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Overheard at Crowe Soberman | Cannabis in the Workplace

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overheard

— AT CROWE SOBERMAN —

It's official: As of October 17, cannabis is now legal for recreational use across Canada. Medical cannabis was legalized nationwide in 2001 yet the stigmas

and attitudes surrounding its use have only recently started to change. There may have been cannabis users who had been consuming pot long before legalization, who never initially disclosed to friends, family and colleagues but now feel comfortable enough sharing or casually dropping into conversation that they partake.

While recreational users are sparking with excitement, are employers ready for the potential implications of legalization?

We sat down with our Chief Operating Officer and Human Resources Practice Group Leader, Susan Hodkinson, to discuss how the historic legalization could impact the workplace.

What should employers do if an individual discloses that they use cannabis for medical purposes?

If an individual discloses that they're using a prescription drug, whether it be cannabis or any other medication, you have both the right and the obligation to provide a safe workplace to all of your employees. If you work somewhere that is a

safety-sensitive environment, such as a manufacturing plant or warehouse; or work in a position where public safety is involved, any impairment errors could potentially be catastrophic.

For example, let's say a forklift driver disclosed that they use cannabis for back pain issues. As their employer, you must ask the individual to provide medical documentation from a physician

that, based on their knowledge of the individual's job requirements, the dosage of their prescription drug will not present a level of impairment that would prevent them from doing their job safely.

If the physician has concerns about the therapeutic dose of medicine impacting work-related issues, you may have to accommodate the individual by modifying their duties (i.e.: not driving) or if it's serious enough, perhaps offering the employee an extended approved leave to work through their medical treatment.

Should employers be concerned about recreational cannabis?

Companies should be looking at substance abuse as a whole, not just alcohol vs. cannabis vs. any other drug. My view is that every employer should already have a policy on intoxication in the workplace clearly stating that you are not allowed to come to work under the influence. We're not telling employees not to use a legal substance but we are telling them that they cannot be impaired at work. It's no longer the Mad Men-era; you can't just go to lunch, drink four martinis and come back to your desk. You can't take a break outside, smoke a joint and come back to

a meeting "stoned". The same kinds of consequences would apply, so you need to have an intoxication policy that sets out all of the health and safety issues. It's also important to make sure that individuals are representing the organization in a respectful manner – like at an office party or a pub night – in the same way that if they become drunk and disorderly, they are reflecting poorly on the organization.

What is the future of cannabis in the workplace?

From an employer's point of view, legalization is forcing us to take another look and reevaluate our human resources policies. When I suggest policies for my clients, they fall into three categories.

1. Legally required workplace policies (i.e.: harassment policy, health and safety policy)
2. Not legally required but "You should really have these" policies (i.e.: intoxication policy, attendance policy)
3. Organization-specific policies (i.e.: uniform policy, vehicle operator policy)

Many of my clients, especially small business owners, resist the idea of having lots of policies because they say, "I don't want

to be a bureaucratic place," or "We're like a family; we're close and we all get along." However, having policies in place keeps us from having to make ad hoc decisions all the time and, most importantly, they protect you as the employer.

If you don't have a policy that says employees cannot be intoxicated at work, you may have a problem firing someone for being intoxicated at work. This is one of the most important policies an employer can have in place to give yourself the structure to manage risk in your organization, quickly and decisively.

By implementing an intoxication policy, employers will ensure a safe and healthy work environment for all of their employees and manage business risk.

This article has been prepared for the general information of our clients. Specific professional advice should be obtained prior to the implementation of any suggestion contained in this article. Please note that this publication should not be considered a substitute for personalized tax advice related to your particular situation.

Connect with the Author

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Susan leads the HR Consulting Group and she is the Chief Operating Officer at Crowe Soberman, where she has management responsibility for the operations of the firm, including finance, information technology, human resources, facilities and marketing. You can connect with Susan at susan.hodkinson@crowesoberman.com.

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