



Circumference Technology Services



Clearing the Smoke - Implications of Bill C45 For Business Owners

Legal, Business Cultural and Performance Concerns Over Cannabis Use at Your Business

EXECUTIVE SUMMARY:

Clearing the Smoke About Bill C-45

A Circumference Executive Sessions meet-up

Freedom Cafe

Event Space

842 Victoria Street North, Kitchener N2B 3C1

November 22, 2018

FEATURED SPEAKERS:

Frank Newman,

Newman Human Resources

Evan Campbell,

Miller Thomson

Stephen McInnes,

Circumference Technology Services



Abstract

The recreational consumption of cannabis is now legal in Canada, creating new challenges for companies and their employees. Circumference convened a group of legal, Human Resources and technology experts to discuss how companies can use software to protect their employees and encourage safe working environments.

Right to Use vs. Safe Workplace

Canadian companies have been searching for best practices since the federal government decided to legalize cannabis. Recognizing this need, Circumference Technology Services convened legal, human resources and technology experts at Freedom Café in Kitchener-Waterloo on 22 November 2018 to discuss how employer rights and duties are evolving, as well as how companies can utilize software to protect their employees and interests.

Current legislation and emerging case law, lawyer Evan Campbell explained to the gathering, balances human rights to consume and the need for safety in the workplace. While recreational use of marijuana in the workplace is prohibited along with other substances like alcohol, employees can now consume cannabis products during off-hours provided it does not impact their fitness to work. Companies, moreover, have a duty to accommodate employees who utilize cannabis products for medicinal purposes or who develop a substance addiction so long as those accommodations do not produce “undue hardship” for the employer or jeopardize worker safety.

Developing and implementing impairment policies, Campbell and HR specialist Frank Newman agreed, are integral to protecting employees and companies alike. Companies can reduce their exposure and create safer working environments by establishing a duty to disclose, setting out clear and actionable ways to measure the risk and determining plausible accommodations. Creating these policies, training management to consistently communicate and implement them by educating employees about their duties, documenting interactions, and measuring their job performance, allows companies to limit their exposure to discrimination allegations by ensuring that their employees consistently receive due process.



Harnessing Technology to Reduce Exposure

Humans, however, are imperfect. Busy schedules, imprecise delivery, and honest mistakes can limit management's consistent handling of employee cannabis use. A manager, for example, might accidentally single out an employee by mistaking physical indications of intoxication for a disease that does not impact job performance. Visible indicators are not, in short, reliable as a sole means of assessing an employee's fitness for work.

Data-driven software, explained Stephen McInnes of Circumference, offers greater discernment and promises improved transparency and consistency in the application of policies in challenging situations. First, web portals offer convenient ways to disseminate policies, FAQs and other documentation to employees. If these team members already use these portals to request time off or other needs, notifications could be delivered at the same time. Sophisticated portals can even measure engagement by logging who accessed these records as well as how much time they spent reviewing them. This data can be used, if necessary, to prove that employees were aware of the company's cannabis policies.

Second, companies in diverse industries are increasingly tracking employee productivity using metrics such as time reporting, units produced, quality / rework, and customer experience. In addition to using this information to identify bottlenecks and other challenges, the collection of this data over time can be used to develop productivity benchmarks for each employee. This data can be used by managers to encourage personal goal setting among teams and employees, and to reward top performers. Conversely, when a team member's performance drops, management will want to investigate and, if impairment is established, they can use the performance data to support a legal case for undue hardship to the company.



Finally, software can be used to streamline responses to potentially impaired employees. By implementing workflow engines to help manage responses according to predetermined policies and actions, companies and their managers will avoid inadvertently exposing themselves to discrimination allegations. Recording their responses into these sorts of workflows, moreover, produces a complete and compelling record if it is ever required by legal teams. The same system, moreover, can be used to identify any inconsistencies, and this data can be used to drive additional training to ensure that managers and coworkers are properly equipped with the best-practices to sensitively and confidently foster safe working environments.



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