



CANADIAN FEDERATION
OF NURSES UNIONS
LA FÉDÉRATION CANADIENNE
DES SYNDICATS D'INFIRMIÈRES
ET INFIRMIERS

RECREATIONAL CANNABIS AND OCCUPATIONAL HEALTH & SAFETY

BACKGROUND AND OVERVIEW

The regulation of recreational cannabis will be through a division of responsibility between federal and provincial/territorial/municipal government levels. The federal regulations in effect as of October 17, 2018, to accompany the *Cannabis Act*¹, which legalizes recreational cannabis, address the following: licenses, permits and authorizations; security clearances; cannabis tracking system; cannabis products; packaging and labelling; cannabis for medical purposes; health products and cosmetics.² The provincial/municipal rules around legalized recreational cannabis may provide further clarity around the issues identified in the federal regulations. For nurses, the regulation of recreational cannabis may be further delineated by their provincial nursing regulatory bodies, drawing on nurses' code of ethics and professional practice obligations. As nurses, providing high-quality, safe patient care remains our primary objective.

The Workplace

The case law continues to evolve with respect to cannabis use in the workplace. Undoubtedly, further issues will arise between employers and employees, including regarding discipline, accommodation, health and safety, and various other workplace policies, which will require the response of nurses' unions. The Supreme Court of Canada has stated that employers are required to balance their interest in employee drug testing to ensure a safe work environment with employees' privacy interests. The general attitude of the courts has been that random drug testing of an employee is not permitted, and this is the position of all nurses' unions.

Accommodation of Employees³

Employers have an obligation to accommodate individuals who have disability/medical needs (including those who are authorized to use medical cannabis). Furthermore, if a person acknowledges a diagnosed substance use disorder and seeks treatment, accommodation applies to addictions. Employees have a positive duty to request an accommodation. If an employer is not made aware of the employee's condition, the right to an accommodation may be forfeited. As with all disabilities, the right of an employee to privacy must be balanced against the importance of ensuring safety within a work environment, particularly when public safety is at risk. Employees are encouraged to contact their unions before they encounter any employment issues related to usage.

The Science

As with the law, the scientific research surrounding cannabis is continuing to evolve and remains uncertain. Cannabis includes dozens of cannabinoids, some of which are psychoactive, some of which are not; some of

which may be medically effective, some of which may not. Only a few have been studied to any significant degree: e.g., THC (Tetrahydrocannabinol); CBD (Cannabidiol). There is no clear relationship between THC blood levels and impairment, and, because cannabis can be taken in various forms and doses, the level of impairment can fall across a broad spectrum.⁴ The public health impacts of second-hand exposure to cannabis smoke have also not been extensively studied, but research suggests that exposure could have the potential for harmful effects.⁵

CFNU POSITION

The Canadian Federation of Nurses Unions (CFNU), which represents Canada's frontline nurses, supports a public health approach to cannabis. We recognize that:

- The legalization of recreational cannabis in Canada has the potential to lead to further increases in cannabis usage (both medicinal and recreational);
- Nurses work in an environment where safeguarding patient safety is a priority, and nurses must follow nursing regulatory policies, as well as their code of ethics;
- Employers have a responsibility to accommodate employees with disabilities, including substance use disorders, under human rights law;
- Employers have a responsibility to ensure the safety of nurses through appropriate policies, protocols, personal protective equipment (PPE) and training, and if these elements are not in place, nurses may have a right to refuse dangerous work as laid out in occupational health and safety legislation and collective agreement language (provincial nurses' unions should be consulted for any questions about work refusals);
- Nurses play an essential role in public health education.

In light of these factors, we recommend the following:

- There should be no random drug testing;
- Employers should develop/revise, as necessary, policies on the accommodation of prescribed psychoactive drugs and on recreational cannabis;
- When medical cannabis is used in hospitals and long-term care facilities, and medical and/or recreational cannabis is used in private residences attended by home care nurses, nurses must be provided with appropriate training and have access to recommended personal protective equipment (PPE). The risk of exposure to smoked cannabis must be included in safety policies, which need to provide for a non-consumption period prior to nurses entering a patient's residence or resident's room.
- Nurses must be provided with sufficient resources and training to acquire the necessary knowledge, skills and judgment to assist with the administration of medical cannabis, and to educate and respond to the public with respect to the health implications of recreational cannabis.
- If a nurse is faced with improper training, lack of PPE, unsafe conditions of work, or the right to accommodation is not respected, that nurse should contact the union.

