

NORTHWEST TERRITORIES & NUNAVUT

# CODES OF PRACTICE

In accordance with the *Northwest Territories Safety Act* and *Occupational Health and Safety Regulations*; and *Nunavut Safety Act* and *Occupational Health and Safety Regulations*.

Also in support of the *Northwest Territories Mine Health and Safety Regulations* and the *Nunavut Mine Health and Safety Regulations*.

October 2018

## Cannabis





## FOREWORD

The Workers' Safety and Compensation Commission (WSCC) produced this industry Code of Practice in accordance with subsections 18(3) and 18(4) of the Northwest Territories and Nunavut *Safety Acts*.

The *Cannabis Code of Practice* applies to all worksites covered by the Northwest Territories and Nunavut *Safety Acts* and *Occupational Health and Safety Regulations*.

The WSCC would like to thank the Canadian Centre for Occupational Health and Safety (CCOHS) and the Federation of Canadian Municipalities (FCM) for permitting the adaptation of their respective documents: *Workplace Strategies: Risk of Impairment from Cannabis* (CCOHS 2018), and the *Municipal Guide to Cannabis Legalization: A roadmap for Canadian local governments* (FCM 2018).

This code is in effect as published in the *Northwest Territories Gazette* and *Nunavut Gazette*, in accordance with the *Safety Acts* and *Occupational Health and Safety (OHS) Regulations*.

### IN EFFECT DATES:

**Northwest Territories:** October 31, 2018

**Nunavut:** October 31, 2018



Chief Safety Officer, WSCC  
Acting Chief Inspector of Mines, WSCC

### Disclaimer

This publication refers to obligations under workers' compensation, occupational, and mine health and safety legislation as administered by the Workers' Safety and Compensation Commission.

To ensure compliance with legal obligations, always refer to the most recent legislation. This publication may refer to legislation that has been amended or repealed.

Check for information on the latest legislation at [wscw.nt.ca](http://wscw.nt.ca) or [wscw.nu.ca](http://wscw.nu.ca), or contact WSCC at 1-800-661-0792.

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# 1 WHAT IS A CODE OF PRACTICE?

The Workers' Safety and Compensation Commission (WSCC) Codes of Practice provide practical guidance to achieve the safety requirements of the Northwest Territories and Nunavut *Safety Acts* and related *Regulations*.

Codes of Practice come into effect in each territory on the day they are published in the *Northwest Territories Gazette* and *Nunavut Gazette*.

Codes of Practice do not have the same legal force as the *Safety Acts*, the related *Mining Regulations*, or the *Occupational Health and Safety Regulations*. A person or employer cannot face prosecution for failing to comply with a Code of Practice. However, in legal proceedings under the *Safety Acts* and *Occupational Health and Safety Regulations*, failure to observe a Code of Practice may be a consideration when determining whether a worker or employer has complied with the *Safety Acts* and *Regulations*.

## 1.1 INDUSTRIAL SAFETY

As per subsection 18(3) of the Northwest Territories and Nunavut *Safety Acts*, “For the purpose of providing practical guidance with respect to the requirements of any provision of this Act or the regulations, the Chief Safety Officer may approve and issue such codes of practice as he or she considers are suitable for that purpose.”

Employers and workers should follow WSCC Codes of Practice unless there is an alternative course of action that achieves the same or better occupational health and safety outcomes.

## 1.2 MINE SAFETY

This Code of Practice serves as a supporting document on how to meet the requirements under sections 11.108(4), 18.01, and 18.1.01 (NT), 18.02.1 (NU) of the *Mine Health and Safety Regulations*. It provides guidance on cannabis-specific impairment best practices, in addition to relevant links and resources.

Do not hesitate to contact the WSCC at 1-800-661-0792 for clarification on which legislation applies to a specific worksite.

### A Code of Practice

- Provides practical guidelines.
- Adapts to individual work sites.
- May serve as evidence.
- Should be followed unless there's a better way.

## 2 DEFINITIONS

**Bona Fide Occupational Requirements (BFOR)** – a requirement that is essential to the safe and proper performance of the job.

**Disability** – any previous or existing mental or physical disability. Includes disfigurement and previous or existing dependence on alcohol or a drug. (*Canadian Human Rights Act, 1985*)

**Discrimination** – an action or a decision that treats a person or a group negatively for reasons such as their race, age, or disability. (Canadian Human Rights Commission (CHRC), (2013))

**Employer** – every partnership, group of persons, corporation, owner, agent, principal contractor, subcontractor, manager, or other authorized person having charge of an establishment in which one or more workers perform work.

**Hazard** – any situation, thing, or condition that may expose a person to risk of injury or occupational disease.

**Hazard Control** – all steps necessary to protect workers from exposure to a substance or system, and the procedures required to monitor worker exposure and their health to hazards such as chemicals, materials, substances, or other types, such as noise and vibration. A written worksite hazard control program must outline which methods are in use to control the exposure and the means for monitoring the effectiveness of the controls.

**Hazard Identification** – formal identification and documentation of hazards.

**Impairment** – a variety of conditions and substances that impact an individual's normal ability to work safely; can come from many sources including fatigue, stress, and use of alcohol, illicit drugs, prescribed and/or over the counter medications.

**Injury** – includes any disease and any impairment of an individual's physical or mental condition.

**Incident** – an event arising in the course of work that could result in an injury or illness.

**Organization** – a company, operation, undertaking, establishment, enterprise, institution, association, or a combination thereof that has its own management. An organization may be incorporated or unincorporated, public or private.

**Procedure** – a documented method to carry out an activity.

**Record** – a document that states results achieved or provides evidence of activities performed.

**Risk** – the chance or probability of a person getting harmed, or experiencing an adverse health effect if exposed to a hazard.

**Safety Sensitive Position** – a position that if performed in an unsafe manner, can cause direct and significant damage to property, and/or injury to the employee, others around them, the public and/or the immediate environment (Canadian Human Rights Commission (CHRC) (2017a)).

**Supervisor** – a worker who is authorized by an employer to oversee or direct workers; are required to take an approved supervisor familiarization training course.

**Worker** – a person engaged in work for an employer, regardless of remuneration. Also called an employee.

## **3 INTRODUCTION**

### **3.1 FEDERAL LEGISLATION CHANGES**

As of October 17, 2018 adults 19 years of age (18 in some provinces) are legally able to:

- publicly possess and share (with other adults) up to 30 grams of cannabis;
- purchase cannabis and cannabis oil from a licensed retailer;
- purchase cannabis online from federally-licensed producers;
- grow up to 4 cannabis plants per residence for personal use;
- make cannabis products, such as food and drinks, at home.

### **3.2 WHAT IS CANNABIS?**

Cannabis contains hundreds of chemical substances, among which over 100 are known cannabinoids. Cannabinoids are a class of chemical compounds that act on receptors in cells in the brain and body. Delta-9-tetrahydrocannabinol (THC) is the most studied component of cannabis and is the chemical responsible for the psychoactive effect or “high”. Another key component, cannabidiol (CBD) may be useful in treating treatment-resistant epilepsy in children and adults. CBD does not produce a high. Some low THC strains have been used in patients with chronic pain who do not want the psychoactive effect. (Goldsmith et al., 2015)

Cannabis is most often inhaled as smoke from a dried herbal product, either alone or as a concentrate mixed with tobacco, but it can also be vapourized. The flower of the cannabis plant can be made into a variety of products, including:

- dried herbal material (“marijuana”);
- oil (e.g. “hash oil”);
- hash (a compressed resin);
- concentrates (e.g. “shatter”); or
- foods and beverages containing extracts of cannabis (candy, brownies, and other edibles, as well as infused teas and drinks).

