

Medical Cannabis

Explanatory note for Operational Policy Manual (OPM)
#17-01-10, *Cannabis for Medical Purposes*

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Introduction

A person whose claim for a work-related injury/illness has been allowed under the *Workplace Safety and Insurance Act, 1997* (WSIA) is entitled to health care that is necessary, appropriate, and sufficient based on the nature of their injury/illness. The WSIB has the responsibility under the WSIA to ensure the health care provided to a person for a work-related injury/illness meets these criteria.

In keeping with this responsibility, the WSIB developed the policy on medical cannabis. The entitlement criteria in the policy have been designed to reflect the most current scientific and clinical evidence on medical cannabis treatment and to minimize the potential harms associated with cannabis use. The policy aims to meet the WSIB's commitment to provide evidence-based access to drug treatments, while protecting the health and safety of workers.

A brief background on medical cannabis

Canadians have been able to access medical cannabis for nearly two decades. On October 17, 2018, the federal *Cannabis Act* came into force, and Canadians were granted legal access to recreational cannabis.

Despite the legalization of recreational cannabis, the federal medical cannabis scheme remains largely unchanged. Currently, to obtain access to cannabis for medical purposes, an individual must comply with the requirements set out in the *Cannabis Regulations*, which fall under the *Cannabis Act*. The WSIB's policy on medical cannabis reflects these requirements.

Unlike conventional drugs that are available in Canada, Health Canada has not approved medical cannabis. Generally, before a drug can be sold in Canada, it must have Health Canada approval. To receive approval, a new drug needs to go through a rigorous regulatory approval process. The safety and clinical effectiveness of the drug must be demonstrated through a substantial body of scientific evidence including evidence from clinical trials.

Medical cannabis presents a unique set of challenges for clinical decision-making because it has not been subject to the drug approval process and gaps remain in the scientific understanding of its therapeutic value. While there is agreement that medical cannabis offers therapeutic benefit in certain circumstances, particularly, where conventional treatments have failed, the scientific research into the therapeutic role of medical cannabis has been limited. As a result, there is little information to guide clinical decision-making. Indeed, relative to conventional treatments, clinical information on qualifying conditions, dosing, and risks and benefits, is still lacking.

The factors that motivated the development of a policy on medical cannabis

A number of factors played a role in the decision to develop a policy on medical cannabis. For instance, the challenges of determining entitlement to medical cannabis in a timely, consistent, and transparent manner without a policy was a significant factor that drove the development of the policy. Another factor was the anticipated impact of the legalization of recreational cannabis

on requests for, and questions about, medical cannabis treatment. In addition, in reviewing the issue of medical cannabis, there is an observable trend towards insurance coverage in the public and private sectors, which factored into the decision to develop a policy on medical cannabis.

The challenges of decision-making

From an adjudicative standpoint, determining entitlement to medical cannabis on a case-by-case basis, without policy guidance, has proven to be difficult. As noted, in contrast to conventional drug treatments, medical cannabis presents unique challenges. Medical cannabis is widely promoted as an effective treatment for a variety of medical conditions. However, the scientific evidence and existing clinical information support a more limited role for medical cannabis treatment. The risks associated with medical cannabis, including impairment and cannabis use disorder, further complicate decision-making.

In light of these challenges, and recognizing that medical cannabis is a legitimate therapeutic option for certain individuals, the WSIB determined there would be a benefit to having a policy on medical cannabis. The policy provides clear direction concerning the work-related medical conditions where cannabis use has demonstrable therapeutic potential, and may be necessary, appropriate, and sufficient.

Ultimately, the WSIB expects the policy will have the following benefits:

- support timely and consistent decisions on entitlement to medical cannabis;
- provide clarity and transparency about the circumstances in which entitlement to medical cannabis will be considered for a work-related injury/illness; and
- allow entitlement to medical cannabis where it is safe and proven to have therapeutic benefit.

Alignment with the trend towards coverage of medical cannabis

There is a growing trend towards medical cannabis insurance coverage in the public and private sectors. In April 2018, WorkSafe New Brunswick became the first workers' compensation board in Canada to implement a stand-alone policy governing entitlement to medical cannabis treatment. New Brunswick's policy informed the development of the WSIB's policy on medical cannabis.

As well, many major health insurance providers in Canada either offer, or are planning to offer, medical cannabis coverage. At this time, the general approach of these companies is to provide insurance coverage for a limited number of medical conditions.

The policy's four pillars

To develop the policy's entitlement criteria, the WSIB conducted considerable research on medical cannabis. This research looked at the scientific evidence, the clinical guidance, the workers' compensation scheme, and the federal access to medical cannabis scheme. Taken

together, these four pillars are the foundation that informed development of the policy. (A list of select sources the WSIB reviewed is set out in Appendix “A”.)

