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## The Duty to Accommodate & Medical Marijuana

As we know, the government legalized the recreational use of marijuana in October of 2018, but this does not mean employees can be impaired at work. Much like the rules for the use of alcohol, employers have the right to set rules for non-medical use of marijuana in the workplace. But what about medical marijuana?

### *Medical Marijuana*

The duty to accommodate, as required by provincial and federal human rights legislation, extends to disabled employees who use medical marijuana. These employees should be accommodated in the same way as an employer accommodates any other disabled employee who has been prescribed medication. Accommodation is also required for employees who may have an addiction disability.

That being said, a prescription for medical marijuana does not entitle any employee to be impaired at work, compromise their safety, or the safety of others, smoke in the workplace, or have unexcused absences or late arrivals.

### *Duty to Accommodate*

Employers faced with an accommodation request may wish to consider providing similar accommodation measures it does for other disabled employees. These measures may include moving the employee out of a safety-sensitive position, providing more frequent breaks, implementing alternative scheduling, or altering the employee's duties, etc. As with other accommodated employees, an employer may wish to request medical information from the employee's doctor or seek the assistance of an independent medical examiner where there are questions about the employee's fitness for duty, and what will be appropriate accommodation.

In light of conflicting case law, employers may wish to seek legal guidance on whether – and how – to accommodate an employee who has been prescribed medical marijuana. Please do not hesitate to reach out to speak with an e2r™ Advisor with any questions.