(Government of Canada, 2015)

Cannabis can also be ingested in pill form or absorbed through the skin via creams, salves, or skin patches.

### **3.3 IMPAIRMENT EFFECTS ON THE BODY**

When inhaling cannabis, the chemicals in the smoke pass from the lungs into the blood, which carries the chemicals throughout the body and to the brain.

Compared to smoking or vaping, ingesting cannabis has a slower onset of the effects because the chemicals must first pass through the digestive system.



Users have varying sensitivity to the effects of THC. Regardless of method of intake, the effects are the same. In general, effects may include:

- dizziness, drowsiness, feeling faint or lightheaded, 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, feeling “too high”, feelings of unreality, feeling an extreme slowing of time;
- suspiciousness, nervousness, episodes of anxiety resembling a panic attack, paranoia (loss of contact with reality), hallucinations (seeing or hearing things that do not exist);
- impairment of motor skills and perception, altered bodily perceptions, loss of full control of bodily movements, falls;
- dry mouth, throat irritation, coughing;
- worsening of seizures;
- hypersensitivity (worsening of dermatitis or hives), higher or lower blood levels of certain medications;
- nausea, vomiting;
- fast heartbeat. (Health Canada (2016a))

Effects of cannabis for an average user and average dose will vary. Health Canada (2016b) states:

“Patients with no prior experience with cannabis and initiating such therapy for the first time are cautioned to begin at a very low dose (e.g. 1 mg THC) and to immediately stop therapy if unacceptable or undesirable side effects occur.”

and

“With inhalation (smoking, vapourizing), effects may be felt within a few minutes of dosing and will generally peak within 30 mins. Acute effects generally last between 2 and 4 hours but may be longer (e.g. 24 hours). With oral ingestion (e.g. oils, foods, capsules), acute effects may be felt as quickly as 30 minutes and as late as 3 or 4 hours after administration. This variability in timing depends on a number of factors (e.g. amount of food in stomach). It is prudent to wait a minimum of 2 hours between administration of single doses of oral products to avoid possible overdosing. Acute effects generally peak between 3 and 4 hours after dosing and can last up to 8 hours or longer (e.g. 12–24 hours). With topical application, it is not known how long it takes for potential therapeutic effects to appear, nor how long they last. There have been reports of hypersensitivity reactions (e.g. rashes, itching) when skin has come into contact with cannabis.”

### **3.4 MEDICAL VS. NON-MEDICAL CANNABIS**

The laws regarding medical cannabis do not change when the *Cannabis Act* has passed. Until such time, the Access to Cannabis for Medical Purposes Regulations (ACMPR), released August 2016, remains the authority for lawful cannabis production and possession. Currently, cannabis may be grown by registered persons and licensed producers for medical purposes only, unlicensed possession of any cannabis is illegal, and the retail distribution of cannabis in “dispensaries” and other storefront operations is also illegal.

Although the federal government has indicated it may revisit the ACMPR regime if the *Cannabis Act* becomes law, the current ACMPR regime continues under the *Act*. Medical practitioners will continue to be able to prescribe cannabis for medical purposes. Individuals with a prescription, including those under 18, will continue to be able to access medical cannabis. The *Cannabis Act* also provides that those licensed under the ACMPR for commercial medical cannabis production will continue to be authorized to produce medical cannabis under the *Cannabis Act*, and be deemed to hold licenses for the production of non-medical cannabis.

## 4 LEGISLATION

### *Safety Act*

#### *Northwest Territories and Nunavut*

##### **HEALTH AND SAFETY**

4. (1) Every employer shall
  - (a) maintain his or her establishment in such a manner that the health and safety of persons in the establishment are not likely to be endangered;
  - (b) take all reasonable precautions and adopt and carry out all reasonable techniques and procedures to ensure the health and safety of every person in his or her establishment; and
  - (c) provide the first aid service requirements set out in the regulations pertaining to his or her class of establishment.
- (2) If two or more employers have charge of an establishment, the principal contractor or, if there is no principal contractor, the owner of the establishment, shall coordinate the activities of the employers in the establishment to ensure the health and safety of persons in the establishment.
5. Every worker employed on or in connection with an establishment shall, in the course of his or her employment,
  - (a) take all reasonable precautions to ensure his or her own safety and the safety of other persons in the establishment; and
  - (b) as the circumstances require, use devices and articles of clothing or equipment that are intended for his or her protection and provided to the worker by his or her employer, or required pursuant to the regulations to be used or worn by the worker.

### *Occupational Health and Safety Regulations*

#### *Northwest Territories and Nunavut*

##### **PART 3 GENERAL DUTIES**

##### **General Duties of Employers**

12. An employer shall, in respect of a worksite,
  - (a) provide and maintain systems of work and working environments that ensure, as far as is reasonably possible, the health and safety of workers;
  - (c) provide information, instruction, training and supervision that is necessary to protect the health and safety of workers;
- 35.1 (1) In this section, "impaired" means a deteriorated or weakened state of judgment, physical abilities, or both, as a result of fatigue, illness, alcohol or drugs, that causes a departure from the normal abilities required to safely complete an employee's duties.
  - (2) No employee shall enter or remain in a worksite if the employee is impaired.
  - (3) No owner or manager shall permit an employee to enter or remain in a worksite if the employee is impaired.
  - (4) All employees must inform the owner or manager if they are impaired.
  - (5) An owner shall, in consultation with the Committee or representative, or, if no Committee or representative is available, with a reasonable number of workers, develop, maintain and make readily available to employees, a

- written policy regarding impairment that includes
- (a) the duties of employees with respect to identification and reporting of impairment;
  - (b) the duties of owners, managers and supervisors with respect to identification of impairment, employee protection and corrective action respecting employees in breach of the policy;
  - (c) a policy implementation plan;
  - (d) a hazard identification and assessment methodology;
  - (e) preventative measures to be undertaken by owners and employees;
  - (f) employee education programs; and
  - (g) a policy evaluation mechanism.

***Mine Health and Safety Regulations  
Northwest Territories and Nunavut***

**HOISTING PROCEDURES**

- 11.108 (4) No person shall operate, inspect, service or maintain or be permitted to perform any function on any hoist after consuming or being exposed to any drug, alcohol, fume or any other substance that could impair the person's ability to operate, inspect, service or maintain the hoist safely.

**DUTIES OF EMPLOYEES**

18.01 An employee shall

- (f) not be impaired by alcohol or drugs while at work;

18.1.01 (NT)

18.02.1 (NU)

- (1) In this section, "impaired" means a deteriorated or weakened state of judgment, physical abilities, or both, as a result of fatigue, illness, alcohol or drugs, that causes a departure from the normal abilities required to safely complete an employee's duties.
- (2) No employee shall enter or remain in a worksite if the employee is impaired.
- (3) No owner or manager shall permit an employee to enter or remain in a worksite if the employee is impaired.
- (4) All employees must inform the owner or manager if they are impaired.
- (5) An owner shall, in consultation with the Committee or representative, or, if no Committee or representative is available, with a reasonable number of workers, develop, maintain and make readily available to employees, a written policy regarding impairment that includes
  - (a) the duties of employees with respect to identification and reporting of impairment;
  - (b) the duties of owners, managers and supervisors with respect to identification of impairment, employee protection and corrective action respecting employees in breach of the policy;
  - (c) a policy implementation plan;
  - (d) a hazard identification and assessment methodology;
  - (e) preventative measures to be undertaken by owners and employees;
  - (f) employee education programs; and
  - (g) a policy evaluation mechanism.

