

Cannabis and the Canadian workplace

With the passing of Bill C-45 in the Senate, Canada is one step closer to the legalization of cannabis for recreational use. Undoubtedly, this will present a number of challenges for Canadian employers. At the same time, employers will have an opportunity to help shape legislation related to impairment, alcohol and drug testing, measures of impairment, and benefits coverage for medicinal use.

So, what does this all mean for me as a Canadian employer?

Employers' Concerns

The issue of impairment or intoxication, including testing for impairment, may be a matter of ethics or perception for employers. Increased use of cannabis—both inside and outside the workplace — raises concerns with respect to productivity and employee performance. The prospect of employee impairment with potentially significant consequences due to the safety-sensitive nature of certain operations is a major concern with regards to workplace safety. Furthermore, managing the prospective accommodation needs and costs associated with the legalization of cannabis may have financial implications on the organization.

Some considerations to take into account are:

- Potential impacts on all aspects of workplace productivity, including absenteeism, and presenteeism;
- Accommodating the needs of employees licensed to use cannabis medicinally;
- Impacts on international business travel to countries where cannabis is not legal;
- Educating employees and managers on how to detect and manage problematic use, dependence, and potential cannabis impairment.

Workplace Alcohol and Drug Policies

Employers should revisit workplace policies addressing the use of alcohol and drugs as soon as possible. The need to implement or amend policies varies by organization and operational environment but a significant tool for employers would be a well drafted alcohol and drug policy outlining what is prohibited in the workplace, the consequences of a violation and how addiction disabilities will be accommodated. This policy should look to include the who, what, where, when, why and how of drug and alcohol testing. Workplace training on the drug and alcohol policy adopted is equally as important as the policy itself.

Some considerations to take into account are:

- Ensure appropriate alcohol and drug testing practices are in place. This will ensure that the policy can be enforced consistently, and will deter unwanted use while still accommodating employees' privacy needs.
- Employers with safety-sensitive operations may want to consider a "no free accident" rule in their A&D policies. They will also need to consider whether a bona fide occupational requirement (BFOR) can be demonstrated to prohibit medical use in the workplace.
- Consider those who may be suffering from problematic cannabis use and addiction, and provide resources and supports for employees to address these issues.
- Communicate any changes to alcohol and drug policies to employees and ensure resources are available and accessible in a confidential manner.

The publication, [Recreational Cannabis in the Workplace – Lessons from Workplace Impairment Cases](#), highlights cases where violations of workplace drug and alcohol policies were identified and outlines the need for employers to take lessons from existing law into consideration when crafting new, or updating existing, policies and procedures regarding recreational cannabis use in the workplace.