

Table of Contents

<i>Acknowledgments</i>	iii
<i>Preface</i>	v
<i>Table of Cases</i>	xiii
CHAPTER 1 LEGISLATIVE FRAMEWORK	1
1. INTRODUCTION	1
2. NON-MEDICAL CANNABIS IN CANADA	2
(a) Alberta.....	3
(i) Distribution	4
(ii) Possession	4
(iii) Consumption	5
(b) Ontario	5
(i) Distribution	5
(ii) Possession	6
(iii) Consumption	6
(c) British Columbia.....	6
(i) Distribution	6
(ii) Possession	7
(iii) Consumption	7
3. ROADSIDE TESTING FOR CANNABIS IN DRIVERS.....	8
4. MEDICAL CANNABIS IN CANADA.....	9
(a) Licensed Producers.....	9
(b) Client Registration and Ordering.....	10
CHAPTER 2 UNION AND NON UNION EMPLOYEES	13
1. INTRODUCTION	13
2. CANNABIS AND THE UNIONIZED EMPLOYEE.....	14
(a) The Collective Agreement and Grievance Process.....	16
(b) Cannabis Industry Employers.....	17
(c) The MedReleaf Saga	18

(d) Possession and Consumption of Cannabis in the Unionized Workplace.....	21
(e) Evidentiary Onus in Employee Discipline	22
(f) Discipline for use and Possession	23
(g) “Mitigating Factors”	25
(h) Drug Testing in the Unionized Workplace	28
(i) Drug and Alcohol Policies.....	31
(j) Impairment	34
(k) Safety-Sensitive Workplaces	38
(l) Off-Duty Conduct.....	39
3. CANNABIS AND THE NON-UNIONIZED EMPLOYEE	42
(a) Zero-Tolerance Policies	42
(b) Obligation to Disclosed Addiction.....	44
(c) Possession or Purchase of Cannabis	44
(d) Off-Duty Conduct.....	47
4. FUTURE OUTLOOK.....	47
CHAPTER 3 HUMAN RIGHTS	49
1. INTRODUCTION	49
2. CANNABIS CONSUMPTION FOR MEDICAL REASONS	50
3. OVERVIEW OF THE DUTY TO ACCOMMODATE	52
4. HOW THE DUTY TO ACCOMMODATE IS TRIGGERED	53
5. THE PROCEDURAL COMPONENT OF THE DUTY TO ACCOMMODATE.....	54
6. THE SUBSTANTIVE COMPONENT OF THE DUTY TO ACCOMMODATE.....	58
7. UNDERSTANDING UNDUE HARDSHIP.....	58
8. CONCLUSION	61
CHAPTER 4 EMPLOYEE PRIVACY	63
1. INTRODUCTION	63
2. A PRIMER ON PRIVACY SECTOR PRIVACY IN CANADA	64
3. KEY CANADIAN PRIVACY PRINCIPLES	66
4. A FEW WORDS ABOUT CONSENT	68
5. WHEN IS CONSENT NOT REQUIRED?	71
6. A COMPLIANCE CHECKLIST.....	72
7. PRIVACY AND EMPLOYEES	72
8. CANNABIS AND WORKPLACE PRIVACY	73
9. SAMPLE PRIVACY POLICIES	74

CHAPTER 5 OCCUPATIONAL HEALTH AND SAFETY	83
1. INTRODUCTION	83
2. LEGISLATIVE FRAMEWORK	84
(a) British Columbia	84
(b) Alberta	86
(c) Saskatchewan	87
(d) Manitoba	87
(e) Ontario	87
3. WORKER IMPAIRMENT AS A HAZARD	88
4. DUE DILIGENCE	89
5. CONCLUSION	91
CHAPTER 6 DRUG AND ALCOHOL TESTING	93
1. INTRODUCTION	93
2. LAW OF DRUG AND ALCOHOL TESTING PRIOR TO <i>ENTROP</i>	94
3. ONTARIO COURT OF APPEAL DECISION IN <i>ENTROP</i>	95
4. CANADIAN HUMAN RIGHTS COMMISSION MODEL POLICY	97
5. SUPREME COURT DECISION IN <i>IRVING</i>	98
6. ONGOING BATTLE IN <i>SUNCOR ENERGY INC. V. UNIFOR</i> <i>LOCAL 707A</i>	104
7. DRUG AND ALCOHOL TESTING INJUNCTIONS	107
8. ALTERNATIVES TO DRUG AND ALCOHOL TESTING: THE SUPREME COURT DECISION IN <i>ELK VALLEY</i> <i>COAL</i>	110
9. CONCLUSION	113
CHAPTER 7 THE SCIENCE OF IMPAIRMENT TESTING'	115
1. INTRODUCTION	115
2. PRESENT IMPAIRMENT TESTING	115
3. THC AND METABOLITES	117
4. METHODS OF CANNABIS IMPAIRMENT TESTING	119
5. URINALYSIS	120
6. ORAL FLUID	122
7. BLOOD	124
8. PHYSICAL INDICIA OF IMPAIRMENT	129

CHAPTER 8 EMPLOYER SPONSORED HEALTH BENEFIT PLANS	133
1. INTRODUCTION	133
2. CORPORATIONS & UNIONS.....	134
3. CASE LAW	135
4. PRIVATE (THIRD PARTY) INSURANCE PLANS.....	137
5. CANADA REVENUE AGENCY (CRA).....	138
CHAPTER 9 CANNABIS AND WORKPLACE POLICIES	139
1. INTRODUCTION	139
2. POLICY REVIEW & SAMPLES	140
(a) Smoking in the Workplace Policy.....	141
(b) Substance Use Policy	142
(c) Attendance, Lateness and Absenteeism.....	144
(d) Home Work and Flexible Work Arrangements	146
(e) Alcohol in the Workplace and Host Liability	147
(f) Environmental Sensitivity.....	150
3. CONCLUSION	152
<i>Index</i>	155