## 5 MAINTAINING SAFE WORKSITES

Employers are required to ensure a safe worksite, and an impaired employee can pose a safety risk to themselves, their coworkers, or the public. Whether an employee consumes a substance that may cause impairment for medical or non-medical purposes, the basic principles around impairment in the worksite apply.

It is required that an employer maintain a policy that all employees arrive at work fit for duty and conduct themselves in a safe and lawful manner while on duty.

When considering changes to human resources policies with respect to non-medical cannabis, employers cannot make decisions about impairment based on assumptions about cannabis use and its impact on an employee's ability to do their job. Employers must rely on their completed hazard and risk assessment as well as their observations to establish reasonable grounds to determine whether an employee is impaired.

### 5.1 IMPAIRMENT

Impairment at the worksite can have severe consequences. There are many sources of impairment such as fatigue, life stresses, use of drugs (over the counter, prescription, illicit), consumption of alcohol, etc. This Code of Practice discusses the implications associated with the use of cannabis for both therapeutic and recreational purposes. The key steps to reducing the impact of impairment at the worksite are to have appropriate mechanisms in place, to provide clear guidance to all worksite parties, and to apply worksite policies and programs using a fair and consistent approach.

Employers must provide training to supervisors and employees on the impact of impairment, and how to recognize and respond to possible signs of impairment.

This Code of Practice presents information and recommendations for employers, employees, and others interested in worksite health and safety, including how to:

- address the potential for impairment as part of a hazard assessment;
- establish a concise policy and program on the use of any substance that can cause impairment;
- determine the actions the employer will take regarding impairment;
- implement accommodation practices where necessary (including for therapeutic needs, substance dependence, or disability due to substance dependence); and
- create a supportive, healthy, and safe worksite.

## 5.2 PREVENTION

There are many personal and social factors that can influence an individual and could lead to a substance dependence issue. There are also some work-related factors that can negatively impact an individual and potentially lead to substance use:

- High stress, low control
- Low job satisfaction
- Long hours or irregular shifts
- Fatigue
- Repetitious duties
- Periods of inactivity or boredom
- Isolation
- Remote or irregular supervision
- Easy access to substances

Also, individuals with substance dependence may feel fear of discrimination and stigma, which can prevent them from seeking help and addressing the issue. It is important to create supportive worksites in which there is a culture of respect and inclusion to help those facing challenges, and keep employees safe and healthy.

### SUPPORTIVE WORKSITES

Often substance use and mental illness are concurrent disorders, and substance use can have a significant impact on the mental health of an individual as well as the culture of the organization. A comprehensive program is a recommended approach that will benefit all employees, not just individuals who are facing challenges. In a supportive worksite, employees should feel safe to share their concerns and seek assistance. Such a program involves a series of strategies and related activities, initiatives, and policies developed by the employer, in consultation with employees, to continually improve or maintain the quality of working life, health, and the wellbeing of the workforce. This program addresses (Burton, 2010):

- occupational health and safety;
- psychosocial work environment;
- worksite health promotion (wellness/wellbeing, personal health resources);  
and
- organizational community involvement.

These activities are developed as part of a continual improvement process to improve the work environment (physical, psychosocial, organizational, economic), and to increase personal empowerment and personal growth. Note that these are not four distinct or separate areas; they overlap and should be integrated within the program, not addressed in isolation.

### 5.3 PRESENCE OF CANNABIS AT THE WORKSITE

Employers can set organizational policies about the physical presence of cannabis products in the worksite. For example, while it may be legal to carry small amounts of recreational cannabis in public, the employer can determine if its presence is permitted at the worksite (similar to allowing alcohol on the premises) **regardless of intent of consumption.**

Where an individual has prescriptions for the use of cannabis for therapeutic purposes, employers will need to consider that the product is consumed according to the prescription (e.g. x amount to be taken at specific intervals), and how to securely store it at the worksite, if necessary.

Employers should establish a way for employees to disclose this therapeutic need without fear of reprisal or judgement. A medical practitioner's letter stating (without releasing confidential diagnosis information) the use of therapeutic cannabis and the effective forms it can be used in for treatment can help the employer accommodate the worker's requirement for medication in a way that ensures the safety of other workers. Also, if the therapeutic cannabis is smoked, employers must consider control measures to reduce the risk of second-hand or passive smoke. Options could include:

- Creating a specific and designated area, away from entrances, and away from ventilation intake vents.
- Establishing a separate area from cigarette smoking, if required.
- For home health care workers who may be visiting clients who smoke cannabis for therapeutic purposes:
  - Request the client stop smoking 60 minutes or more before a visit.
  - Use fans and open windows to clear the smoke before the home care worker arrives.
  - Request a designated smoke-free room in the home. (PSHSA, 2016)
- Hotel or hospitality workers may need to use fans or open windows to clear the smoke before cleaning a room or working in the area.
- Working with the employee and their physician to determine if the use of alternate forms of cannabis other than smoking would be appropriate (e.g. pills, patch).
- Consulting the jurisdiction or local municipal by-laws (e.g. smoking bylaws) to determine if there are any changes due to legalization of cannabis, and take steps accordingly.

Note that the use of personal protective equipment may not be practical as there are no air-purifying or disposable respirators designed and tested specifically for cannabis smoke and its by-products. If required, a self-contained breathing apparatus is an option. (PSHSA, 2016)

## **6 ROLES AND RESPONSIBILITIES**

### **6.1 EMPLOYER DUTIES**

Employers have a duty to ensure safe worksites—and a cannabis-impaired employee can pose safety risks to themselves, coworkers and the public. This duty may sometimes collide with an employer’s duty to accommodate people with medical needs or disabilities. Having clear policies and procedures will help employers meet both these responsibilities. Achieving the right balance is vital.

Employers will face practical and policy challenges here. Cannabis impairment remains difficult to establish objectively. Banning cannabis use among all employees is problematic because some may be using it as prescribed by a doctor. Fundamentally, human resources policies and interventions need to be based on the hazard and risk assessment, and an employee’s ability to do their job, rather than stereotypes or moral judgements about cannabis use.

#### **NON-MEDICAL CANNABIS USE**

The general rule is that employers have no authority over what employees do outside working hours, unless it can be shown that an employer’s legitimate business interests are affected in some way. An employee’s decision to frequent a particular pub on a Monday night, for example, should not affect their employment, unless their Monday night activities impaired the employee’s ability to do their job when they report for work on Tuesday morning. A policy which requires workers to arrive fit for work, and to disclose to their supervisor if they believe they are impaired will reinforce due diligence guidelines for both employer and worker.

An employer is generally not entitled to request information about an employee’s use of substances while off-duty. When dealing with employees who use cannabis, it is important to not make assumptions about cannabis use and its impact on an employee’s ability to do their job. An employer’s reasonable grounds must be based on observations of the employee in the worksite, and a connection between the alleged off-site conduct and employee impairment while on-duty.

#### **MEDICAL CANNABIS USE**

Employers can require employees to disclose their use of medical cannabis in the same manner as other prescription drugs that cause impairment. In obtaining this information, an employer’s right to medical information does not typically extend to the right to learn about specific illnesses or conditions for which an employee may have a drug prescription.



