

Info Sheet - Cannabis in the Workplace

Cannabis will be legal as of October 17th, 2018 for adults ages 19 and older. Cannabis Act, 2018 creates the legal framework for controlling the production, distribution, sale and possession of cannabis across Canada.

Source: Health Canada – The Cannabis Act

Impairing effects

- Cannabinoids are the hundreds of chemical substances found in cannabis.
- Delta-9-tetrahydrocannabinol (“THC”) has been proven to be the primary chemical that gives people the “high” or “intoxicated” feeling from cannabis.
- Cannabidiol (“CBD”) is also a cannabinoid but does not produce a “high” or “intoxicated” state.
- CBD is commonly used as an anti-inflammatory or anti-seizure medication.
- High levels of THC is considered to be between 25%-30%.
- Effects differ from person to person. Similar to how alcohol differs from person to person.
- There are a number of different methods of consumption such as; inhaled (joints or spliffs, pipes and bongs, blunts) or ingested (teas, sodas, oil, baked goods).
- Impairing short-term effects may include: Anxiety or panic, increased heart rate, sleepiness, confusion, paranoia or hallucinations.

Cannabis at Work

- Employers have a duty to accommodate any employee who needs cannabis for any medical needs or if there is a dependency that has been demonstrated while also ensuring there is proper safety in the work place.
- There needs to be a distinction between recreational use of cannabis and medicinal use.
- Under Human Rights legislation, a dependency on drugs or alcohol is considered a disability. However, recreational use is not protected under such legislation.
- The employer may be able to argue there is a bona fide occupational requirement (“BFOR”) to temporarily reassign the employee to another position. A BFOR is a skill or characteristic that is essential to a job and without it the job cannot be performed (refer to the Accommodations Info Sheet).
- In order for employers to make the distinction between a dependency or recreational use by the employee, the employer has the right to ask for the following:
 1. Authorization from a physician for the employee to use cannabis for medical purposes
 2. The amount, frequency of use and the form it is in
 3. How long the prescription lasts
 4. The level or type of impairment & whether that will affect job performance
 5. If there are non-impairing alternatives available that would allow the employee to perform the job duties

Health and Safety in the Workplace

- All employers have an obligation to provide a safe working environment.
- Employers must ensure they receive all applicable information from the employee and must ensure that any accommodation provided does not create a health and safety risk.

Privacy

- Employers should not ask for more personal information than is required to make an appropriate decision about accommodating the employee.
- However, if an employee requires an accommodation in the workplace, they are required to provide their employer with the appropriate information and they are required to put in the accommodations program.
- Drug testing is not yet legal in Canada.