

Conversation with HECO HR Today

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Hi Lori and Shana,

I received a call from Shana today and wanted to memorialize our conversation. I really appreciate Shana's time this morning. We spoke for over an hour. As always, she was kind, professional and gracious. Thank you, Shana!

I realize this situation is frustrating to all of us. We wanted and hoped to continue working together. The events of February 25th, the day of the untimely termination, was confusing and difficult for all of us. As I mentioned, I was shocked and blindsided. I had no knowledge my pain medication created a problem for HECO.

As a contractor, I did not have full access to HR or personnel pages. HECO provided me simply with Code of Conduct (Code). The Code is clear. Employees are prohibited from using "illegal" or "unprescribed" drugs. As the State of Hawai'i, and my former location, State of New Mexico, considers medical cannabis to be both legal and prescribed.

I was unaware this medication would interfere with my path toward HECO employment. Other companies have tested me. As a medical cannabis patient, they ignored the positive results for cannabis. Employers told me my situation was a HIPAA issue and not a concern for their internal IT workgroups. Frankly, most companies and law enforcement are concerned today with meth, cocaine and opioids.

ONE

Prior to the drug screen, I notified HR about my profile. This is how I acted in previous situations with employers. I informed Ms. Dear of my legal DOH permit and that I was active on cannabis. She did not raise an objection or warn me medical cannabis was prohibited. Shana told me Ms. Dear was not tasked to do anything but arrange the test.

This creates a legal dilemma. Ms. Dear is an agent of HECO. HECO allegedly considers both cannabis and medical cannabis to be illegal substances. I admitted alleged "illegal" activity to HR. Apparently, Ms. Dear did nothing. Shana informed me Ms. Dear did not relay the

information to her. This might be a violation of the Code. Ms. Dear is required by the Code to “report immediately” any suspected violation.

Reporting Potential or Suspected Violations of the Code

All potential or suspected violations of applicable laws, rules, regulations, the Code or the Company's related policies should be reported immediately to your supervisor, departmental director or manager, your Compliance Officer or compliance personnel, the Internal Audit Department (for HECO, HELCO and MECO, the Corporate Audit Department) or, if appropriate, the HECO Environmental Compliance Committee. The person contacted should promptly bring the potential or suspected violation of the Code to the attention of the appropriate Compliance Officer.

When I met with staff at Straub testing, I informed them of my active and legal medical cannabis use. When Dr. Kasuka (sic) called and spoke with me, I informed him of my active and legal medical cannabis use. I do not hide this, although I am discreet. I don't discuss my medications casually. I am open and transparent when the situation warrants disclosure.

TWO

I asked Shana why HECO considers medical cannabis to be illegal. She agreed with me the State of Hawai'i permits legal use. She said HECO's concern was the federal position. We agreed the FDA continues cannabis as a Schedule I drug. Yet I pointed out during the Obama administration, the DOJ officially stated the federal government would NOT intervene or interfere with state policy, unless the federal government found the state to be irresponsible. The federal government considers Hawaii's medical cannabis program to be responsible.

Similar to President Clinton's evolution on gay lifestyle in the military, President Obama established a “don't ask, don't tell” type policy framework around medical cannabis. Attorney General Jeff Sessions of the Trump administration suggested he would overturn this policy. He didn't during his tenure. Newly appointed AG William Pelham Barr has indicated his DOJ would continue Obama administration policy regarding medical cannabis.

For the most part today, across the nation, nobody appears concerned about medical cannabis. We are far more alarmed about the deadly opioid prescription drug epidemic that leads to the tragic death of some 150 Americans each day. I was certified in 2009 to educate community groups about opioid addiction, overdose and use. There is a PowerPoint presentation on my LinkedIn account from 2010-11 where I discuss this important topic. As a PhD researcher in illicit and illegal drugs, I have refused opioid pain analgesics for my numerous surgeries. The risk is simply too great. I am unable to take many of the available alternatives for medical reasons. The best option was medical cannabis.

