

# Workplace impairment:

## A primer on preparing for cannabis legalization

The federal government is expected to legalize cannabis in 2018, however, cannabis impairment in the workplace is not a new issue for B.C. workplaces.

Under [Section 116 \(2\)\(d\)](#) of the *Workers Compensation Act*, a worker is required to “ensure that the worker’s ability to work without risk to his or her health or safety, or to the health or safety of any other person, is not impaired by alcohol, drugs or other causes.”

The Occupational Health and Safety Regulation details the regulatory framework for addressing workplace impairment. At this time, WorkSafeBC has not identified a need to amend the Regulation.

The purpose of this primer is to provide an overview of the existing Regulation that prohibits impairment in the workplace (i.e. lack of fitness to safely perform work).

### Regulatory requirements

#### Workers and Employers

[Sections 4.19 and 4.20](#) of the Occupational Health and Safety Regulation include the obligations of workers to advise their employer if their ability to safely perform their work is impaired for any reason, and to not knowingly do work where their impairment may create an undue risk to themselves or anyone else. The same sections of the Regulation include the obligations of employers to not assign impaired workers to activities where their impairment may create an undue risk to the worker or anyone else, and to ensure that workers whose impairment endangers the worker or anyone else, do not remain at the workplace.

#### Everyone in a workplace

In addition to the obligations for workers and employers, [section 4.20](#) also includes obligations for independent

operators and members of the public to not remain at a workplace if their behaviour is affected by a substance so as to create an undue risk to workers.

### Impairment policies and procedures

Employers are encouraged to develop policies and procedures that address impairment in the workplace. Developing a clear impairment policy that takes a fitness-to-work approach to impairment, communicating the policy to workers, and applying it consistently can help employers manage their obligation to ensure workplace safety.

The Regulation does not specifically require policies that incorporate impairment testing. Employers who wish to implement impairment testing, such as those whose workplaces include high-risk activities, should get advice from an employment lawyer about how to balance workplace safety, human rights, and privacy issues before implementing a program.

### For more information

- The Canadian Centre for Occupational Health and Safety (CCOHS) whitepaper, [Workplace Strategies: Risk of Impairment from Cannabis](#), provides guidance on addressing impairment as part of a hazard assessment, establishing an impairment policy and program, and implementing accommodation practices.
- CCOHS also provides an affordable e-course on impairment management, [Impairment and Cannabis in the Workplace](#).
- Contact the Prevention Information Line at 604.276.3100 or 1.888.621.SAFE (7233).