

Marijuana in the Workplace



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Recording

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Employers may need to revisit workplace policies that address drug and alcohol use, with attention to two competing obligations: on the one hand, employers have a duty to accommodate disabled employees, and medical marijuana is used to treat medical conditions that can constitute a “disability”. On the other hand, employers must take every reasonable precaution to ensure the safety of their workplaces and they continue to have the right to prohibit impairment on the job. **Assessment of impairment at work may prove to be the most difficult aspect of designing and implementing policies regarding use of marijuana, as testing for drug and alcohol use remains one of the most contentious contemporary issues in Canadian workplace law.**

Employers faced with an accommodation request may wish to consider providing similar accommodation measures it does for other disabled employees. These measures may include moving the employee out of a safety-sensitive position, providing more frequent breaks, implementing alternative scheduling; or altering the employee’s duties, etc. As with other accommodated employees, an employer may wish to request medical information from the employee’s doctor, or seek the assistance of an independent medical examiner where there are questions about the employee’s fitness for duty, and what will be appropriate accommodation.

Since legalization, we’ve been through a pandemic and mental health & wellness are growing employment issues, join John Battzel of Miller Thomson as he evaluates the HR and OHS implications of legalized marijuana in the workplace.

John Batzel has 25 years of experience as a labour and employment lawyer, and a wide ranging practice acting for large corporations, smaller scale employers and executive level employees.

John regularly provides advice on all aspects of the employment relationship,

including contract negotiation and hiring, compensation and incentive plans, performance management, employee discipline, human right issues, disability claims, worker's compensation, occupational health and safety matters, alcohol and drug testing, terminations, wrongful dismissal claims and enforcement of post termination restrictive covenants. John also provides advice to unionized employers on a range of labour relations issues including union certification, unfair labour practice complaints and grievance arbitrations.