THREE

Aware of the trending acceptance of medical cannabis, and reading HECO code, I had no indication my medication would be problematic. I asked Shana why HECO didn't specifically state in the Code medical cannabis wasn't permitted. The lack of clarity causes confusion.

Second, I asked Shana about any written HECO policy regarding medical cannabis. She told me honestly, to the best of her knowledge, as of Feb. 27th, she never remembers seeing anything in HECO documentation about medical cannabis. She explained the policy was transmitted verbally through legal and HR ranks. This creates a legal dilemma as well. Medical cannabis is a serious issue. Serious policy decisions should be in writing.

FOUR

Absent clear policy, HECO created confusion about their standards. As a trained professional in pain medication, I had no reason to believe my behavior might be in violation of company policy. I am being penalized for doing something I believed was legal and permitted. HECO must accept responsibly to fully and completely inform employees of their standards. Failure to do so may be considered "arbitrary and capricious" policy, although I'm not an attorney.

HECO does not drug test contractors and HECO relies on many contractors. If cannabis or other drugs are such a concern, why aren't contractors held to similar standards? This does not make logical sense. I've been on this medication since I started with HECO. Why was my position as a contractor terminated as well? HECO didn't believe I posed a threat on Day 1; why do they on Day 181?

Near the end of our conversation, I asked Shana why she didn't immediately remove me from duty when I notified Ms. Dear of my active cannabis use. HECO allegedly believes medical cannabis users pose a threat, a risk to safety and security, yet I was allowed to continue working for about two more weeks. Shana said she wasn't informed and didn't want to be held accountable for something of which she had not been informed. EXACTLY!!!

Righteous people don't punish each other when the person wasn't properly and reasonably informed. I had taken measured steps to be legal. Patients pay money out-of-pocket to be in the program. There are many regulatory hurdles. I made an active, informed and conscientious decision to ensure my behavior was legal.

FIVE

I asked about applying for the position, Database Administrator, 3342, posted on 02/25/2019. Shana told me I had already applied, and since it's the same position, I cannot apply again. She said I'm still listed in the applicant pool, but disqualified due to the drug screen results. In sum, HECO will not consider me for this opportunity, as it's the same job. The job is different. The

previous was Database Analyst, I believe. Lori mentioned the title didn't seem accurate. The position has officially changed in name.

Shana also said HECO policy does not allow me to be retested for the drug screen. Essentially, HECO will not allow me to be considered for employment going forward. This seems to be a form of Double Jeopardy. HECO considers medical cannabis use to be illegal. People who do illegal activities are criminals. Thus, by rules of transitive logic, HECO considers Scott Goold to be a criminal. For example:

- A=B
- B=C
- Therefore, A = C

I'm not a criminal. A court of law generally does not punish someone for a crime if the person reasonably believed they were engaged in legal behavior. Why then does HECO punish me?

SIX

I'm an imperfect human being. We're all imperfect. HECO likewise isn't a perfect company. I am sorry for this situation. I ask HECO to be sorry as well. We have an amazing relationship. We are doing excellent work. We make an awesome team and we have much work to do going forward together.

Ms. Dear may have made a mistake. Shana may have made mistakes. I may have made mistakes. The legal team may have made mistakes. We could sort this out litigiously in a hostile environment. I don't believe this is the preferred choice by any of us. This isn't aloha. This isn't the Hawaiian way.

Concluding by phone with Shana today, I asked for a meeting. I adore the Hawaiian tradition of ho'oponopono. What a sophisticated means of dispute resolution! There is no wise reason to break up this team. This minor issue can be easily resolved if we have the will to meet and talk with each other.

This is an amazing company staffed by tremendously talented and dedicated people. Please allow our greatness to shine at this challenging time. This situation offers us an opportunity to reveal our true character!

Aloha and mahalo!

ps — although I took notes, I did not record my conversation with Shana. She told me she didn't record our conversation either. I've done my best to accurately report what we discussed. I apologize in advance if I've misstated anything said by Shana. Please feel free to correct the record if my recollection or perception is flawed.