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Cannabis in the Workplace

Impact of Cannabis Legalization on Workplace Policies:

Are Employers Ready?

What changes are needed in the Workplace or on the Worksite as this becomes legal in 2018?

With less than six months to the legalization of cannabis, employers are well advised to consider current workplace policies, expectations of staff, and safety concerns. Prior to the legislation coming into effect, employers ought to modify their current workplace policies to accord with the legislative changes and to take effect once the legislation is passed. In particular, employers should consider whether existing workplace policies accurately capture matters such as:

- Workplace expectations (smoke-free workplace, scent-free workplace) to ensure they include reference to cannabis and cannabis related products;
- The consequences of cannabis impairment at work, including how impairment can be reasonably determined;
- The application of progressive discipline for impairment at work;
- The ability of employees to self-disclose use and/or dependency, and how that will be treated;
- The intersection of medical conditions and accommodation policies with respect to the use of medical cannabis; and
- How accommodation policies ought to reflect dependency or addiction to cannabis.

For employers with safety-sensitive work sites, including those that utilize heavy machinery, understanding cannabis impairment and how to test for it is a significant factor. Employees may view legal cannabis similarly to alcohol use, within the accepted social norm of occasional use outside of work. Moreover, because cannabis can be ingested in a variety of forms and amounts, one's level of impairment can vary considerably. The expectations that employees attend work sober and prepared to perform their duties are no different than the expectations related to alcohol use.

However, employers are cautioned against simply relying upon broad workplace policies that fail to recognize the changing landscape with respect to recreational cannabis use. There is still time to update workplace policies, and employers are encouraged to ensure they are prepared when July 2018 rolls around. Specialist advice should be sought about your specific circumstances for workplaces or for worksites.

Miller Thomson LLP is actively engaged in drafting and updating human resource and workplace policies, and is well positioned to answer questions about the impact of the legalization of cannabis on your workplace. Contact us to find out how we can assist you.



AMY GROOTHUIS
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Amy Groothuis is a civil litigator with a focus on labour and employment law. She acts for public and private sector employers, and provides proactive, preventive employment advice to clients on their rights and obligations regarding employment standards, occupational health and safety, human rights, and workers' compensation. She represents management in all manners of labour relation disputes and grievances.

Prior to joining Miller Thomson, Amy spent eight years practicing law in the Northwest Territories and Nunavut, both as General Counsel to the territorial workers' compensation board, and in private practice, where she acted on behalf of management in a variety of settings and industries.



JON DANYLIW
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Jon is an experienced labour and employment lawyer who strives to provide practical and proactive advice to his clients.

Jon advises provincially and federally regulated employers in both the public and private sectors on a wide range of matters including employment standards, human rights, employee discipline and terminations, and workplace safety. Jon also assists management in the development of workplace policies and all manner of labour disputes and grievances. Jon has appeared before labour arbitrators, the Saskatchewan Labour Relations Board, and in all levels of court in Saskatchewan.

Jon also has diverse litigation experience including commercial disputes, negligence actions and the prosecution of offences under municipal bylaws and federal statutes.