

...and yes, we know this picture isn't actually of the legal cannabis in question!

The Cannabis Act comes into effect on October 17, 2018. For now, we'll have to take the legislation at face value until we have case law to interpret it, but as an employer, you're probably wondering how legalization will affect your business.

Below, find our top seven tips for understanding how legal cannabis will impact your workplace.

1. What does "legal cannabis" actually mean?

To consume cannabis, you must:

Be over the legal age

Abide by smoking bylaws

Follow impaired driving laws and

Obey public intoxication laws

The biggest challenge employers will face with the legalization of recreational cannabis is a lack of education, but we'll make it simple: **legalization is not a license to be impaired at work.**

Employees might think that legalization means that they can smoke or consume cannabis and cannabis products in the workplace, but this is not the case!

2. Alcohol and Drug Policy

Be ready for legalization by having a strong drug and alcohol policy in place. Be sure to include training and education for your leadership team and employees. Communicate the policy across the company, and make sure that it's acknowledged. After all, policies can't be effective if no one knows about them!

If you currently have a drug and alcohol policy in place, make sure to review and edit it to reflect the new legislation. Updates to your policy are likely necessary—for example, is cannabis (or marijuana) listed as an illegal substance on your current policy?

3. Manage Impairment

Impairment isn't exclusive to cannabis, but the imminent legalization has raised the question of defining it. For our purposes, **“impairment” means to be affected to the extent of losing control over one's faculties or behaviours.**

Unlike alcohol, there is no threshold for cannabis impairment yet, and for now, there's no impairment test either. Impairment caused by cannabis is situational and is based on a number of factors, including strain, frequency, quantity, tolerance, consumption method, time of day, and more. In your policies, it's best practice to manage impairment regardless of the cause.

[DriveABLE](#) suggests implementing a “reason to suspect” policy and following these steps:

Identify candidates based on established reason to suspect policy

Capture information to establish the reason to suspect

Establish impairment using evidence based on cognitive measures

Establish reason for impairment
Respond with corrective or disciplinary action

4. Employer/Employee Responsibilities - Medicinal Cannabis

Employers have a legal obligation to

Protect the health and safety of workers

Protect the public and the environment

Respect workers' human rights and privacy interests

Accommodate a worker who suffers from a disability to the point of undue hardship

[OHS](#) states that an *“employer must not knowingly permit a person to remain at any workplace while the person’s ability to work is affected by alcohol, a drug or other substance so as to endanger the person or anyone else.”*

Treat medical cannabis like any other prescription drug. However, a prescription **doesn't** give employees the green light to use cannabis in the workplace. Employers have the right to prohibit impairment at work, and therefore a prescription for medical cannabis is not a license for impairment.

Employers must have policies in place permitting medical cannabis use where supported by medical evidence.

While an employee is not legally obligated to notify their employer that they are taking a substance that may cause impairment, lack of awareness of a disability could mitigate the employer's duty to accommodate. **Encourage your employees to notify and provide sufficient information that they have a disability that requires accommodation by**

including it as a requirement of your drug and alcohol policy.

Employers can also request information from an employee's prescribing doctor in order to make an informed decision regarding the use of medicinal cannabis in the workplace.

5. Medical Cannabis Coverage

Why should you consider offering medical cannabis coverage in your benefits plan?

Support your employees financially: Show your team that you're a progressive and adaptable employer

Maintain your competitive employer status: Medical cannabis will increasingly be covered in the benefits plans of your competitors.

Larger insurers like Sun Life and Manulife are beginning to launch cannabis coverage benefits, and you should expect that medical cannabis will increasingly become part of employer-sponsored plans. Have a discussion with your benefits provider about their projected timeline, the cost implications of annual limits, and how to respond to employees who ask about coverage.

6. Employer/Employee Responsibilities - Recreational Cannabis

Employees cannot:

Bring cannabis or cannabis products to work

Exchange with or sell to colleagues

Consume cannabis or cannabis products while on work property or while on work time (i.e. lunch, coffee break). Additionally, employees can't consume cannabis or cannabis products while representing the company in any way.

Employers must recognize that addiction is a disability, and they have a duty to accommodate an employee who suffers from addiction.

An addiction, however, does not entitle the employee to use cannabis at work, jeopardize the safety of themselves and others by coming to work impaired, or justify unexcused absences or tardiness.

7. ...and finally, a reminder!

Employers are already managing impairment in the workplace, but legalization has highlighted questions of cannabis impairment in particular.

Relax! **For the most part, you already have the tools to deal with the impact of these legislative changes,** because you've been dealing with impairment all along.

Medicinal cannabis has been somewhat legal since 2001: 63% of medicinal cannabis users work full time or part time and almost 75% of users reported daily use (Tilray).

The number one cause of safety/productivity issues in the workplace is sleep deprivation.

Don't assume cannabis is at fault for performance issues just because it is newly legal.

Use your performance management plan (PMP) to monitor and manage impairment

Observe, talk about it, gather and consider relevant medical information, and accommodate ('Impaired at work', Canadian Human Rights Commission, 2017).

If you still need help updating your policies,
[get in touch with us now!](#)