The focus of any employer enquiries should be on the impact on the employee's ability to perform their job duties. Employers may ask about the likelihood of the prescribed medication causing impairment while on duty but they may not ask why the medication was prescribed.

If there are reasonable concerns about impairment, employers may request confirmation from the doctor that the prescribed cannabis usage does not impair an employee's ability to perform their job duties safely. Depending on the requirements of an employee's position, the employer may also be able to request medical information about the amount and type of cannabis that has been prescribed, as well as the frequency of use. The more safety-sensitive the worksite or position is, the more medical information an employer will be able to justify requesting.

If an employer has reasonable concerns that an employee is impaired while at work, including as a result of consuming cannabis for medical purposes, the employer may be able to require the employee to provide medical information about their consumption of impairment-causing substances. Employers should base decisions for further actions on the nature of the job duties and appropriate medical evidence.

#### **DUTY TO ACCOMMODATE**

Employers are required to accommodate employees with disabilities. With cannabis, this duty is likely to arise in two ways in the worksite:

- The employee is addicted to cannabis, which is a disability in and of itself under the *Canadian Human Rights Act*.
- An employee is not addicted to cannabis, but uses cannabis to treat a disability.

The laws in regard to employees who are addicted to cannabis did not change with legalization, as employers already have the duty to accommodate employees addicted to substances like alcohol and prescription drugs. If an employee has a legal prescription for medical cannabis, there are three requirements to trigger an employer's duty to accommodate:

- the employee has a disability;
- the employee has been legally prescribed cannabis by a medical practitioner in accordance with the relevant regulations to treat the disability; and
- the employee is using cannabis in accordance with the prescription.

Accommodations for the use of medical cannabis will need to be treated in the same manner as when employees are prescribed medication that could cause impairment. That the prescribed medication is cannabis as opposed to another type of prescription medication does not change the employer's obligations to accommodate. This is the case for all employees: how an employer accommodates them will depend on hazard and risk assessments for the work the employee does.

## 6.2 EMPLOYEE DUTIES

Employees have a duty to perform their job safely. This duty includes the need to understand their job and the impact that using substances (medical/therapeutic or non-medical) could have on their safety and the safety of others. Employees have a duty to work safely, and to follow prescribed health and safety legislation and the employer's policies and programs.

If an employee requires a medication that is known to cause impairment, they need to notify their employer. In some cases, they may have a legal obligation to do so. The medication includes any over-the-counter medications or prescription drugs including cannabis used for therapeutic purposes. The employee does not need to disclose their diagnosis. If there is an effect that may prevent the employee from performing their work safely, employers need to make appropriate accommodations. The employee should:

- provide relevant documentation to the employer;
- follow any medical directions that relates to taking the medication; and
- follow all precautions regarding impairment.

It is the responsibility of the employee to work with their medical professional to complete any forms or assessments that support fitness to work or accommodation plans, and to participate in return-to-work/remain-at-work planning. If there are changes in the employee's abilities, the employee must discuss these changes with their employer.

Employees should be:

- aware and trained on their role and responsibilities regarding their organization's policies;
- aware of how impairment is assessed (e.g. fit to work checklist, observation, evaluation);
- educated and trained on substance use, including information about disability due to substance dependence and the impact on safety, health, personal life, and work performance;
- aware of what current resources and supports are available for an individual and their family;
- aware of any implications of discipline if there are contraventions of the organization's policies;
- provided with the employer's accommodation policy and procedures;
- trained to recognize the signs and symptoms of impairment in others, and report concerns to their supervisor or employer.

### SUBSTANCE DISCLOSURE

Employees must self-disclose to their supervisor—or not attend work—if they believe they are impaired. This requirement is consistent with the employer's duty to maintain a safe worksite.

## 7 DETERMINING IMPAIRMENT

### 7.1 SUBSTANCE TESTING

It is highly recommended that employers seek legal advice before implementing a substance testing program.

Currently, there are limited testing methods that can determine impairment from cannabis. In Canada, worksite drug testing is generally considered to be discriminatory on the basis of disability and perceived disability under human rights legislation. Substance testing should only be considered for safety-sensitive positions and on a case-by-case basis. Employers must provide training to supervisors and employees on the impact of impairment, and how to recognize and respond to possible signs of impairment.

The Canadian Human Rights Commission (2017b) indicates that “Worksite drug testing is a complex issue involving many factors, such as: human rights law; safety; privacy; labour standards; the provisions of collective agreements; regulatory requirements; and the level of supervision available in the worksite. Unlike a breathalyzer, a positive drug test result does not necessarily prove that someone is impaired in that moment, and should not be taken as concrete evidence of substance dependence.”

As the American College of Occupational and Environmental Medicine states, “employees who appear to be impaired in the worksite should always be assessed according to employer policies. Urine levels of THC do not correlate with impairment. Blood levels correlate more directly; however, all assessments should include an overall evaluation of impairment.” (Phillips, 2015)

### 7.2 RECOGNIZING IMPAIRMENT

We often think of substance use in terms of addiction or dependence, but the use of substances can fall anywhere on a spectrum and, at any point, may impact worksite performance and safety. (Mental Health Commission of Canada, et al., no date)

The employer should develop a clear statement of what is considered to be impairment within their worksite. For consideration, the Canadian Human Rights Commission (2017) points to the following changes in employee’s attendance or behaviour, which may be signs of impairment or substance dependence:

- personality changes or erratic behaviour (for example, increased interpersonal conflicts, overreaction to criticism);
- appearance of impairment at work (for example, odour of alcohol or drugs, glassy or red eyes, unsteady gait, slurring, poor coordination);
- working in an unsafe manner or involvement in an incident;
- failing a drug or alcohol test;
- consistent lateness, absenteeism, or reduced productivity or quality of work.

## **DON'T ASSUME**

There could be many reasons that explain these situations, such as:

- another disability or temporary medical conditions;
- conflict at work;
- job dissatisfaction or low morale;
- the stress of balancing work and caregiving obligations;
- personal problems unrelated to work/home.

Employers should keep in mind that the employee may just be having a bad week or month. However, in some cases, the observed behaviour could be the consequence of substance dependence. Refer to Appendix A for signs and symptoms of problematic substance use.

## **SOMETIMES, IMMEDIATE ACTION IS REQUIRED**

An employee may need to be removed immediately from the worksite if:

- They are involved in a worksite incident or dangerous occurrence, where impairment is suspected.
- Their behaviour or performance is having a serious impact on the worksite, owing to suspected impairment.
- Their behaviour puts their own safety or the safety of others at risk.

Note that under human rights, the employer has the “**duty to inquire**”. For example, the Canadian Human Rights Commission states that “when an employer observes changes in an employee’s attendance, performance, or behaviour that may indicate possible substance dependence, it triggers the employer’s legal obligation to initiate a discussion with the employee about a need for accommodation of a disability. In worksites with safety-sensitive positions where there is drug and alcohol testing, the employer’s duty to inquire is also triggered upon receipt of a positive test result.”

While in other situations an employee may self-disclose and ask for an accommodation, denial is a common characteristic of substance dependence. If the employer has reasonable grounds to suspect substance dependence, the employer is obligated to inquire. Due to the nature of substance dependence, the employer may need to have more than one conversation with the employee.

The **duty to inquire** involves legal rights. Contact the Canadian Human Rights Commission for more information.

### **CONSISTENCY IN APPLYING POLICIES**

Supervisors and employers must enforce policies and programs in a fair and equal manner. Supervisors should be educated and trained regarding how to recognize impairment. In most cases, when assessing an individual for impairment, it is suggested that a second trained person be present to facilitate an unbiased assessment.

