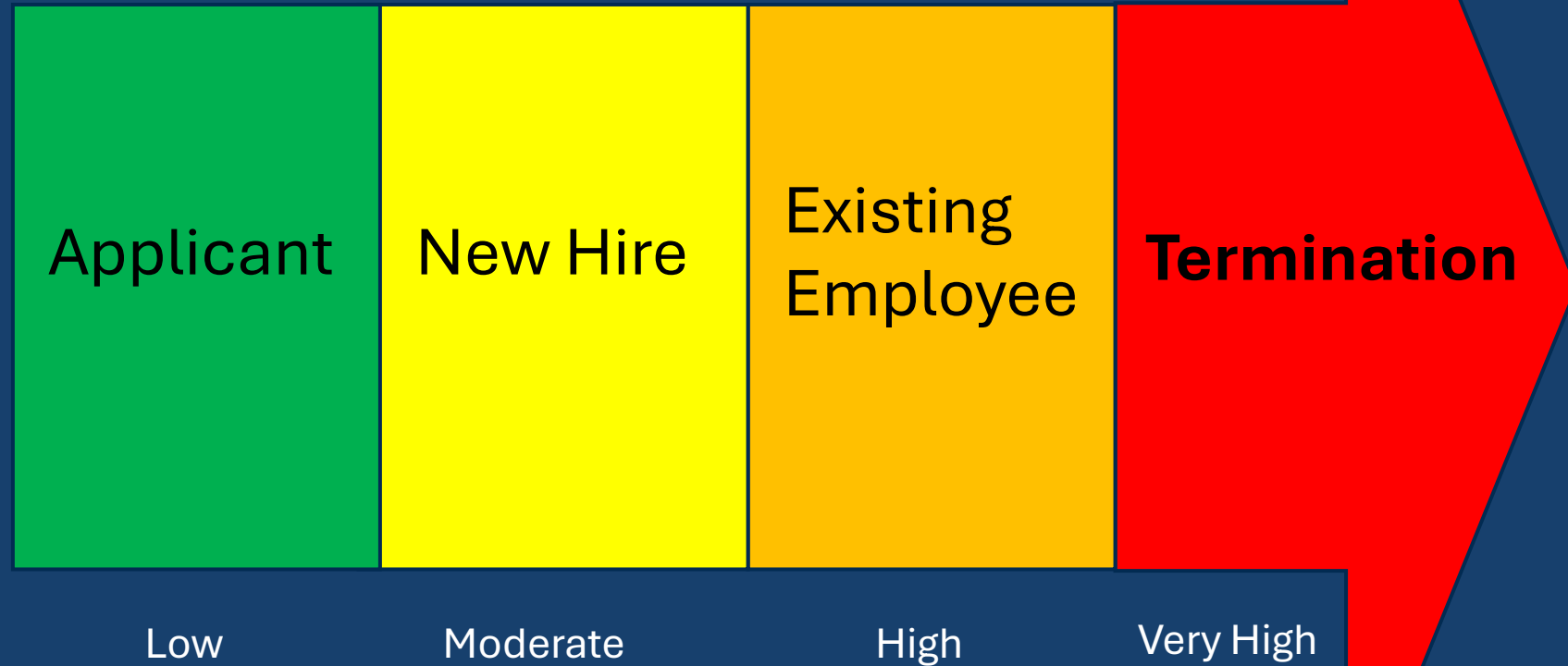


Presented By:



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Employee Life Cycle Risk Scale



Termination Risks

- Claims of Harassment/Discrimination/Retaliation
- Business Disruption
- Bad Press/Reputation Damage
- Morale Issues
- Violence/Threat of Violence

Documentation is Best Safeguard

- Supervisor Notes
- Performance Evaluation
- Corrective Action Plan/Performance Improvement Plan
- Involuntary Separation Memorandum

