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 OHSA – *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