It is not the role of the supervisor or employer to diagnose a possible substance use or dependency problem. Their role is to identify possible employee impairment and to take the appropriate steps as outlined in their policy.

If an employer suspects that an employee is impaired, they must observe that the employee's conduct in the worksite and their ability to perform their work-related duties are compromised.

In considering whether an employee is impaired, a supervisor of the employee should be able to respond to the issues outlined in the following table.

### **REASONABLE GROUNDS FOR IMPAIRMENT: FIVE FACTORS TO CONSIDER**

1 Impairment	<ul style="list-style-type: none"><li>• Are there facts to indicate that the employee has shown a form of impairment?</li><li>• Is there a change in physical appearance, behaviour, actions, or work performance?</li><li>• Observations may include: slurred speech, tardiness, unsteadiness, yelling, odours, or admissions of use.</li></ul>
2 Reliable facts	<ul style="list-style-type: none"><li>• Are the facts reliable?</li><li>• Did you witness a situation personally, or are you sure that the witness(es) are reliable and have provided first-hand information?</li></ul>
3 Reasonable facts	<ul style="list-style-type: none"><li>• Can you explain the facts?</li><li>• Would you be able to describe the observations to another person who does not know the people involved?</li></ul>
4 Documentation	<ul style="list-style-type: none"><li>• Are the facts capable of documentation?</li><li>• Can the dates, times, names, and locations be documented?</li></ul>
5 Timeliness	<ul style="list-style-type: none"><li>• Is the impairment situation current, today, while on the job or organization property?</li><li>• Is this a repeated or ongoing situation?</li></ul>

### 7.3 RESPONDING TO SUSPECTED IMPAIRMENT

Employers and supervisors should be able to identify signs of impairment, and know how to respond to situations involving the use of a substance whether it is from recreational use, dependence, or therapeutic use. They should be familiar with available resources and supports (such as employee assistance programs, or agencies within the local community), and help employees seek treatment as necessary.

If a supervisor or coworker becomes aware of an employee showing signs of impairment (regardless of cause), it is imperative they take action. All actions should be handled with empathy and without judgement. Examples of corrective action include but are not limited to:

- Speak to the employee in a private area to discuss their behaviour.
- If the person is in crisis and needs immediate assistance, go to the emergency department of the nearest medical centre/hospital or call emergency services.
- Ask another supervisor or designated person to be present as a witness.
- Remove any stigma regarding substance use. State the concern is about safety for others and themselves.
- State your concerns to the employee and request that they explain what is going on.
- Based on employee response, discuss options, where applicable and available.
- Follow the steps outlined in your organization's program. In some cases, it may be necessary to assign non-safety sensitive work or to ask the employee to stop their work.
- If applicable, notify senior management and/or union representative.
- Provide information on your employee assistance program, if one is available. Encourage access and use, and reassure the employee that the services are voluntary and confidential.
- If necessary, have employee escorted home; do not allow them to drive if you suspect impairment.
- Where necessary, follow procedures for accommodation.
- If disciplinary action is required, follow your organization's policies on progressive discipline.

Discussions on suspected impairment should be recorded in an incident report. (See Appendix C for a sample incident report.) The report should include the events preceding the incident, identification of the employee's unsafe work practices, the matters discussed with the employee, that management and union representatives were notified, a list of all actions taken, and any recommendations made to the employee. (Worksite Safety North, 2017)

## 7.4 SUPPORTIVE MEDICAL INFORMATION FOR ACCOMMODATION

In order to properly accommodate an employee, the employer should have sufficient information from the physician or medical professional.

This information balances the employer's need to maintain a safe worksite while respecting the employee's right to privacy. Information requests must discuss essential duties and accommodation needs only. The employer is not entitled to receive the diagnosis, nor are they entitled to the details of the treatment plan. If a request for an independent medical evaluation is necessary, the Canadian Human Rights Commission (2017a) recommends that the employer seek legal advice as this request may infringe on an employee's privacy rights.

The employer and employee should provide the physician a complete description of the job with related duties, responsibilities, work schedules, if the position is classified as safety-sensitive, and any other information explaining how the work is done.

The physician should provide details on:

- whether the employee can safely perform the job, especially if the employee is in a safety-sensitive position;
- specific accommodation needs;
- any restrictions or limitations;
- any implications from the treatment plan regarding behaviour, attendance, or performance;
- the plan for return to work if the employee is to be off work; and
- the anticipated return to work date if on leave.

One option is to use a "fit to work" assessment. "Fit to work" or "fitness to work" is a medical assessment done when an employer wishes to be sure an employee can safely do a specific job or task. The purpose is to determine medically if the employee can perform the job or task under the working conditions.

Typically, the employee will visit a medical professional who will determine if the person is able to do the particular job. The medical professional may consider physical or mental abilities, sensory acuity, level of skill, functional limitations, etc.

The medical professional will typically only report one of three conclusions back to the employer:

- fit;
- unfit; or
- fit subject to work modifications.

Once it has been determined that there are concerns or limitations, the employer, employee, and medical professional can develop a return to work or remain at work plan that implements accommodations.

## 7.5 STEPS FOR ACCOMMODATION

Recall that substance use can fall anywhere on a spectrum and does not necessarily mean dependency. The need for accommodation may be required when there is a therapeutic/medical requirement, cognitive issue, or a diagnosed substance dependence that may impact worksite performances and safety.

When the employer is aware that accommodation may be necessary, accommodation would include the organization following established policies that cover cannabis use related to therapeutic needs, and disability due to substance dependence. Accommodation plans can be developed for each employee on a case-by-case basis. Both parties should work together and agree to the accommodations.

Careful examination of the employee's job responsibilities and duties should be performed. While human rights laws require accommodation of employees with medical needs or disability due to substance dependence, there is also the general duty requirement for employers to ensure a safe worksite. In this context, employers should ensure that if an employee is impaired due to prescribed medication or substance dependence, that employee not be permitted to engage in work that would endanger themselves or others.

The Canadian Human Rights Commission (2017a) recommends the following components be part of an accommodation plan:

- Put in writing the roles, responsibilities, and expectations.
- The resulting agreement must be signed by all parties.
- Identify accommodation components based on the employee's medical information.
- Designate a 'go-to' person that an employee can go to with concerns or questions about accommodation plans.
- Determine what changes in the employee's behaviour or performance that will be deemed significant and when there would be a need for updated medical information.

Note that while the employer has the obligation to accommodate, it may not be possible to adapt all jobs or positions to the employee's ideal or preferred outcome. The Canadian Human Rights Commission (2017a) recommends "Being creative, flexible and open to trying different strategies will be a key to success. The goal should be to keep the employee at work where it is appropriate or support the employee in returning to work as soon possible." Having follow-up meetings at set intervals can help track the success of the accommodation and any adjustments can be made promptly.

There is no comprehensive list of accommodation solutions. It is a collaborative process that requires both the employee and employer, with input from the medical professional to find suitable solutions.



Examples of accommodation include:

- Modification to the employee's schedule to accommodate treatment, appointments, etc.
- Modification and adjustment to hours or performance requirements as per medical assessments/fit for work assessments/functional abilities forms.
- Modification of the work environment (e.g. assistive devices, etc.).
- Outline of expectations regarding conduct and behaviour.
- Possible reassignment of duties if the employee is in a safety-sensitive position.
- Short- or long-term leave.

