Legal Access to Marijuana – The Workplace Impact

Why it Matters & How to Manage it

Randy Herman
WHAT IS MARIJUANA?
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What is Marijuana?

• Cannabis: Sativa, Indica & Ruderalis

The flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated.

1961 United Nations Single Convention on Narcotic Drugs
WHAT IS MARIJUANA?

// How is Cannabis Ingested?

• Smoking/vaporization
• Oral (ingesting edibles / sublingual)
• Rectal administration
• Transdermal delivery
• Eye drops
• Aerosols
FUN FACT… 🐴 ???

// Colorado, USA

There are more dispensaries in Colorado than Starbucks, McDonald’s and 7-Elevens combined – and the numbers keep growing…

 Starbucks  
 McDonald's  
 7-Eleven
HISTORY OF MARIJUANA
United Nations Single Convention on Narcotic Drugs

President Nixon Declares "War on Drugs"

Canada’s Drug Strategy “...may have been the most severe cannabis censorship strategy in the world.”

Regina v. Terrance Parker Case that ultimately led to Canada’s adoption of a system regulating the medicinal use of marijuana

Marijuana Medical Access Regulations (MMAR) repealed on March 31, 2014

Marijuana for Medical Purposes Regulations (MMMR) repealed on August 24, 2016

Access to Cannabis for Medical Purposes Regulations (ACMPR)
HOW DOES MARIJUANA EFFECT US?
HOW DOES MARIJUANA EFFECT US?

// Cannabinoids

1. Phytocannabinoids
2. Endocannabinoids
3. Synthetic cannabinoids
HOW DOES MARIJUANA EFFECT US?

// How do cannabinoids work?

- Regulate endocannabinoid system
- Mimics endogenous neurotransmitters
- Targets receptors “Unlocks Doors”
HOW DOES MARIJUANA EFFECT US?

The “Big 6” Phytocannabinoids

1. **THC** - Delta-9-tetrahydrocannabinol
2. **CBD** - Cannabidiol
3. **CBC** - Cannabichromene
4. **CBN** - Cannabinol
5. **CBG** - Cannabigerol
6. **THCV** - Tetrahydrocannabinabivarin
HOW DOES MARIJUANA EFFECT US?

Marijuana's Effects on the Brain

HYPOTHALAMUS
- Controls appetite, hormonal levels and sexual behavior

NEOCORTEX
- Responsible for higher cognitive functions and the integration of sensory information

BASAL GANGLIA
- Involved in motor control and planning, as well as the initiation and termination of action

HIPPOCAMPUS
- Important for memory and the learning of facts, sequences and places

VENTRAL STRIATUM
- Involved in the prediction and feeling of reward

CEREBELLUM
- Center for motor control and coordination

AMYGDALA
- Responsible for anxiety, emotion and fear

When marijuana is smoked, its active ingredient, THC, travels throughout the body, including the brain, to produce its many effects. THC attaches to sites called cannabinoid receptors on nerve cells in the brain, affecting the way those cells work. Cannabinoid receptors are abundant in parts of the brain that regulate movement, coordination, learning and memory, higher cognitive functions such as judgment, and pleasure.
Recently abstinent cannabis users (7 hours to 20 days) may experience impairment in attention, concentration, inhibition and impulsivity during the period in which THC and its metabolites are eliminated. The greatest residual deficits in executive function are found following prolonged use of cannabis. (Whitlow, et al. 2004)
WHAT’S THE HARM USING “OFF THE JOB”?

Cannabis (marihuana, marijuana) contains hundreds of substances, some of which can affect the proper functioning of the brain and central nervous system.

Cannabis use can impair your concentration, ability to think and make decisions, and 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.

Cannabis is one of the most widely abused illicit drugs, and can produce physical and psychological dependence. The drug has complex effects in the CNS and can cause cognitive and memory impairment, changes in mood, altered perception, and decreased impulse control.

Depending on the dose, impairment can last for over 24hrs after last use.
Using the Word “Impairment”
WHY IS IT OF THERAPEUTIC INTEREST?
WHY IS IT OF THERAPEUTIC INTEREST?

// Why is Cannabis of Therapeutic Interest?

