

**Model**

**Policy concerning drugs, alcohol, prescription
drugs and other similar substances**

**FOREWORD**

The *Cannabis Regulation Act* establishes the legal measures that support the health and the security of the public. The Act specifies that an employer may, under its management rights, regulate the use of cannabis, and even prohibit it completely.

Clarifications were also made to the *Act respecting occupational health and safety* to specify the responsibilities of employers and workers concerning the performance of work when the worker’s state represents a risk to his health, his safety or his physical well-being, or of that of the other persons on the workplace or in its vicinity, in particular because of his impairment due to alcohol, drugs, including cannabis, or a similar substance. In short, the worker must not perform his work in such a state and the employer must ensure that he does not do so[[1]](#footnote-2).

In order to help the municipalities, the towns, the regional county municipalities (hereafter collectively referred to as « municipalities ») develop a policy concerning drugs, alcohol, prescription drugs and other similar substances or to review it, the Fédération québécoise des municipalités (FQM) suggests a policy model.

It is important to use judgment in the application of this policy: each intervention must be adapted to the context. It is all the more important to act with prudence as this policy may affect rights guaranteed by both Charters of Rights. In case of doubt, do not hesitate to contact our Human resources and labour relations professionals.

**Particularly, we caution the municipalities in regard to two aspects of this policy.**

First, a screening test or a medical evaluation is an invasion of the employee’s privacy. The test or evaluation must be conducted in such a way as to limit the invasion of dignity, reputation and privacy.

It should be noted that the screening tests for cannabis detection do not allow, for the time being, to establish with certainty if the tested person is impaired or represents a real risk to himself or his environment.

Accordingly, such a test constitutes an invasion of privacy that may be unjustified since it does not permit to conclude if the employee is under the influence of cannabis when tested.

Before proceeding with a screening test or a medical evaluation, it is wise to contact a lawyer unless the urgency of the situation does not allow for it.

Secondly, a search also constitutes an invasion of the employee’s privacy. The search must be proportional with its objective, the motives justifying the search must be serious (real) and the search must be conducted in such a way as to impair the right to privacy as little as possible.

Before proceeding with a search, we strongly recommend that you contact a lawyer.

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*It should be noted that this policy model is provided for information purposes only. It may be adapted, modified, and customized to meet the particular needs of each organization. It is understood that the Fédération cannot be held responsible for any damages or inconveniences that may result from the adoption or the application of this policy.*

**Policy concerning drugs, alcohol, prescription drugs and other similar substances**

**WHEREAS** the employer has the duty to protect the health, safety and physical well-being of its employees and ensure the security of all in their workplace;

**WHEREAS** every employee has the obligation to take the necessary measures to protect his health, safety and physical well-being and to ensure that the health, safety and physical well-being of others in the workplace is not jeopardized;

**WHEREAS** the employer undertakes to take reasonable measures to provide and maintain a workplace free from drugs, alcohol and any other similar substances;

**WHEREAS** the consumption of drugs, alcohol, prescription drugs and other similar substances can affect the performance, judgment or capacities of an employee and have grave consequences on his colleagues, the citizens of the municipality, and the general public, including the honour and reputation of the municipality;

**WHEREAS** the *Cannabis Regulation Act* provides that an employer, under its management rights, may regulate the use of cannabis, including prohibiting it;

**WHEREAS** the employer wishes to actively support any employee experiencing problems with the consumption of drugs, alcohol, prescription drugs and other similar substances;

**CONSEQUENTLY**, [INSERT THE NAME OF THE MUNICIPALITY HERE] adopts this policy concerning the consumption of drugs, alcohol, prescription drugs and other similar substances.

1. **Policy objectives**
* Prevent the risks associated with the consumption of drugs, alcohol, prescription drugs and other similar substances;
* Ensure the security of the employees, the citizens and the general public;
* Identify the roles and responsibilities of the various stakeholders;
* Protect the honour of [INSERT THE NAME OF THE MUNICIPALITY.
1. **Scope of application**
2. This policy shall be applicable to all employees, including managers and the director general. It must be complied with in every place, premises or land owned by the employer, or leased or used by it and its affiliate bodies and in any place, premises or land where operations are conducted on behalf of the employer (hereafter : « workplace »);
3. The policy also applies to the use of every vehicle, rolling stock or other machinery and equipment belonging to the employer, or leased or used by it and its affiliate bodies;
4. The policy applies to the consumption of drugs, alcohol, prescription drugs and other similar substances that may affect the performance, judgment or the mental or physical capacities of an employee (hereafter : « impairment »).
5. **Roles, responsibilities and applicable rules**

