

# Spotlight on Injured Workers

October 2019

## The Legalization of Cannabis: A Year in Review:



The Federal Cannabis Act (Bill C-45) received royal assent and was enacted October 17, 2018. The Act regulates manufacturing, distribution, access to and use of cannabis. In addition, all provinces were responsible to provide jurisdictional rules.

The April 2018 issue of Spotlight on Injured Workers, provided background information on the facts and fictions of medical cannabis and touched on recreational vs medical use. The science of THC and CBD, usages, and medical cannabis and the workplace.

Download the April 2018 newsletter here: <https://www.ufcw175.com/download/spotlight-on-injured-workers-april-2018/>

In this issue, we will elaborate on what was previously discussed as well as recreational and legalized cannabis as it relates to the workplace.

### The Complexities of Cannabis

More than 100 different cannabinoids (the active chemical ingredient in the cannabis plant) have been identified, but research has focused on only two of them so far, THC and cannabidiol (CBD).

**THC** is the substance (plant's sticky resin) known to cause the psychoactive effects or the "high" felt from cannabis.

**CBD** lacks nearly any psychoactive effect. It is an anti-inflammatory and considered the most useful active substance for medical cannabis use.

Dr. Ruth Ross, PhD and Professor of Pharmacology and Toxicology at York University, notes that understanding cannabis, its benefits, and its implications, starts with how it is consumed. Benefits of THC/CBD can be pain relief, anti-nausea, and moderate epileptic episodes. However, it can adversely affect short-term memory, attention, cognitive abilities, fertility and impair driving.

The complexities lie in such issues as method of administration, gender, dosage, duration, frequency and onset. These complexities have a direct impact on how cannabis is detected and how we are able to function, specifically at work. We also need to remember that there is NO difference between medical cannabis and decriminalized cannabis.

The underlying issues – safety and addiction – that recreational cannabis use may bring to the workplace are not new. Employers have been dealing with the problems of alcohol and opioid use for years. And although medical cannabis has been legal since 2001, it was the legalization in 2018 that caused concern and panic amongst employers and workers on how it will be dealt with in the workplace.

## Medical Cannabis – The Basics



Legal since 2001 and regulated under the federal Access to Cannabis for Medical Purposes Regulations (ASMPR), medical cannabis, like any other pharmaceutical prescription, may be a benefit for someone suffering from a wide range of conditions such as chronic pain, cancers, anxiety/depression, gastrological conditions, MS, arthritis, glaucoma and epilepsy, to name a few. It can be consumed by smoking, vaporization, oils/tinctures, topicals, or edibles. Dosing remains highly individualized and needs proper monitoring, especially for tolerance, duration and frequency.

The Ontario Human Rights Commission does not allow smoking or vaping cannabis for recreational OR medical reasons in an enclosed workplace. Employees with medically approved conditions related to disability may consume edible cannabis as long as it does not interfere with the workplace health and safety or their ability to perform the essential duties of the job.

So, the difference between recreational and medical cannabis is that medical cannabis users have the protection and right to accommodation. For employers, there is an establish duty to accommodate to the point of undue hardship, however, this duty ends if the employee cannot ultimately perform the essential duties of the job after accommodation has been tried and exhausted. ALWAYS speak with your employer and Union Representative to know the law, policies and rights protected under accommodation legislation.

## Recreational Cannabis – the Basics

The legalization of recreational cannabis provides adults with the option to consume cannabis for non-medical reasons. This is a personal choice similar to the consumption of alcohol. However, there are rules, stigmas and legality that comes with this choice.

Provincial rules vary but generally recreational cannabis policy says:

- Legal age of use will be 18-19 years old (depends on jurisdiction)
- Able to legally purchase and cultivate
- Permitted to grow up to 4 cannabis plants in home
- Possess and share (with other adults) up to 30 grams
- Consumption prohibited in most public places (for example, public parks, sidewalks, workplaces)

All workers need to keep in mind that even though recreational cannabis is a choice for adults, some workplaces have employees that do not qualify to use, carry, grow or consume edibles so recreational cannabis is best to be kept away from the workplace at all times.

## Cannabis and Impairment

Impairment on the body from inhaling cannabis – medical or recreational – per Health Canada states, “using cannabis or any cannabis product can impair your concentration, your ability to think and make decisions, and your reaction time and coordination. This can affect your motor skills, including your ability to drive. It can also increase anxiety and cause panic attacks, and in some cases cause paranoia and hallucinations.”

What scientists and researchers are finding striking is that there is little high-quality evidence on the impacts of cannabis in the workplace. So many employers, regulators, legislation and industries are looking to the standards dealing with “impairment.” By definition, impairment is “any abnormality of, partial or complete loss of, or loss of the function of, a body, organ, or system.” Therefore, impairment has a direct effect on how we work.

In the case of cannabis use and the workplace, the employer should consider workplace policies and programs as they may relate to impairment from any source such as fatigue, life stresses, alcohol, medications (used legally or illegally), cannabis (recreational or medicinal),

or any other substance. That said, similar to alcohol, opioids or other drugs, employers can generally expect employees to be free from cannabis impairment while at work. Workers performing work they are unable or unfit to do safely represent a clear hazard to the workplace and fellow employees. Under the Occupational Health and Safety Act (OHSA) employers and employees are required to address unsafe workplace hazards.

When looking for any form of impairment and in consideration of risks to the individual’s safety or others we should ask:

- Does the person have the ability to perform the job or task safely (e.g. driving, operating machinery or equipment, use of sharp objects)?
- Is there an impact on cognitive ability or judgment?
- Are there other side effects of the medical condition or the treatment that need to be considered?

All users – medical or otherwise – have varying levels of sensitivity. All situations of impairment need to be dealt with and assessed on a case-by-case basis



## Health and Safety

Legislation throughout Canada, and the OHSA explicitly state that Employers have a duty to provide a safe work environment and take all reasonable precautions to protect the health and safety of employees and others in the workplace. As workers, we also have the responsibility to perform our tasks and work in safe manner that does not jeopardize ourselves or our co-workers.

Many accommodation and arbitration situations will likely need to take into consideration the definition of a “safety sensitive job.” A safety sensitive job is one which incapacity due to drugs or alcohol impairment could result in direct and significant risk of injury to the employee, others or the environment. Therefore, on a case-by-case basis employers, unions, arbitrators and tribunals will need to review the context of the industry, the particular workplace, and the employee’s direct involvement in a high-risk operation or in high-risk decision-making and any impacts that medical cannabis may have on the ability of a worker to perform essential duties.

Ultimately, you are responsible to know and understand your individual workplace policies and programs – this can include but not limited to, your collective agreement, policies on substance use, occupational health and safety policies, and employee assistance programs.