

Medical Marijuana – Robust Accommodation Policy



1. Medical Marijuana & Zero Tolerance:

ABC Company has adopted a zero tolerance drug policy to prevent employees and job applicants—referred to collectively herein as “employees”—from using, possessing and being impaired by intoxicating substances that can create dangers to the health and safety of the workplace and impair productivity and job performance. Marijuana is an intoxicating substance covered by the zero tolerance policy.

2. Policy Statement & Purpose

Notwithstanding the above, ABC Company also recognizes that employees may use marijuana not for recreational or lifestyle purposes but for legitimate, necessary and lawful treatment of debilitating medical conditions that cannot be treated with more conventional remedies. The purpose of this policy is to impose appropriate limitations to the zero tolerance policy allowing employees to pursue such treatments.

3. Accommodation of Medical Marijuana

ABC Company will refrain from treating an employee’s use of medical marijuana as a violation warranting discipline under the zero tolerance policy if all of the following conditions are met:

1. The employee notifies an ABC Company official of his/her use of medical marijuana;
2. The employee can demonstrate to the ABC Company official that:
 1. He/she has a valid prescription to possess and use marijuana under the *Medical Marijuana Access Regulations* (MMAR); and
 - His/her use of medical marijuana is in accordance with the terms of the MMAR and the employee’s particular prescription;
1. The employee only uses medical marijuana when he/she is off-duty and away from work.

4. Limitations

Employees who use, possess or are impaired by marijuana during work will be subject to discipline under the ABC Company zero tolerance policy, notwithstanding the fact that such use may be legal. ABC Company will exercise discretion to determine whether discipline is appropriate in accordance with its obligation to make reasonable accommodations for persons with disabilities under human rights laws.

5. Drug Testing

Employees who legally use medical marijuana must still submit to drug testing in accordance with the ABC Company drug testing policy, provided however, that ABC Company will not presume that the employee is impaired at work simply because he/she tests positive for marijuana or metabolites.

6. Presumption of Impairment

Notwithstanding Sec. 5 above, a positive drug test will be presumed to constitute impairment to the extent it is accompanied by one or more symptoms of diminished job performance, including but not limited to with regard to speech, physical dexterity, agility or coordination, as well as the employee's demeanor, irrational or unusual behaviour, negligence or carelessness in operating equipment, disregard for safety, or involvement in a serious accident or near miss. Employees who are presumed to be impaired in accordance with the above criteria will be given an opportunity to rebut the presumption.