**3.1 Employer**

1. The employer shall apply zero tolerance regarding the consumption, use, possession, sale or distribution of drugs, alcohol and other similar substances in the workplace;
2. The employer shall apply zero tolerance regarding the sale or the distribution of prescription drugs in the workplace;
3. The employer undertakes to inform the employees of this policy;
4. The employer undertakes to educate the employees about the problems related to the use of drugs, alcohol, prescription drugs and other similar substances in the workplace in order to prevent such use;
5. The employer undertakes to train the direct supervisors to recognize the symptoms, the signs or the types of behaviour indicative of impairment (hereafter : « reasonable grounds to believe»). These reasonable grounds to believe that an employee is impaired may consist of the following elements, but are not limited thereto :

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| * Difficulty walking;
 | * Anxiety, paranoia or fear;
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| * Smell of alcohol or drugs;
 | * Trembling;
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| * Slurred speech;
 | * Slow reaction time;
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| * Glassy or blood shot eyes;
 | * Unusual or abnormal behaviour of the employee.
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1. The employer reserves the right to request a medical evaluation, to search the workplace and to request a screening test, within the limits set out in this policy;
2. The employer who has reasonable grounds to believe that an employee is in breach of the measures of this policy reserves the right to refuse said employee access to the workplace without notice;
3. The employer undertakes to provide a secure ride home to an employee that it believes to be impaired;
4. The employer reserves the right to permit the purchase and reasonable consumption of alcohol in the workplace, for example in the case of a celebration, or a specific social or recreational activity.
	1. **Employee**
	2. Every employee must be able to carry out his assigned duties at all times, safely and adequately, with sound judgment;
	3. No employee is authorized to be in the workplace if he is impaired due to the consumption of drugs, alcohol, prescription drugs and other similar substances;
	4. Every employee must use his prescription drugs responsibly. Consequently, he has the responsibility to seek advice from a health professional in order to determine if the prescription drugs he is using can have an influence on his work performance, and to comply with the recommendations received, if any;
	5. Every employee must participate in the identification and the elimination of the risks of work accidents, including reporting a colleague who seems to be impaired due to the consumption of drugs, alcohol, prescription drugs and other similar substances;
	6. Every employee dealing with a problem related to the use of drugs, alcohol, prescription drugs and other similar substances must disclose it to the employer if this prevents him from carrying out his assigned duties, safely and adequately, with sound judgement.
5. **Accommodation measures**
6. When the employee’s health condition so requires, the employer may accommodate him by permitting the consumption of drugs, alcohol, prescription drugs and other similar substances if the employee provides a medical opinion attesting that the use of such substances does not compromise his health, his safety or his physical well-being as well as that of others in the workplace in light of the specific duties related to his employment;
7. In addition, an employee who wishes to use cannabis and its derivatives for therapeutical purposes in the workplace may do so by handing over a certificate that conforms with the *Cannabis Regulation*;
8. In the case of the disclosure of an employee dealing with a disorder related to the use of drugs, alcohol, prescription drugs and other similar substances, the employer agrees to support the employee in his efforts and direct him towards an appropriate resource;
9. The accommodation measures granted by the employer do not as such confer a right to work under the influence of drugs, alcohol, prescription drugs and other similar substances.
10. **Screening test or medical evaluation**
11. A screening test or medical evaluation is a control mechanism of the use of drugs, alcohol, prescription drugs and other similar substances in order to confirm if the employee has used them in contravention of this policy;
12. The employer may request that an employee undergo a screening test or medical evaluation, as the case may be, in particular in the following cases :
	* + - 1. If it has reasonable grounds to believe that the employee consumes, is under the influence of or is impaired by drugs, alcohol, prescription drugs and other similar substances in the workplace;
				2. Upon the return to work following an absence related to treatment for alcoholism or addiction and in order to ensure that the employee continues his rehabilitation and is able to resume his employment without jeopardizing his safety and that of others;
				3. As soon as possible after the occurrence of an incident or an accident where the employer has reasonable grounds to believe that the consumption of drugs, alcohol, prescription drugs and other similar substances may have contributed or caused this incident or accident;
13. In all cases, the refusal by an employee to undergo a screening test or a medical evaluation can result in disciplinary or administrative measures that may lead to termination.
14. **Search**

When the employer has reasonable grounds to believe that an employee consumes drugs, alcohol, prescription drugs and other similar substances in the workplace or that he sales or distributes drugs, alcohol and other similar substances in the workplace, the employer has the right to search the office, workspace, locker or any other similar place assigned to the employee.

1. **Disciplinary and administrative measures**

The employee who does not abide by the provisions of this policy may face disciplinary and administrative measures that may lead to termination.

1. **Confidentiality**

The employer shall respect the privacy of the personal information concerning its employees acquired through the implementation of this policy. Therefore, it acknowledges that this information shall remain confidential, unless it prevents the employer from adequately fulfilling its obligations.

**The employee acknowledges having read and understood the terms and conditions of the policy and accepts them.**

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Signature of the employee Date

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Signature of the employer Date

1. Summary of the amendments made by the Gouvernement du Québec affecting the workplace. [↑](#footnote-ref-2)