Be sure to include steps that address return-to-work success including a contact schedule/frequency, and how the employee will reintegrate with their team. These steps are important as they help to re-establish trust, create healthy boundaries, and reduce stigma.

Accommodation should be collaborative; the goal is to keep the employee functional at work. All accommodation requests should be taken in good faith. It is important to maintain confidentiality of the employee, and additional documentation should only be requested if necessary.

For more details on accommodation, see the Atlantic Canada Council on Addiction's guide *A Toolkit to Address Problematic Substance Use That Impacts the Worksite* and the Canadian Human Rights Commission's guide *Impaired at Work: A Guide to Accommodating Substance Dependence*. The web addresses are included in the reference section of this Code of Practice.

## 8 DEVELOPING POLICIES

### 8.1 ZERO-TOLERANCE POLICIES

A zero-tolerance policy on the use of a substance in the worksite can result in discrimination against employees who are prescribed that substance. A person who has a medical prescription for a substance, including cannabis, is generally entitled to consume that substance according to their prescription. Legalization of cannabis for recreational use does not change this.

#### ZERO TOLERANCE: ALCOHOL VS. CANNABIS

In most cases, the non-medical use of cannabis and alcohol can be regulated similarly in the worksite. However, the history of cannabis as a medically-prescribed substance provides context for why implementing a zero-tolerance policy toward cannabis is not as straightforward as a similar prohibition on alcohol.

In developing a regulatory framework for the non-medical use of alcohol, its treatment as a medical necessity has been given significantly less attention than it has for cannabis. The regulation of alcohol has largely been developed from the perspective that it is a non-medical substance. Alcohol regulation has taken place without comparable judicial commentary on the right to access it for medical purposes, or a comparable legislative regime to enable such access.

When alcohol became regulated for non-medical consumption, the existence of a right to access it for medical purposes was unclear, and there were significantly fewer people who were prescribed alcohol for medical purposes in the first place.

Worksite policies that include a prohibition on alcohol consumption are generally justified on worksite health and safety considerations. As outlined below, a policy that is **prima facie** discriminatory may be justified on the basis of being a bona fide occupational requirement (BFOR).

**Prima Facie:** based on the first impression; accepted as correct until proven otherwise.

An actual safety risk as a result of impairment from a substance can justify a prohibition on the use of that substance in the worksite. With alcohol, there are generally accepted methods and standards—such as a blood alcohol content and a *per se* limit—for determining an impairment threshold. As there is an accepted correlation between alcohol consumption and impairment, as well as established thresholds to determine impairment, a specific prohibition on the use of alcohol in the worksite may be justified with regard to those standards and worksite safety considerations.

Comparable methods or norms to determine impairment do not yet exist for cannabis. It is generally accepted that the effects of cannabis consumption differ from person to person. If two people consume the same amount of cannabis within the same time frame, there is the potential that this would result in one person not being impaired and other being significantly impaired. Employers need an observation-based approach to determining impairment.

### **ADDRESSING SAFETY-SENSITIVE POSITIONS**

Using job safety analysis is one method to identify the risk associated with each job position and how that job may be affected by a risk of impairment. When determining whether a position is safety sensitive, one should consider the context of the industry, the particular worksite, and the employee's direct involvement in a high-risk operation or in high-risk decision making.

The four basic steps to completing a job safety assessment are:

- Select the job to be analyzed.
- Break the job down into a sequence of steps.
- Identify potential hazards.
- Determine preventive measures to overcome these hazards.

### **BONA FIDE OCCUPATIONAL REQUIREMENTS (BFOR)**

A zero-tolerance policy may be relevant in a worksite where the employer can demonstrate that sobriety is a BFOR. A BFOR is a requirement that is essential to the safe and proper performance of the job.

As a BFOR is an exception to the general prohibition against discrimination, whether a policy meets the standard of a BFOR will be given very close consideration by the courts, human rights tribunals, and labour arbitrators. A BFOR will only be valid where the employer is able to demonstrate that the requirement meets three conditions:

- It was adopted for a purpose rationally connected to the performance of the job.
- It was adopted in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose.
- It is reasonably necessary to the accomplishment of the legitimate work-related purpose, in the sense that the employer cannot accommodate the affected employee without incurring undue hardship.

A BFOR must clearly relate to the needs and performance of the job. A requirement to be able to lift a certain amount of weight may discriminate against people who have a physical disability, but may qualify as a BFOR in the context of a care home where staff are required to assist people with mobility issues. Similarly, minimum eyesight and hearing requirements can discriminate on the basis of physical disability but may qualify as a BFOR in the context of a position as a vehicle driver.

In establishing a job requirement as a BFOR, an employer should be able to demonstrate, with credible evidence, that they have considered the specific requirements of the job, and have explored alternatives to fulfill these requirements that did not result in a discriminatory effect.

## 8.2 SUBSTANCE USE AND IMPAIRMENT POLICIES

Employers should update their substance use policies to address any changes to the legal status of cannabis possession and consumption. Any substance use policy must focus on impairment, and what it means to be fit for duty.

Policies should be developed based on the hazard and risk assessment for impairment at the worksite.

The program should start with a hazard assessment to help identify the scope of the issue, any concerns that should be addressed, and determine what resources, policies, or procedures are already in place. Once the assessment has been completed, the policy can be drafted and implemented. The policy should include the following sections at minimum:

- Scope
- Objectives
- Roles and responsibilities
- Employee conduct standards
- Management conduct standards and procedures for addressing impairment
- Prevention
- Confidentiality and privacy
- Policy violations and consequences
- Policy and program evaluation

When the policy and program is complete, the employer needs to educate and train employees and supervisors.

### EMPLOYEE CONDUCT STANDARDS

A worksite standard requiring employees to show up fit for work is acceptable. Similar to alcohol or smoking, employers may be able to prohibit the consumption of cannabis for non-medical purposes while in the performance of one's employment duties or on a worksite.

Employers can amend policies prohibiting alcohol consumption in the worksite and during work hours to include the use of non-medical cannabis. Anti-smoking laws will likely apply to cannabis as they do to tobacco, in that smoking in enclosed worksites is likely to be prohibited.

A substance use policy should identify the circumstances in which an employee should report the use of substances that may cause impairment. It should also specify any requirements to provide appropriate medical information.

## **SUPERVISOR AND MANAGEMENT – ADDRESSING IMPAIRMENT**

The policy should include guidelines for how supervisors and managers are to evaluate whether an employee is impaired at the worksite. Employers may wish to establish a documenting or reporting procedure, such as a checklist, to help determine whether indicators of impaired behaviour are present in the worksite.

Policies will need to incorporate flexibility and focus on impairment and safety, not the use of cannabis or other substances.

If an employer has reasonable grounds to believe that an employee is impaired in the worksite, they may request additional information from that employee. The level of information employers can request, including medical documents where appropriate, will depend on the circumstances and must be assessed on a case-by-case basis.

Employers are also required to accommodate employees with disabilities. Substance use policies should provide managers and supervisors with guidelines for situations where an employee may be misusing substances in connection with substance dependence.

The policy should outline any consequences of a policy violation, including disciplinary action, or assessment and rehabilitation measures. For unionized worksites, consultation with the union regarding any proposed changes to the current substance use policies is recommended.

## 9 RESOURCES

The WSCC thanks the Canadian Centre for Occupational Health and Safety (CCOHS) and the Federation of Canadian Municipalities (FCM) for permitting the adaptation of their respective documents: [Workplace Strategies: Risk of Impairment from Cannabis](#) (CCOHS 2018) and the [Municipal Guide to Cannabis Legalization: A roadmap for Canadian local governments](#) (FCM 2018).