1. Scientific evidence

While the scientific research into medical cannabis is increasing, the current body of scientific evidence does not support that medical cannabis is an effective treatment for most medical conditions. However, the WSIB was satisfied there was relatively strong agreement across peer-reviewed and other credible scientific sources that medical cannabis has some therapeutic value for five work-related conditions.

The WSIB recognizes that the scientific evidence around medical cannabis will continue to evolve after the policy takes effect and ensuring that the policy reflects the current state of the evidence is an ongoing project. For this reason, going forward, the WSIB plans to engage an independent third party to conduct a regular review of the scientific and clinical evidence so that the work-related medical conditions listed in the policy remain reflective of the evidence for the therapeutic use of medical cannabis.

2. Clinical guidance

The existing clinical information about medical cannabis informed the policy’s entitlement criteria. In particular, in developing the policy, the WSIB consulted WSIB clinical staff with practice backgrounds in medicine, pharmacy, and nursing. The WSIB also considered the guidelines/standards that Health Canada and health care professional organizations and regulators have published (e.g., College of Physicians and Surgeons of Ontario, the College of Family Physicians of Canada, and the College of Physicians and Surgeons of British Columbia). Therefore, even though the entitlement criteria are detailed, they reflect the reasonable steps that these professional organizations and regulators are recommending health care professionals adhere to when authorizing medical cannabis treatment for patients.

3. Workers’ compensation system

The policy on medical cannabis is consistent with the WSIB’s enabling statute. The WSIB also considered the current operational policy scheme, including the health care and decision-making policies in the OPM (e.g., OPM #11-01-12, *Legislative Authority*), and how the policy would fit within the scheme.

The policy is mainly predicated on the WSIA’s health care provisions. Section 32 of the WSIA sets out an exhaustive definition of “health care”, which includes “drugs”. The WSIB determined that the term “drugs” in section 32 of the WSIA, and the term “prescription drugs” in OPM #17-02-01, *Entitlement to Health Care*, are broad enough to encompass medical cannabis treatment. Under section 33 of the WSIA, the WSIB pays for health care that is necessary, appropriate, and sufficient as a result of a work-related injury/illness. The policy sets out the circumstances in which medical cannabis treatment may be necessary, appropriate, and sufficient for a work-related injury/illness, and reflects the WSIB’s legislative authority to determine all questions concerning these criteria as they relate to the health care provided to a person.

4. Federal access to medical cannabis scheme

The WSIB considered the *Cannabis Regulations* under the *Cannabis Act*, and the policy on medical cannabis aligns with the federal regulatory requirements governing access to medical cannabis.

Market research on the companies licensed to sell medical cannabis in Canada was also conducted. The data collected on product availability and pricing partly informed the dosing and payment provisions in the policy. For instance, the policy establishes nine per cent as the maximum THC-percentage that is allowable, which is not only consistent with the scientific research on medical cannabis, but also permits access to a greater number of cannabis products. Likewise, to enable access to more products, the WSIB does not set a maximum price per gram in the policy but, rather, will pay for the reasonable cost of medical cannabis obtained from a licensed seller.

Entitlement to medical cannabis under the policy

The policy on medical cannabis establishes a comprehensive decision-making framework regarding entitlement to, review of, and payment for medical cannabis treatment. Some of the policy's key entitlement criteria are reviewed below. (To read the policy in its entirety, see OPM #17-01-10, *Cannabis for Medical Purposes*.)

The scope of coverage

To have entitlement to medical cannabis, a person must have one of the five conditions set out in the policy. The person's condition must also be work-related – that is, it must be clinically associated with a work-related injury/illness or the treatment of a work-related injury/illness.

The five work-related conditions set out in the policy are

- neuropathic pain
- spasticity resulting from a spinal cord injury
- chemotherapy-induced nausea and vomiting
- loss of appetite associated with HIV or AIDS, and
- pain and other symptoms in palliative care.

Exhausting conventional treatments

Before the WSIB will consider entitlement to medical cannabis, the person must exhaust appropriate conventional treatments for the work-related condition. The safety and efficacy of conventional treatments have been objectively established through the federal drug approval process. Medical cannabis has not been subject to that process and does not have the same level of scientific support or understanding for its use. For these reasons, conventional drugs must be tried first, and medical cannabis will generally only be necessary, appropriate, and sufficient where conventional treatments have failed.

Clinical assessments

Before the WSIB will consider initial entitlement to medical cannabis, the treating health care professional must complete a clinical assessment of the person. Similarly, whenever the WSIB

considers ongoing entitlement to medical cannabis, the health care professional must complete a reassessment of the person. These assessments provide the evidence needed to determine whether medical cannabis is, or continues to be, necessary, appropriate, and sufficient treatment. Requiring an initial robust clinical assessment (and regular reassessments) is similar to the WSIB's approach to other narcotics, such as opioids, and is good clinical practice.