¹ See: <http://laws-lois.justice.gc.ca/eng/acts/C-24.5/>

² See: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations.html>

³ See: <https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/diversity-equity/duty-accommodate-general-process-managers.html>

⁴ Canadians for Fair Access to Medical Marijuana. (2017, June 27). *Medical Cannabis and Impaired Driving: Preliminary Research Review*. Retrieved from cfamm.ca

⁵ See: <https://www.drugabuse.gov/publications/research-reports/marijuana/what-are-effects-secondhand-exposure-to-marijuana-smoke>



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MEDICAL CANNABIS AND OCCUPATIONAL HEALTH & SAFETY

BACKGROUND AND OVERVIEW

Medical cannabis has been legal in Canada since 2001. Since 2014, Canadians who require medical cannabis have been able to have a health care practitioner (physician or nurse practitioner) fill out the appropriate forms, instead of requiring a licence from Health Canada.

The production and sale of medical cannabis is regulated exclusively by the federal government. The only way to purchase medical cannabis is from a federally licensed producer online, by written order or over the phone and delivered by secure mail.¹ Individuals may also apply for a license from Health Canada to grow their own. The federal regulations², to accompany the *Cannabis Act*³, which legalizes recreational cannabis, are in effect on October 17, 2018. Although the *Access to Cannabis for Medical Purposes Regulations* are repealed, its provisions remain broadly in effect. If a health care practitioner has authorized the use of cannabis for medical reasons, access will not change now that recreational cannabis is legal.

Nurses and Medical Cannabis

As nurses, providing high-quality, safe patient care remains our primary objective. Therefore, the regulation of cannabis may be further limited by provincial regulatory nursing bodies, whose policies are in line with federal regulations, as well as a nurses' code of ethics and nurses' professional practice obligations.

Nurses may administer medical cannabis to clients in hospitals and personal care/long-term care homes, provided supporting organizational practices and policies are in place. Despite more than 10 years of medical cannabis use in Canada, policies regarding the accommodation of patients using medical cannabis remain inadequate. Facility policies must be in line with federal cannabis regulations and provincial nursing regulatory policies. Before administering medically authorized cannabis to a client, nurses must confirm organizational policies are in place and verify the appropriate documentation to ensure that the client has agreed to and is authorized to use cannabis. In addition, there are specific limits on the quantity of cannabis transferred at any one time.⁴

It is important for nurses to know their organizational policies and, if no policies exist, to advocate with their employer for the development of policies. Nurses are encouraged to work with their unions and their joint occupational health and safety committees, as well as other members of their health care team, to help employers develop policies in accordance with federal regulations, provincial nursing regulatory policies and collective agreement language around issues such as smoking, documentation, handling, storage and labelling. Such measures are needed to fulfill employers' occupational health and safety

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requirements, as well as to allow nurses to meet their professional practice standards with respect to patient safety.

All nurses, regardless of the setting, may assist with clients' self-administration of medical cannabis. While nurses are not authorized to *directly administer* medically authorized cannabis outside of a hospital or personal care home setting, nurses may offer assistance to a client to help the client self-administer the medically authorized cannabis (e.g., opening bottles, reading labels, providing food for client as they self-administer).⁵

Policies to address the use of cannabis (recreational or medical) in home care settings must also be developed, which recognize that for a home care worker, the home care setting is a workplace. In all settings where nurses work, existing policies that address tobacco use should be amended to include cannabis to: a) ensure the health and safety of nurses is protected and that they are not inadvertently exposed to second-hand smoke; and b) ensure that they are not in contravention of their professional standards because of exposure to second-hand smoke.

If nurses perceive that their health and safety is being put at risk, or they feel they are unable to meet their professional obligations, they should raise their concerns to their employer and, if unresolved, contact their unions for assistance to determine how to best resolve their health and safety concern and protect workers.