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## APPENDIX A – SIGNS AND SYMPTOMS OF PROBLEMATIC SUBSTANCE USE

The following table is from *A Toolkit to Address Problematic Substance Use that Impacts the Worksite* as published by the Atlantic Canada Council on Addiction (ACCA) (no date). ACCA notes the following about using signs and symptoms:

- They may be different from person to person.
- When used alone or in combination, they do not necessarily mean that a person has a substance use problem. However, they may be indicators that your employee is in trouble or in need of some help (regardless of whether the issue stems from problematic substance use or another cause).

	Indicator
<p><b>Physical</b></p>	<ul style="list-style-type: none"> <li>• deterioration in appearance and/or personal hygiene</li> <li>• unexplained bruises</li> <li>• sweating</li> <li>• complaints of headaches</li> <li>• tremors</li> <li>• diarrhea and vomiting</li> <li>• abdominal/muscle cramps</li> <li>• restlessness</li> <li>• frequent use of breath mints/gum or mouthwash</li> <li>• odour of alcohol on breath</li> <li>• slurred speech</li> <li>• unsteady gait</li> </ul>
<p><b>Psychosocial Impacts</b></p>	<ul style="list-style-type: none"> <li>• family disharmony (e.g. how the colleagues speak of family members)</li> <li>• mood fluctuations (e.g. swinging from extremely fatigued to ‘perkiness’ in a short period of time)</li> <li>• inappropriate verbal or emotional responses</li> <li>• irritability</li> <li>• confusing or memory lapses</li> <li>• inappropriate responses/behaviours</li> <li>• isolation from colleagues</li> <li>• lack of focus/concentration and forgetfulness</li> <li>• lying and/or providing implausible excuses for behaviour</li> </ul>



<p><b>Worksite performance and professional image</b></p>	<ul style="list-style-type: none"><li>• calling in sick frequently (may work overtime)</li><li>• moving to a position where there is less visibility or supervision</li><li>• arriving late for work and leaving early</li><li>• extended breaks; sometimes without telling colleagues they are leaving</li><li>• forgetfulness</li><li>• errors in judgement</li><li>• deterioration in performance</li><li>• excessive number of incidents/mistakes</li><li>• non-compliance with policies</li><li>• doing enough work to just 'get by'</li><li>• sloppy, illegible, or incorrect work (e.g. writing, reports, etc.)</li><li>• changes in work quality</li></ul>
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## APPENDIX B – SAMPLE WORKSITE IMPAIRMENT POLICY

**Relevant Legislation:** *Mine Health and Safety Act, Mine Health and Safety Regulations, Safety Act, and Occupational Health and Safety Regulations*

### SCOPE

(Insert Company Name) is responsible for creating a safe work environment for all workers, management, visitors, contractors, and members of the public. This includes addressing any issue that may impair a worker’s ability to safely complete their work functions.

### OBJECTIVES

Definition: Impairment includes, but is not limited to, the effects of alcohol, illicit drugs, recreational drugs, prescribed medications, non-prescription medications, fatigue, stress, illness, and/or any issue which may impair a worker’s judgment or performance.

Roles and Responsibilities: Managers and supervisors must be able to identify and promptly address all concerns about an individual’s ability to perform their job safely. Owners, managers, supervisors, and workers will be trained on hazard identification specific to impairment at the worksite, as well as how to mitigate and control the risks of impairment.

(Insert Company Name) will specifically identify hazards through the following methodology: \_\_\_\_\_

\_\_\_\_\_

Employee Conduct Standards and Procedures: All individuals working at (Insert Company Name), including contractors, must report fit for work and be able to perform their duties safely without limitations due to impairment.

- Workers will receive training on how to identify and report impairment at the worksite.
- (Insert Company Name) will provide an anonymous reporting system for workers to notify a supervisor of the potential impairment of an individual at the worksite.

Management Conduct Standards and Procedures: Any workers suspected to be impaired will be sent home immediately in transportation provided by (Insert Company Name). The manager or supervisor must document and report the incident to the CEO, Human Resources Department, and the Joint Occupational Health and Safety Committee (representative).

- Owners, managers, and supervisors will receive training on how to identify, document, and report impairment at the worksite. They will also receive training on employee protection, and corrective actions respecting employees who breach this policy.
- (Insert Company Name) will provide access to this policy and additional resources to all workers. The implementation plan is as follows: \_\_\_\_\_

\_\_\_\_\_

- (Insert Company Name) will accommodate (when applicable) and will determine if a worker is fit to perform job-specific procedures which align with the bona fide occupational requirements of the position.

Confidentiality: All workers reporting impairment will be kept anonymous through the reporting system. The names and identifiable information of those who report impairment to supervisors in person will be kept confidential.

Prevention: (Insert Company Name) and its workers commit to the following measures to prevent workplace impairment:

- (Insert Company Name) and its workers do not permit the presence or influence of illicit drugs, recreational drugs, or alcohol on the worksite at any time.
- (Insert Company Name) commits to providing education to workers on substance dependence, stress, life/work balance, mental health, and their requirements under this policy. Examples of education provided are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (Insert Company Name) will, alongside the Joint Occupational Health and Safety Committee, review work hours, scheduling, and evening process every 3 years in an effort to minimize the requirement for shift work and night/evening work.
- Additional preventative measures include: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Violation: Any individual who does not adhere to the impairment policy is subject to discipline, which may include immediate dismissal, and/or their actions being reported to the RCMP.

Evaluation: This policy will be reviewed once every year by (Insert Company Name) with the Joint Occupational Health and Safety Committee (Representative). Details of the evaluation mechanism: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Authorized by (print name):		Effective on:
Signed	To be reviewed by:	To be reviewed on:

## APPENDIX C – SAMPLE INCIDENT REPORT

Employee Name:			
Date of Incident:			
Description of Incident:			
<b>Behaviour</b>	<input type="checkbox"/> Nervous?	<input type="checkbox"/> Insulting?	<input type="checkbox"/> Sleepy?
	<input type="checkbox"/> Exaggerated politeness?	<input type="checkbox"/> Confused?	<input type="checkbox"/> Combative?
	<input type="checkbox"/> Excited?	<input type="checkbox"/> Quarrelsome?	<input type="checkbox"/> Fatigued?
	<input type="checkbox"/> Uncooperative?	<input type="checkbox"/> Poor memory?	<input type="checkbox"/> Overly talkative?
	Other (please describe):		
<b>Unusual Actions</b>	<input type="checkbox"/> Sweating?	<input type="checkbox"/> Slow reactions?	<input type="checkbox"/> Crying?
	<input type="checkbox"/> Quick moving?	<input type="checkbox"/> Tremors?	<input type="checkbox"/> Fighting?
	Other (please describe):		
<b>Speech</b>	<input type="checkbox"/> Slurred?	<input type="checkbox"/> Slow?	<input type="checkbox"/> Confused?
	<input type="checkbox"/> Thick?	<input type="checkbox"/> Rambling?	<input type="checkbox"/> Pressured?
	Other (please describe):		
<b>Balance</b>	<input type="checkbox"/> Falling?	<input type="checkbox"/> Staggering or unsteady	<input type="checkbox"/> Unsure?
	<input type="checkbox"/> Needs support?	<input type="checkbox"/> Stumbling?	<input type="checkbox"/> Normal?
	Other (please describe):		
Witness / Other Employees Involved:			
Supervisor Actions:			
Consequence:			
Planned Follow-up:			
Signature:			
Date:			

Adapted from ACCA (no date)

## APPENDIX D – SAMPLE ACCOMMODATION POLICY AND PROCEDURE

*This appendix was provided by the Canadian Human Rights Commission. For more information about the duty to accommodate, please visit the Commission’s website at [www.chrc-ccdp.gc.ca](http://www.chrc-ccdp.gc.ca)*

### Template [Name of Organization] Accommodation Policy and Procedures

#### Policy Statement

[Name of Organization] is committed to fostering an inclusive workplace where all employees are treated with respect and dignity.

