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Principals' 201: Cannabis & Schools

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VANCOUVER CALGARY EDMONTON SASKATOON REGINA LONDON KITCHENER-WATERLOO GUELPH TORONTO VAUGHAN MARKHAM MONTRÉAL



Issues

- Legalization of recreational use of cannabis
 - Regulation of recreational cannabis
- Use of medicinal cannabinoids
 - Accommodation of medicinal use of cannabinoids
- Potential impact on schools





Cannabis Act, 2017

- Provincial legislation passed December 12, 2017
 - Not yet proclaimed in force
- Purpose of legislation:
 - To regulate sale, distribution, purchase, possession, cultivation, propagation and harvesting of cannabis to:
 - Protect public health and safety
 - Protect youth and restrict their access to cannabis
 - Ensure sale of cannabis in accordance with the *Ontario Cannabis Retail Corporation Act, 2017*





Sale of Recreational Cannabis

- S.3 Provincially owned and operated cannabis retailer
 - Prescribed identification required for proof of age
- S.10 Youth under the age of 19
 - Cannot buy and cannot be sold to
 - Cannot possess, consume, cultivate, propagate or harvest





Recreational Consumption

S.11 Cannot consume recreationally:

- In a public place
- In a workplace
- In a vehicle or boat
- In any prescribed place





Non-Medical Use

- Should be treated the same way as use of alcohol/other illegal drugs pursuant to drugs/alcohol policy
- Can prohibit use during work hours
- Can prohibit attendance at work while impaired
- * *Human Rights considerations*



Violation by Youth

ss.20(1) police officer with reasonable grounds to believe youth (under 19) has contravened s.10 of the Act, may refer to youth education or prevention program;

ss.20(2) may stay proceeding pursuant to Provincial Offences Act and refer to youth education or prevention program

ss.23(5) youth may be subject to fine of not more than \$200.00

ss.27(1) Minister may approve education or prevention programs pertaining to the use of cannabis or drugs, health and wellbeing, or any other matter

ss.27(2) A list of programs shall be maintained on a public website





Medicinal Cannabis

- Cannabis for medical purposes continued to be regulated by federal law
 - *Controlled Drugs and Substances Act – Regulations*
 - Medical practitioners provide a medical document with general patient information and prescription and timeline for prescription
 - Individual registers with a producer and provides them with their prescription
 - Labels on shipments contains the same information as the medical document
 - May be consumed in many different forms
- Exceptions for medical use **to be** identified in the *Smoke Free Ontario Act*
 - Anticipated to prohibit smoking for medical use on school grounds, playgrounds and enclosed workplaces





Duty to Accommodate

- The *Human Rights Code* prohibits discrimination on the basis of disability
- Duty to accommodate to point of undue hardship
 - Undue hardship:
 - Financial burden
 - Health and safety





Accommodation

- Disability Accommodation
 - Medical use requiring accommodation
 - Medical use as a component of treatment plan

- Addiction = Disability = Accommodation
 - Addiction triggering accommodation obligations





Accommodation

- Includes accommodation of side effects of medications such as marijuana
- Consider impairment/addiction issues akin to alcohol use and prescription medications causing impairment





Bona Fide Occupational Requirement (BFOR)

1. Rule or standard was adopted for a purpose rationally connected to the performance of the job
2. Adopted in honest and good faith belief that it was necessary to the fulfillment of the legitimate, work-related purpose
3. Reasonably necessary to accomplish legitimate, work-related purpose and it is impossible to accommodate the individual without imposing undue hardship on the employer
 - Ex. Removed from supervision





Informed Accommodation

- Use in workplace with documentation vs. prohibiting impairment on the job
- Make inquiries about drug delivery methods, timing and their impact on impairment and other side effects
- S. 25 OHSА – *every precaution reasonable in the circumstances for the protection of the worker*





To Consider

- Ensure student discipline policies identify restricted drugs
- Consider student accommodation with cannabis consistent with prescription medication use
- Update workplace policies to address cannabis use - drug and alcohol policy; accommodation; etc.
- Ensure policies reflects any safety concerns with prescription medication use and individualized approach to accommodating disability needs
- Request medical documentation of prescription; medical documentation that employee must ingest cannabis during work hours; inquire about side effects



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