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WSIB Introduces New Policy on Cannabis for Medical Purposes

March 2019

On March 1, 2019 the Workplace Safety and Insurance Board (“WSIB”) implemented its new Operational Policy on Cannabis for Medical Purposes (the “Policy”), setting strict guidelines for the use of medical cannabis as treatment for work-related illness or injury. The Policy is welcomed news to those in the employer community concerned that the legalization of cannabis might result in its unchecked use as medical treatment.

The Policy recognizes cannabis is “not necessary, appropriate, or sufficient health care treatment for most medical conditions...” but acknowledges there are certain circumstances where it may be appropriate treatment for a condition resulting from a work-related injury or disease.

Under the Policy, a worker is only entitled to payment for medical cannabis used as treatment of a work-related injury or disease in the following circumstances:

1. The worker has a designated condition.

There are a limited number of designated conditions prescribed by the Policy:

- Neuropathic pain
- Spasticity resulting from a spinal cord injury
- Nausea and vomiting associated with cancer chemotherapy
- Loss of appetite associated with HIV or AIDS
- Pain and other symptoms experienced in a palliative setting

To be eligible for coverage, the worker must have a designated condition and it must be clinically associated with a work-related injury or disease or its treatment.

2. The worker's treating health professional authorizes medical cannabis for the designated condition.

The authorization should come from the worker's treating physician managing the condition or work-related injury or disease, and conducting regular assessments of the worker's response to cannabis. If authorized by another health professional, the primary treating health professional must support the use of medical cannabis for the condition.

3. The worker has exhausted conventional treatments for the designated condition.

Conventional treatment must have been used and been ineffective or not tolerated before medical cannabis may be authorized. The use and response to conventional treatment must be documented in the worker's medical records. This will not apply to use in a palliative care setting.

4. An appropriate clinical assessment of the worker has been conducted.

An initial clinical assessment must be undertaken, with measurable findings. Subsequent reassessment must also be conducted to support ongoing use.

5. The benefits of medical cannabis for the worker outweigh the risks.

A worker is not entitled to medical cannabis where the risks outweigh the benefits, including where cannabis is contraindicated with a worker's existing medical condition or history, there are precautions present, there is a potential for adverse drug interaction or the treatment may impede overall recovery.

The Policy specifically defines certain circumstances where medical cannabis is contraindicated, including where the worker is under the age of 25 or has a personal or strong family history of psychosis, and where the worker has a current or prior substance use disorder (including, but not limited to, cannabis use disorder).

6. The dose and route of administration authorized for the worker are appropriate.

The appropriate dose will generally be the lowest safe and effective dose (both in terms of grams and THC percentage). In addition, the medical cannabis authorized must:

- Not be smoked
- Not exceed three grams per day
- Be CBD-rich with minimal THC
- Not have more than 9% THC
- Not exceed 75 mg per day (no more than 30 mg, but in no case more than 75 mg)

7. The worker has a valid medical document or a written order for medical cannabis.

In addition to meeting the requirements of existing cannabis legislation, any medical cannabis authorization must also comply with the dose and administration requirements noted above, specifying the maximum THC percentage and a route of administration other than smoking.

A worker who meets the entitlement criteria is eligible for payment only for the reasonable costs associated with medical cannabis where it is obtained from a hospital or a license holder with whom the worker is registered as a client. A worker is not eligible for reimbursement for cannabis obtained through a recreational cannabis retailer or for cannabis produced at home. Additionally, a worker must obtain WSIB approval **before** making the purchase of medical cannabis if the worker wishes to seek reimbursement.

To learn more and for assistance with all matters related to workplace safety and insurance, contact the experts at Sherrard Kuzz LLP.

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