

Member's Quarterly

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President's Message

Marijuana at Work: Safety First

Walking the Tightrope

Employers are facing a whole lot of new issues because of plans by the federal government to legalize marijuana. Workplace policies in a number of areas will have to be reviewed and rewritten. This includes the whole murky, may I say smoky, areas of employee drug testing and whether employee can use medically prescribed marijuana products in or near the workplace. Many employers are worried, rightfully so, about their right to control their working space and to maintain a safe and healthy workplace for everyone.

So where do things stand today? There are some cases in court about workplace drug testing and others about the constitutional rights of citizens to use medicinal marijuana in any form they choose. Right now, there is very limited allowance for drug and alcohol testing unless there is an established substance abuse problem. We are waiting for regulations about where people will be able to use and smoke medical marijuana.

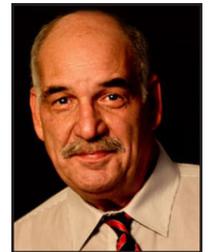
What can a reasonable employer do besides wait for direction from the authorities? That's a good question and one that companies and their legal counsels are trying to work out. In Quebec, a special working group has been formed with lawyers and business executives to brainstorm on this problem and come up with recommendations for employers. It's still early but here are a few of their suggestions.

First of all, they recommend that at the workplace, safety should be the number one priority. Whatever legal changes will develop, employers must take the necessary measures to protect the health, physical safety and well-being of their workers. Cannabis might soon be legal, but it affects physical behaviour and can be detrimental to the health and safety of employees. That means recreational marijuana use can and should be prohibited in or near the workplace. What people do on their own time may be up to them, but employers should not permit cannabis use at work.

That sounds simple and it may get challenged as we move along. But the experts suggest this approach. The use of prescribed medical marijuana is trickier for a number of reasons. Employees can request accommodation from their employer if they have a prescription. Employers should require them to provide documentation from a doctor, even if the employee claims that they need it without documentation. That's where the duty to accommodate may butt up against workplace health and safety.

It will not be easy for employers to walk this tightrope of competing rights and responsibilities. That's why the experts suggest safety and policy first. The employer has to ensure that all of its employees have a safe and healthy workplace. Start with that, and then develop a code of policies that can cover employee rights and wrongs when it comes to the use of marijuana and the workplace. Over time, the smoke will lift and the situation will be clearer for both employees and their employers.

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