Accommodation of Employees⁶

Employers have an obligation to accommodate individuals who have disability/medical needs (including those who are authorized to use medical cannabis). If a person acknowledges a diagnosed substance use disorder and seeks treatment, accommodation applies to addictions. Employees have a positive duty to request an accommodation. If an employer is not made aware of the employee's condition, the right to an accommodation may be forfeited. As with all disabilities, the right of an employee to privacy must be balanced against the importance of ensuring safety within a work environment, particularly when public safety is at risk. Employees are encouraged to contact their unions before they encounter any employment issues related to usage.

Workplace Law

The case law continues to evolve with respect to cannabis use in the workplace and will continue to evolve with the legalization of cannabis. Undoubtedly, further issues will arise between employers and employees, including regarding discipline, accommodation, health and safety, and various other workplace policies, which will require the response of nurses' unions. The Supreme Court of Canada has stated that employers are required to balance their interest in drug testing of workers to ensure a safe work environment with employees' privacy interests. The general attitude of the courts has been that random drug testing of an employee is not permitted, and this is the position of all nurses' unions.

The Science

As with the law, the scientific research surrounding cannabis is continuing to evolve and remains uncertain. Cannabis includes dozens of cannabinoids, some of which are psychoactive, some of which are not; some of which may be medically effective, some of which may not. Only a few have been studied to any significant degree, such as THC (Tetrahydrocannabinol); CBD (Cannabidiol). There is no clear relationship between THC

blood levels and impairment and, because cannabis can be taken in various forms and doses, the level of impairment can fall across a broad spectrum.⁷ The public health impacts of second-hand exposure to cannabis smoke have also not been extensively studied, but research suggests that exposure could have the potential for harmful effects.⁸

CFNU POSITION

The Canadian Federation of Nurses Unions (CFNU), which represents Canada's frontline nurses, supports a public health approach to cannabis. We recognize that:

- The legalization of recreational cannabis in Canada has the potential to lead to further increases in cannabis usage (both medical and recreational);
- Nurses work in an environment where safeguarding patient safety is a priority, and that nurses must follow nursing regulatory policies as well as their code of ethics;
- There is requirement to accommodate patients who use medical cannabis, as well as nurses who use medical cannabis;
- Employers have a responsibility to ensure the safety of nurses through appropriate policies, protocols, personal protective equipment and training, and that if these elements are not in place, nurses may have a right to refuse dangerous work, as laid out in occupational health and safety legislation and collective agreement language (provincial nurses' unions should be consulted for any questions about work refusals);
- Nurses play an essential role in public health education.

In light of these factors, we recommend the following:

- There should be no random drug testing;
- To accommodate an employee who uses medical cannabis, an employer should mirror the practices it has developed to accommodate any employee who has been prescribed drugs that have the potential to impact or impair their work;
- Employers should develop/revise necessary policies on the accommodation of prescribed psychoactive drugs and on recreational cannabis;
- When medical cannabis is used in hospitals and long-term care facilities, and medical and/or recreational cannabis is used in private residences attended by home care nurses, nurses should be provided with appropriate training and have access to recommended personal protective equipment (PPE). The risk of exposure to smoked cannabis must be included in safety policies, which need to provide for a non-consumption period prior to nurses entering a patient's residence or resident's room;
- Nurses must be provided with sufficient resources and training to acquire the necessary knowledge, skills and judgment to assist with the administration of medical cannabis, and to educate and respond to the public with respect to the health implications of recreational cannabis;
- If a nurse is faced with improper training, lack of PPE, unsafe conditions of work, or nurse's right to accommodation is not respected, that nurse should contact the union.

¹ See: <https://www.ontario.ca/page/cannabis-legalization>

² See: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations.html>

³ See: <http://laws-lois.justice.gc.ca/eng/acts/C-24.5/>

⁴ See: <http://www.clpnm.ca/wp-content/uploads/Statement-on-Medical-Cannabis.pdf> & <https://crnns.ca/wp-content/uploads/2017/07/Medical-Cannabis-2017.pdf>

⁵ Ibid.

⁶ See: <https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/diversity-equity/duty-accommodate-general-process-managers.html>

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⁷ Canadians for Fair Access to Medical Marijuana. (2017, June 27). *Medical Cannabis and Impaired Driving: Preliminary Research Review*. Retrieved from cfamm.ca

⁸ See: <https://www.drugabuse.gov/publications/research-reports/marijuana/what-are-effects-secondhand-exposure-to-marijuana-smoke>