



Legalization of Cannabis – Implications for Workplace Safety

STATEMENT FROM THE AMERICAN COLLEGE OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE

The American College of Occupational and Environmental Medicine (ACOEM) is the largest international medical society representing occupational and environmental medicine (OEM) physicians and associated health care professionals. The College provides leadership to promote optimal health and safety of workers, workplaces, and environments.

Cannabis has the capacity to impair neurocognitive and psychomotor function, and its legalization has huge public health implications. Before Congress passes any legislation regarding cannabis, the College urges that the impact of such legislation on workplace safety be considered. To date, the house of medicine has not addressed the impact of cannabis on workplace safety.

Employers have a legal responsibility to protect employees from workplace illness or injury under the Occupational Safety and Health Administration's general duty clause. Employers also have an ethical responsibility to prevent impaired workers from exposing themselves, their co-workers, and/or the general public to risk of harm. Regardless of cannabis' legal status in a jurisdiction, ACOEM strongly supports the need for employers to prohibit all workers, especially those employed in safety-sensitive positions, from working impaired, whether under the influence of cannabis or any other potentially impairing substance. One issue is that there is no agreement as to the definition of working impaired.

To date, 38 states and the District of Columbia have legalized the medical and/or adult use of cannabis. With most Americans living and working in states that allow some form of legal cannabis use, it is critical that safety be at the forefront of any policy discussions regarding the use of cannabinoids. The current patchwork of laws and regulations to address the use of cannabis products is inconsistent and can be confusing and challenging to employees and employers in addressing workplace safety. Unlike Federal Drug Administration approved medications which have identified active component(s), a known side effect profile, a scientifically identified half-life and specific dose and dosing interval, these characteristics are not identified nor consistent between cannabis products.

ACOEM unambiguously states that cannabis products have the capacity to negatively affect judgment, motor coordination, reaction times, and driving ability. The problem is that to date there is no consistent definition of a dose or blood concentration of cannabis at which impairment begins or ends. Taking that into account, urine testing is not a measure of impairment, it is only an indicator of past use. Although there are ways to measure impairment, well-validated tools are not readily available or easy to implement in the workplace and at present are more useful in research settings.

ACOEM is advocating for increased research and collaboration between all stakeholders in defining and/or measuring the impairment risks of cannabis products use as it relates to the workplace. This would include the development and implementation of scientifically based methods for monitoring and testing for impairment from any of the myriad of substances that can cause it (cannabis, alcohol, illicit drugs, opioids, or other medication whether prescript or over-the-counter).

Until the research is able to identify well-validated methods to evaluate and predict impairment caused by cannabis products, employers should establish workplace policies that address the following principles:

- The consequences of being at work while impaired.
- Specifically states whether use of cannabis products or any other potentially impairing substance

should or should not be permitted while an employee is on duty. In making this decision the employer should consider whether the associated impairment will pose a risk to the employee, coworkers, or the public. This includes assurance of safe transport to and from work.

- Workers who are suspected of being impaired as a result of use of cannabis products or any other substance or condition should be subject to further evaluation including, depending on the circumstances, prompt removal from the workplace.
- Employers should be permitted to prohibit employees in safety-sensitive jobs from using potentially impairing cannabis for a minimum specified period (at least 8-12 hours) prior to reporting for work as well as while at work, to ensure that they are not impaired upon arrival or during the workday.

ACOEM recommends the following areas be considered as part of the process in developing new cannabis legislation:

- Assess the impact of cannabis on workplace safety through research.
- Characterize, in detail, the range of challenges for employers posed by the differences between state and federal laws regarding cannabis product use. Identify options for reconciling these differences.
- Allow employers to manage the risk of adverse events in the workplace while knowledge of impairment lags behind the rapidly expanding use of cannabis and other cannabinoids.
- Evaluate means of ensuring safety while recognizing that the effects of cannabis products can vary greatly. Factors, including drug potency, the route of administration (inhalation, oral, sublingual, or topical), and individual physiology and tolerance to cannabis greatly affect the magnitude, onset, and duration of impairment.
- Identify a reliable, practical evidence-based behavioral observation or a combination of tools for employers to assess fitness for duty by detecting impairment and/or by defining a per se level.
- Until the science of impairment by cannabis is better defined, a reasonable approach is to set a period of time between the use of cannabis and performing safety-sensitive work.
- Evaluate the difference in impairment characteristics between the occasional and regular user. What is the risk that regular cannabis use results in chronic low-level impairment in the absence of acute consumption? To what extent do chronic cannabis users exhibit tolerance to impairment? Do they return to a “normal baseline”?

As previously stated, except where specified by law, the employer has the primary responsibility to ensure the safety of its employees and the general public. Employers are the ones best suited to determine if a job is safety sensitive and, should define “safety sensitive” in their workplaces. ACOEM proposes positions be classified as safety sensitive if they involve the use of firearms, emergency response, and/or judgment and decision-making that have an immediate impact on the life and health of others. Or, if impairment while performing job duties would:

- Increase safety and health risks to self, fellow employees, contract personnel, or the public;
- Adversely affect the environment through contamination of air, water, soil, flora, or fauna;
- Jeopardize the community through property damage or by endangering members of the public.

As the leading OEM medical association, ACOEM is ready to assist policy makers at all levels of government in addressing the implications of cannabis legislation on workplace and environmental safety.

The original document was approved by ACOEM on September 27, 2019. The revision was prepared by the ACOEM Task Force on Cannabis and approved on August 17, 2023. Members of the Task Force are Drs. Natalie Hartenbaum, Paul Farnan, Stephen Frangos, Laura Gillis, Todd Hamel, Michael Holland, Michael Kosnett, Michael Levine, Douglas Martin, Kathryn J. Russo, Daniel Samo, and James Talmage. ACOEM requires all substantive contributors to its documents to disclose any potential competing interests, which are carefully considered. ACOEM emphasizes that the judgments expressed herein represent the best available evidence at the time of publication and shall be considered the position of ACOEM and not the individual opinions of contributing authors.