

Member's Quarterly

Spring 2022 Edition

President's Message

Weed at Work

It's not good for business

I don't care much about what you do when you're not at work. Note that I didn't say that I don't care at all. There are many behaviours, legal and illegal, that I would prefer you didn't engage in. They could have an impact on your work or your reputation and therefore on me and my organization. I do care a lot about what you do when you're on my dime. That brings us to marijuana.

The fact is that according to Statistics Canada's National Cannabis study, an estimated 500,000 workers admitted to using weed before they headed off to work. With this in mind, it's time to take another look at the legal framework and best practices employers can use to limit the use of cannabis in the workplace.

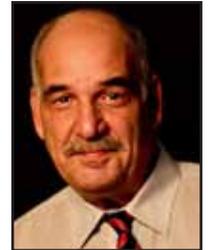
Legalized weed has altered the landscape when it comes to employees' private lives. Unless you work in the transportation sector or in a position where even the smallest impairment could cause problems, like a brain surgeon for example, there is no legal prohibition that employers can place on their staff smoking or ingesting weed on their own time. Some industries like airlines are trying to bring in 28-day prohibitions before an employee's shift, but those restrictions don't tend to go anywhere once they are challenged in court.

There has been very limited success in implementing drug testing in any sector in Canada and several cases are still winding their way through the appeals system. So how will employers know if someone has used marijuana anyway? The impairment tests, even for driving, are still subject to errors. As THC, the active ingredient in cannabis, can stay in the human system for about a month, there are few ways to tell when an employee last smoked weed. It's all very blurry.

In addition, since the start of 2020, businesses have been authorized to sell marijuana edibles, topicals and extracts. They are also impossible to detect and some have the capacity to overact and can cause impairment and lead to serious accidents at work. The only way to deal with this new development is to train supervisors on how to spot impairment and have a strict policy to openly address this somewhat hidden problem.

The case law so far is clear. Anything that happens at work or on your property could be subject to discipline. There are some exceptions in the case of medical marijuana where employees can request accommodation from their employer if they have a prescription. You don't have to take their word for it and you can require them to provide documentation from a doctor. Also, these rights can be curtailed if it puts others at risk.

There will be much more discussion and more court cases before everything is settled on this issue. In the meantime, take the appropriate steps to protect your business and your entire workforce. Hence no weed at my workplace. We don't need any more smoke to cloud our judgement or our potential for success.



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Brian Pascal is President of IPM [Institute of Professional Management].