The benefits must outweigh the risks

Medical cannabis will not be necessary or appropriate treatment for a person where the risk of harm outweighs the potential therapeutic benefit. As with other drugs, medical cannabis may not be appropriate treatment where, in light of individual circumstances, the benefit/risk balance is unfavourable. For example, if a person has a personal or strong family history of psychosis, medical cannabis will generally not be appropriate (i.e., medical cannabis is contraindicated). Likewise, if the use of medical cannabis may impede the person's recovery from the work-related injury or illness, it will likely not be appropriate treatment.

Monitoring and review

If entitlement to medical cannabis is allowed, the WSIB will closely monitor and regularly review entitlement to ensure medical cannabis treatment remains necessary, appropriate, and sufficient for the work-related condition.

Regular reviews will be conducted no later than three months after initial entitlement to medical cannabis is allowed, as well as no later than three months after a change to the person's dosage. Outside of these situations, regular reviews will be conducted no later than six months after the last entitlement review.

Payment

If entitlement to medical cannabis is allowed, the WSIB will pay for the reasonable costs of medical cannabis and, where the approved route of administration is vapourizing, a vapourizer.

In all cases, a person must obtain their cannabis from a company licensed to sell medical cannabis, which ensures the safety, quality, weight/volume, and THC/CBD content of the cannabis being purchased. The cannabis product selected for purchase and the total cost of the product must be preapproved by the WSIB. The WSIB may, at a future date, further streamline the process and procure a list of companies licensed to sell medical cannabis to meet the needs of injured/ill persons.

Policy application and review

The policy on medical cannabis applies to all purchases of medical cannabis and vapourizers for medical cannabis made on or after March 1, 2019, for all accident dates.

In addition to the regular external review of the scientific and clinical evidence on medical cannabis, the WSIB will conduct a review of the policy within two years of the March 1, 2019 application date. The two-year policy review period is shorter than the usual five-year review period. It is adjusted to reflect the fluid legislative, scientific, and clinical cannabis landscape and will enable the WSIB to adapt the policy to any significant short-term changes in that landscape.

Appendix “A” – List of select sources

Legislative sources

Cannabis Act, S.C. 2018, c. 16
Cannabis Regulations, S.O.R./2018-144
Workplace Safety and Insurance Act, 1997, S.O. 1997, c 16, Sch A

Policy and internal sources

WorkSafe New Brunswick, Policy #25-015, *Medical Aid – Cannabis (Marijuana) for Medical Purposes*
Operational Policy Manual (e.g., OPM #17-01-02, *Entitlement to Health Care*; OPM #17-01-03, *Choice and Change of Health Professional*)
WSIB clinical staff

Market information

Market data – medical cannabis
Canada, Office of the Parliamentary Budget Officer, *Legalized Cannabis, Fiscal Considerations* (Ottawa: 2016).

Scientific, clinical, and other sources

Canada, The Task Force on Cannabis Legalization and Regulation, *A Framework for the Legalization and Regulation of Cannabis in Canada: The Final Report of the Task Force on Cannabis Legalization and Regulation* (Ottawa: Health Canada, 2016).

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College of Family Physicians of Canada, *Authorizing Dried Cannabis for Chronic Pain or Anxiety: Preliminary Guidance from the College of Family Physicians of Canada* (Mississauga: 2014).

College of Nurses of Ontario, *Practice Standard: Nurse Practitioner* (2018).

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Health Canada, *Information for Health Care Professionals: Cannabis (marihuana, marijuana) and the cannabinoids* (Ottawa:2018).

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Kevin P. Hill, “Medical Marijuana for Treatment of Chronic Pain and Other Medical and Psychiatric Problems: A Clinical Review” (2015) 313:24 JAMA 2474.

Martin Mücke et al., “Cannabis-based medicines for chronic neuropathic pain in adults (Review)” [2018] Cochrane Database of Systematic Reviews.

Martin Mücke et al., “Systematic review and meta-analysis of cannabinoids in palliative medicine” (2018) 9 Journal of Cachexia, Sarcopenia and Muscle 220.

Medical Board of California, *Guidelines of the Recommendation of Cannabis for Medical Purposes* (Department of Consumer Affairs: 2017).

Morneau Shepell, “Medical marijuana: A smoking hot topic for health and benefit plans” *News and Views* 14:10 (October 2017) 1.

Morneau Shepell, “Court rules that medical marijuana coverage not required; two insurers add medical marijuana coverage option” *News & Views* 15:5 (May 2018) 5.

National Academies of Sciences, Engineering, and Medicine, *The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research* (doi:10.17226/24625) (Washington, DC: The National Academies Press. 2017).

Nola M Ries, “Prescribe with Caution: The Response of Canada’s Medical Regulatory Authorities to the Therapeutic Use of Cannabis” (2016) 9:2 McGill JL & Health 215.

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