[Name of Organization] will act in a manner consistent with its obligations under the *Canadian Human Rights Act* [insert “and the *Employment Equity Act*, and (title of provincial or territorial human rights legislation)” if applicable].

[Name of Organization] will provide a workplace that ensures equal opportunity free from discrimination based on race, colour, national or ethnic origin, religion, age, sex (includes pregnancy or child-birth), sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability (includes mental or physical disability, disfigurement, and dependence on alcohol or a drug), or conviction for an offence for which a pardon has been granted or a record suspended.

[Name of Organization] will provide workplace accommodation, to the point of undue hardship. The purpose of accommodation is to ensure that individuals who are otherwise able to work are not discriminated against by being excluded from doing so when working conditions can be adjusted without causing undue hardship to the employer.

#### Application

This policy applies to all current employees and applicants for employment of [Name of Organization], including full- and part-time, casual, contract, permanent, and temporary employees. This policy also applies to employees on approved leave including short- and long-term disability leave.

This policy applies to all aspects of employment including, but not limited to recruitment, selection, training, promotion, transfers, work arrangements, compensation and benefits, and termination of employment.

#### Definitions

An **inclusive workplace** means that all employees have the opportunity to contribute and participate in the workplace in a barrier-free environment. Critical to the notion of an inclusive workplace is a robust accommodation policy.

**Accommodation** means taking steps to adjust rules, policies, practices, or situations that have a negative impact on an individual or groups, protected under the *Canadian Human Rights Act*.

**Undue hardship** occurs when accommodation adjustments to the workplace would be prohibitively expensive, or create undue risks to health or safety. Each situation will be viewed as unique and assessed individually. A claim of undue hardship must be supported with facts and a detailed analysis of options; impressionistic or speculative reasons will not suffice.

The following are examples where accommodation could cause undue hardship:

- An employer cannot accommodate without seriously impacting business operations.
- An employee will not be able to return to work in the foreseeable future or is absent so often that it is no longer possible to accommodate them without causing the employer serious financial hardship.
- The employee's position is safety sensitive and, as a result, accommodation may pose a safety risk to the employee, their colleagues, clients and/or the public.

### **Responsibilities and Expectations**

Accommodation is a shared responsibility between employees, supervisors, and **[Name of Organization]**, as the employer.

#### **[Name of Organization] is responsible for:**

- eliminating barriers that prevent people from accessing, or being included in, the workplace;
- minimizing the need for individual accommodation by regularly reviewing rules, policies, bylaws, and practices to ensure that they are not discriminatory;
- ensuring that all employees and job applicants are advised of their right to be accommodated;
- dealing with requests for accommodation in a timely, confidential, and sensitive manner;
- providing individual accommodation to the point of undue hardship; and
- ensuring that this policy is effectively implemented.

#### **Supervisors are responsible for:**

- fostering an inclusive work environment by treating all employees and job applicants with respect and dignity;
- identifying and eliminating barriers that prevent people from accessing, or being included, in the workplace;
- dealing with requests for accommodation in a timely, confidential, and sensitive manner;
- informing individuals requiring accommodation what information they need to provide to be accommodated;

- generating accommodation options based on the information provided about the individual's accommodation need(s);
- involving individuals requiring accommodation in the search for accommodation; and
- initiating a discussion about accommodation when they are aware that an employee or job applicant may have a need for accommodation, but is unable, for any reason, to communicate that need.

**Employees and job applicants are responsible for:**

- making their accommodation needs known. This does not require the disclosure of the specific cause of their needs but only the effects which create the need for accommodation;
- helping to identify potential accommodation options;
- providing documentation in support of their request for accommodation, including information about any restrictions or limitations; and
- accepting an offer of accommodation that meets their needs, even if it is not their preferred accommodation option.

**Employees and job applicants can expect:**

- to be treated with respect and dignity;
- to have their needs accommodated up to the point of undue hardship; and
- to be informed of the reasons, if their accommodation request is denied.

**Procedures for Accommodation**

**Job Applicants**

When contacted for an interview, job applicants will be advised that **[Name of Organization]** has an accommodation policy and asked whether they require accommodation to participate in the hiring process.

**[Name and/or Position A]** will evaluate the job applicant's request for accommodation and may request more information from the applicant to facilitate the accommodation. If a request for accommodation is denied, the reasons why will be clearly communicated to the job applicant.

**Employees**

An employee may request accommodation by notifying their supervisor. Alternatively, accommodation needs may be identified through supervisor and employee collaboration in response to concerns raised by the supervisor.

The supervisor will document the request, including: the employee's name and position; the date of the request; any details provided by the employee; and any accommodation options suggested by the employer or employee.

The supervisor may request supporting documentation from the employee in order to identify accommodation needs and options (e.g. details of restrictions or limitations).

The supervisor will consider accommodation options including, but not limited to: workstation adjustments; reassignment of job tasks; changes to scheduling or hours of work; leaves of absence; and temporary or permanent reassignment.

The supervisor will discuss available accommodation options with the employee. The accommodation preferences of the employee will be taken into account. However, the supervisor may proceed with an option that is less costly or easier to provide, when it meets the employee's accommodation needs. The supervisor will clearly communicate the reasons for their decision to the employee.

The supervisor will review the accommodation measures with the employee on a regular basis to confirm they continue to be necessary and effective.

If the available accommodation options raise the likelihood of causing undue hardship, the supervisor will refer the matter to **[Name and/or Position B]** for decision.

**[Name and/or Position B]** will ensure that all accommodation options short of undue hardship have been considered prior to refusing accommodation. If a request for accommodation is denied, **[Name and/or Position B]** will clearly communicate the reasons why to the employee.

### **Appeals**

If an employee or applicant has been denied accommodation, is not satisfied with the accommodation offered, or believes that their request has not been handled in accordance with this policy, they may request a second opinion from **[Name and/or Position C]**.

An employee or applicant may also file a discrimination complaint with the Canadian Human Rights Commission **[insert "and (title of other grievance mechanism)" if applicable]**.

### **Privacy and Confidentiality**

All records associated with accommodation requests will be maintained in a secure location, separate from employees' personnel files and will only be shared with persons who need the information.

**[Name of Organization]** and all individuals involved in the accommodation process will comply with the requirements of the **[insert "(title of applicable privacy legislation)"]** to protect personal information.



**Review**

**[Name and/or Position A]** will review this policy and related procedures on an annual basis, or as required, and will make adjustments as necessary to ensure that it continues to meet the needs of all employees.

**Enquiries**

Enquiries about this policy and related procedures can be made to **[Name and/or Position B]**.

**Date: [month, day, year]**

# CANNABIS

Workers' Safety and Compensation Commission  
Northwest Territories and Nunavut

WSCC Emergency Reporting  
24-hour Incident Reporting Line

**1 800 661-0792**

**WSCC**



If you would like this Code of Practice in another language, please contact us.