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CSAC POSITION ON MEDICAL MARIJUANA

The California State Athletic Commission's position is that Marijuana is a banned substance pursuant to Rule 303 and that any positive drug test may result in discipline.

The California Supreme Court has weighed in on "Medical Marijuana" in the employment context and has found that an employer may discipline an employee for off-duty medical marijuana use. The court found that the Compassionate Use Act did not legalize marijuana use *per se*, but merely provided a defense to criminal charges under particular circumstances. The Court acknowledged that marijuana still had a potential for abuse and that employers continued to have a legitimate interest in whether an employee uses the drug. The Court declined to extend the protections of the Compassionate Use Act any further than the plain language of the Act and into the employer-employee relationship.

Although the question springs from professional licensing rather than employment, much of the Court's rationale applies. Because the Compassionate Use Act only provides a defense to criminal charges, any argument that the Act would allow an athlete to use the drug without consequences to his or her license must fail. If the Court were to take up a similar challenge to discipline of a licensee, it would likely find that the Commission has a legitimate interest in whether or not an athlete uses the drug because marijuana could slow a fighter's reflexes and endanger his or her health and safety in the ring or the cage.

Therefore, given the limited reach of the Compassionate Use Act and the rationale of the Supreme Court in *Ross v. RagingWire Telcomm*, the Commission may safely discipline an athlete without running afoul of any law or court decision.