



# What's New in HR Law

## New WSIB Policy Allows Entitlement for Medical Cannabis

March 15, 2019

### **BOTTOM LINE**

Effective March 1, 2019, the Workplace Safety and Insurance Board (WSIB) has instituted a new policy governing benefit entitlement for medical cannabis.

### **The Policy**

[Operational Policy Manual Document No. 17-01-10, "Cannabis for Medical Purposes"](#) (the Policy), applies to purchases of medical cannabis or vaporizers for work-related injuries/illnesses made on or after March 1, 2019. The Policy was published on March 1, 2019 and will be reviewed in two years.

### **Scope of Benefits**

Provided certain criteria are met, the WSIB may grant entitlement to medical cannabis. In such cases, the WSIB will generally cover the reasonable costs of medical cannabis if it is obtained from a hospital or a licensed vendor with whom the worker is registered as a client.

The WSIB will also cover the reasonable cost of a vaporizer if the worker is medically authorized to vaporize cannabis.

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To qualify for WSIB coverage, the worker must obtain the WSIB's approval before purchasing medical cannabis or a vaporizer.

## Entitlement Criteria

The WSIB may grant entitlement to medical cannabis for a compensable injury only if the following criteria are satisfied:

1. **The worker must have a “designated condition”**, defined by the Policy as neuropathic pain, spasticity resulting from a spinal cord injury, nausea and vomiting associated with cancer chemotherapy, loss of appetite associated with HIV/AIDS, or pain and other symptoms experienced in a palliative setting. Further, the WSIB will consider entitlement to medical cannabis only if the worker's designated condition is clinically associated with either a work-related injury/illness or its treatment.
2. **The health professional managing the ongoing care of the worker's designated condition must authorize medical cannabis to treat the designated condition.** The same health professional is responsible for reassessing the worker's response to medical cannabis. If another health professional authorizes and monitors the worker's medical cannabis use, the worker's primary treating health professional must support the use of medical cannabis for the designated condition.
3. **Except in palliative care cases, the worker must exhaust conventional treatments for the designated condition** before the WSIB will consider entitlement to medical cannabis. A worker is considered to have exhausted conventional treatments when they have undergone adequate trials of appropriate conventional treatments for their designated condition and such treatments are ineffective or not tolerated. The worker's use of and response to the conventional treatments must be clearly documented in their medical records.
4. **An appropriate clinical assessment of the worker must be conducted** before the WSIB will consider any entitlement to medical cannabis. The results of the clinical assessment must be clearly documented in the worker's medical records to establish the necessity, appropriateness, and sufficiency of the medical cannabis treatment.
5. **The benefits of the worker's medical cannabis use must outweigh its risks.** Increased health risks of using medical cannabis include situations where: medical cannabis is contraindicated; precautions are present; there is a potential for adverse drug reactions; or the treatment may impede recovery. The Policy deems medical cannabis to be contraindicated for certain individuals, including those who are under the age of 25 or who have a current or past cannabis use or substance use disorder.
6. **The worker's authorized dose and route of administration must be appropriate.** A dose of medical cannabis will generally be appropriate if it is the lowest safe and effective dose in terms of daily quantity and THC percentage. Also, the dose and route of administration:
  - Must not involve smoking;
  - Must not exceed three grams of dried medical cannabis per day;
  - Must be CBD-rich but contain minimal THC;

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- Must have a THC concentration of 9% or less; and
- Should not exceed more than 30 mg of THC per day and in no case shall exceed 75 mg of THC per day.

7. **The worker must have a valid medical document or written order for medical cannabis** that complies with the Policy’s criteria and specifies the maximum THC percentage of medical cannabis authorized for the worker and the route of administration.

## Ongoing Review of Entitlement

The limitations on entitlement reflect the inconsistent evidence of cannabis’s therapeutic efficacy. The WSIB has indicated that, while the research into medical cannabis is increasing, the current body of scientific evidence does not support medical cannabis as an effective treatment for most medical conditions. However, the WSIB is satisfied that there is a relatively strong support, across peer-reviewed and other credible scientific sources, for the therapeutic value of medical cannabis to treat the designated conditions.

The WSIB applies a similarly cautious approach to claims where it has allowed entitlement to medical cannabis. For such claims, the WSIB will monitor a worker’s medical cannabis use and its effectiveness every three to six months. The WSIB may suspend or discontinue entitlement if it determines that medical cannabis is no longer necessary, appropriate, or sufficient to treat the worker’s condition.

The WSIB will also discontinue entitlement to medical cannabis if it receives evidence that a worker is misusing or selling medical cannabis.

## Check the Box

- Employers should review the Policy to understand the WSIB’s criteria for granting entitlement for medical cannabis.
- Employers should ensure that they comply with all WSIB reporting requirements for any employees using medical cannabis to treat a compensable injury/illness.

## Need more information?

Contact [Cassandra Ma](#) at 416.408.5508 or speak to your regular lawyer at the firm.



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