

The information contained in this resource is not legal advice and should not be relied on as such.

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#### **1. How does cannabis make a person impaired?**

The effects of cannabis on the body can include the following (Health Canada):

- dizziness, drowsiness, fatigue, headache
- impaired memory, and disturbances in attention, concentration and ability to think and make decisions
- disorientation, confusion, feeling drunk, feeling abnormal or having abnormal thoughts, feelings of unreality, feeling an extreme slowing of time
- impairment of motor skills and perception.

The effects and length of impairment can differ from person to person, and depends on several other variables, including how the cannabis was consumed (e.g., inhaled, eaten, etc.), and the amount of THC content (the chemical that causes the high) in the cannabis.

Sources: Canadian Centre for Occupational Health and Safety (CCOHS); Health Canada

#### **2. Does the legalization of cannabis give employees the right to be impaired at work?**

No. Employers should state in their drug and alcohol policy what the workplace's position is on using, possessing or being under the influence of substances while at work (CCOHS). However, if cannabis is an authorized medical treatment for a disabling medical condition, or if the worker has an addiction to cannabis, the employer must accommodate the worker up to undue hardship. Accommodation could include moving the worker from a safety-sensitive position to a non-safety-sensitive position, or working with the worker, a union representative (if applicable) and a medical professional to look at alternative treatments that do not cause impairment. Please note that employers do not have the right to ask for or access workers' personal health information.

Sources: Atlantic Canada Council on Addiction; CCOHS; The Manitoba Human Rights Commission



### 3. What does the legalization of recreational cannabis mean for the workplace?

The total impact of the legalization of recreational cannabis is currently unknown. However, the legalization of cannabis should not have an effect on a workplace that has a solid drug and alcohol policy in place. Employers should consider the following when addressing the potential for cannabis impairment in the workplace (see SAFE Work Manitoba's *Frequently Asked Questions - Impairment in the Workplace: What Employers Should Know* for further information):

- Employers should develop and follow a drug and alcohol policy. You should not copy and use a blanket policy. It is important to seek legal counsel when developing a policy in order to create one that addresses the specific needs of your workplace.
- Employers should educate supervisors and workers on the drug and alcohol policy. Training should include information on how to recognize impairment, and how to best respond to an impaired person in the workplace.
- Employers must accommodate workers who have a disability, up to undue hardship. This is required by Manitoba's *Human Rights Code*. Disabilities can include addictions and disabling medical conditions.
- Employers should provide impairment prevention strategies and supports in their workplace (e.g., Employee Assistance Programs, community supports).
- Employers should regularly evaluate their drug and alcohol policy to ensure it is working. The policy should be updated as required.

Sources: Atlantic Canada Council on Addiction; CCOHS; The Manitoba Human Rights Commission

### 4. Can you test for impairment in relation to cannabis?

The Canadian Centre for Occupational Health and Safety (CCOHS) states that there are currently "limited means to determine impairment from cannabis through testing methods." Testing results can only confirm if a person has used cannabis at some point in recent time, and a positive test result does not necessarily mean there is the risk of impairment.

Source: CCOHS

### 5. Can I perform drug and alcohol testing on my employees?

The law on drug and alcohol testing is complex and evolving, with different legal tests applying to different types of drug and alcohol testing. When an employer is creating a drug and alcohol policy, and/or is considering drug and alcohol testing, they should seek legal counsel.

The Manitoba Human Rights Commission notes that "unreasonable testing or automatic or severe discipline or other job-related consequences for positive test results discriminates against certain employees in a manner prohibited by The Human Rights Code." For more information on The Human Rights Code with respect to drug and alcohol testing in the workplace, visit The Manitoba Human Rights Commission's guide for employers on drug and alcohol testing in the workplace.

Source: The Manitoba Human Rights Commission; CannAmm Occupational Testing



For additional SAFE Work Manitoba resources, visit [safemanitoba.com](http://safemanitoba.com) and search for “Cannabis” and “Impairment.”

#### Sources

The following resources were consulted in the development of this document, and were valid at the date of publication.

- CannAmm Occupational Testing Services, <https://www.cannamm.com/>
- *Clearing the Haze: The Impacts of Marijuana in the Workplace*, Human Resources Professionals Association survey, 2017. <https://www.hrpa.ca/Documents/Public/HRPA-Clearing-The-Haze.pdf>
- *Consumer Information – Cannabis (Marihuana, marijuana)*. Health Canada, 2016. <https://www.canada.ca/en/health-canada/services/drugs-health-products/medical-use-marijuana/licensed-producers/consumer-information-cannabis-marihuana-marijuana.html>
- *Drug and Alcohol Testing in the Workplace*, The Manitoba Human Rights Commission, <http://manitobahumanrights.ca/v1/education-resources/resources/drug-alcohol-testing-in-the-workplace.html>
- *Information for Health Care Professionals: Cannabis (marihuana, marijuana) and the cannabinoids*, Health Canada, 2013. <https://www.canada.ca/en/health-canada/services/drugs-health-products/medical-use-marijuana/information-medical-practitioners/information-health-care-professionals-cannabis-marihuana-marijuana-cannabinoids.html>
- *OSH Answers Fact Sheets: Impairment at Work*, Canadian Centre for Occupational Health and Safety. <http://www.ccohs.ca/oshanswers/hsprograms/impairment.html>
- *Problematic Substance Use That Impacts the Workplace: A Step-by-Step Guide & Toolkit to Addressing it in Your Business/Organization*, Atlantic Canada Council on Addiction, 2011. [http://www.health.gov.nl.ca/health/publications/addiction\\_substance\\_abuse\\_workplace\\_toolkit.pdf](http://www.health.gov.nl.ca/health/publications/addiction_substance_abuse_workplace_toolkit.pdf)
- *Reasonable Accommodation in the Workplace*, The Manitoba Human Rights Commission. <http://www.manitobahumanrights.ca/v1/education-resources/resources/reasonable-accommodation.html>
- *Workplace Strategies: Risk of Impairment from Cannabis*, 2<sup>nd</sup> edition, Canadian Centre for Occupational Health and Safety, 2018. [http://www.ccohs.ca/products/publications/cannabis\\_whitepaper.pdf](http://www.ccohs.ca/products/publications/cannabis_whitepaper.pdf)