• Compassionate end-of-life care
  o Neurodegenerative disorders
  o Severe pain, arthritis, anorexia, weight loss, and/or severe nausea from cancer and HIV/AIDS infection
WHY IS IT OF THERAPEUTIC INTEREST?

Why is Cannabis of Therapeutic Interest?

• Medical applications inclusive of:
  o Attention Deficit Disorder
  o Arthritis
  o Chronic pain
  o Glaucoma
  o Migraines
  o Sleep disorders
Dried marijuana is not an approved drug or medicine in Canada. The Government of Canada does not endorse the use of marijuana, but the courts have required reasonable access to a legal source of marijuana when authorized by a healthcare practitioner.
THE MEDICAL COMMUNITY’S OPINION?

Canadian Medical Association

“We have little to no evidence-based information about its use as medical therapy… the lack of evidence to support the use of marijuana for medicinal purposes signifies that it is not a medical intervention”
# IS CANNABIS A PRESCRIPTION?

### Is Cannabis a Prescription?

- **Characteristics of a prescription drug:**

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IS CANNABIS A PRESCRIPTION?

// However....
DEVELOPING YOUR SAFETY PROGRAM
EXECUTIVE OFFICER OBLIGATIONS

// Bill C-45 (Westray Bill)

Section 217.1 of the Criminal Code

“Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.”
DEVELOPING YOUR SAFETY PROGRAM

Finding the Right Balance

Safety

Privacy

Labour Agreements

Human Rights

Fit for Duty Program
DEVELOPING YOUR SAFETY PROGRAM

// Step 1: Determine Workplace Risk Level

Safety Sensitive Position: Performs activities and/or works in an environment where a temporary lapse in concentration, focus and/or judgement could result in immediate serious injury, harm or death.
DEVELOPING YOUR SAFETY PROGRAM

// Step 2: Account for Unionized Environment

1. Not in conflict with collective bargaining agreement
2. Reasonable
3. Communicated clearly and equivocally
4. Brought to employee attention prior to action
5. Employee notified of potential consequences addressed
6. Consistent enforcement
DEVELOPING YOUR SAFETY PROGRAM

// Step 3: Avoid Discrimination by Design

• Verify Bona-Fide Occupational Requirement Exists
  1. Rational
  2. Adopted in good faith
  3. Reasonable necessity
DEVELOPING YOUR SAFETY PROGRAM

// Step 4: Adhere to Privacy Legislation

• Privacy legislation authorizes collection, use, and disclosure of personal information to extent necessary for management of/entering into employment relationships (and where consented to)

• Information must be confidential and need-to-know
DEVELOPING YOUR SAFETY PROGRAM

// Step 5: Policy, Education & Execution

- Duties of employee
- Prescription/medical treatment disclosure language
- Policy violation and employer action
- Supervisor and employee awareness training
WHAT YOU MIGHT BE MISSING

Policy

- Procedures for Consistency
- Duties & Consequences
- Consistent Execution
- Employer Action
- Accommodation
- Progressive Discipline up to and Including Termination

Establishes BFOR

Outlines Employer Action

Training

Testing

WHAT YOU MIGHT BE MISSING

Employer Action establishes BFOR duties & consequences procedures for consistency. It outlines employer action, consistent execution, employer action, and accommodation. It also covers progressive discipline up to and including termination.
TAKE HOME MESSAGE

/// Marijuana and safety sensitive work cannot mix safely and reliably

/// The effects of marijuana are longer lasting than what the general public believes

/// Marijuana use off the job can bring risk onto the job

/// Clear policies and procedures are crucial
REFERENCES


REFERENCES


33. The British Columbia Government and Service Employees’ Union v. The Government of the Province of British Columbia as represented by the Public Service Employee Relations Commission. 26274 (Supreme Court of Canada, 1999).


Disclaimer

The landscape of marijuana / cannabis is rapidly evolving. The information contained in this presentation is based from either credible scientific research, relevant case law and/or industry practices currently available and represents the current state as it exists today “as a single point in time”.

Please be advised that case law or other legal precedent and/or new scientific research may arise subsequent to this presentation which could lead to a different set of recommendations/guidelines in the future.

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