***SAFER* Termination Strategies**

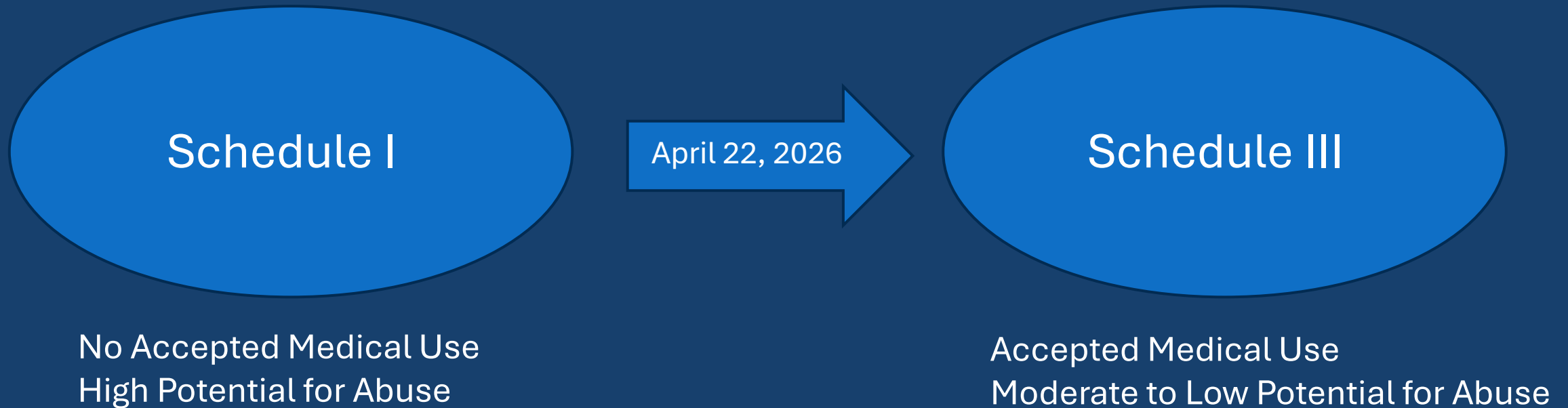
- ✓ **Never a Surprise**
- ✓ **Keep it Brief**
- ✓ **Offer Option of Resignation**
- ✓ **Determine Points of Risk and Proactively Intervene**
- ✓ **Rehearse**

Marijuana in the Workplace



Medical Marijuana

Federal Reclassification



Florida's Drug Free Workplace

- Does *not* prohibit use of medical marijuana
- Does *not* require testing for marijuana
- Requires notices to employees

Medical Marijuana – Florida Requirements

- Proof of Residency
- Diagnosis of Qualifying Medical Condition
- Referral from Medical Professional
- Registration with State Department of Health
- Payment of Fee

Safety-Sensitive Positions

Duties could reasonably impact safety and/or health.

Examples:

- ✓ operating vehicles
- ✓ operating machinery
- ✓ handling hazardous materials
- ✓ healthcare workers
- ✓ law enforcement
- ✓ construction

What's Shaping MM in Florida's Workplaces

Giambrone v. Hillsborough County

March 2019	Giambrone tested positive for marijuana and is placed on unpaid leave
June 2020	Giambrone sues (wrongful discharge, FCRA, disability discrimination, breach of contract)
December 2024	Judge rules in Giambrone's favor (back pay, compensatory damages, prospective accommodations)
January 2025	Hillsborough County Appeals
July 2026	Appellate Court reverses trial court
August 2026	Case headed to Florida Supreme Court

Next Steps

- Review and Update Medical Marijuana Policy
- Review Vacancy Ads
- Define Safety-Sensitive Positions in Job Description & Handbook
- Assess your Drug Free Workplace Policy
 - ✓ Conditions for Drug Testing
 - ✓ Types of Drugs Tested
 - ✓ Consequences of Positive Results
 - ✓ Methodology for Disputing Positive Results
 - ✓ Consequences of Refusing Drug Test
- Review CBA

Thanks!

Need More Info?

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