WEED – WAS WILLIE NELSON ALWAYS RIGHT????

Robert R Blakely QC
Themes

- Lack of good research
- Laws in Conflict
- Accommodations (or the lack of them)
- “Impairment”
- The Dearth of ‘Rules’
- The Chancellor’s Foot
Does NOT, repeat NOT create a right to use

There is no Charter Right to Use

There is no Human Rights violation (unless it is around addiction)
Since October 17th

- **Culture Shift**
  - Not just yet there
  - For a 100 years
- With legalization
  - Random driver testing
  - More severe penalties for toking, drinking & driving
  - More acceptance of ‘random’
- The impact on plans and communities

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**Cartoon Image**

- **Canada legalizes marijuana...**
- **Before**
  - **OH, CANADA!**
- **After**
  - **OH, CANNABIS!**
- ©ONEGRANLUND.COM
Much of What We Know

- Research with good *old* dope (still a US problem, so we get....)
- Comes from Testers or Producers
- What are the limits based upon??
- Doctors & Regulators don’t agree with...
  - Prescription versus....
  - Use or Useful??
The Research

- Not so great and contradictory
  - Will get better because it’s legal
  - At 3% THC
- Canadian Medical Association vs. some independently minded Docs
- Occupational Physicians say…..
- Potency varies, how taken, in what form, accumulation, young people
- How do you regulate dosage??
- No technology fix yet

SHOW ME HOW IT MAKES ME SAFER??
Be the rule setter
(Irving Pulp)

SUNCOR & UNIFOR

Reduce/Eliminate Uncertainty

Awareness & Education

But, what we seem to do is create our norms by litigation
Standards will Morph as Research and Tolerance (of the System) Mature

- Beyond a deemed ‘impairment’
- Cocktails of drugs
- Testing beyond where we are now
- How to accommodate effectively
- But until then…..
The Employer’s Conundrum

- Duty to keep workers safe by Law
- Some Owners say „no stoners here”
- Some Unions will fight to the last breath
- There are no ‘Rules’
- Former Chief Justice Beverly McLaughlin says…
Do we have to train them?? (they have liability too)

Is their liability that of the Employer??

Their role in accommodations

The first line of detection?
The next big litigation(s)
Ron’s excellent material points to some conclusions
- Time & Place
- Concentrations
- Unique to “ME”
  - Old over .08 cases
Is impairment the standard??
There is no real reliable test for present impairment
It’s Medicine, so

- Sad commentary we accommodate opioids but weed........
- Employers have a right to say....... But....
  - Bundle of duties out of the trade
- Should it be the impact on the person and the risk that is run???
Get the Failures Back to Work

- Dispute Mechanism...NOT arbitration
  - Too long
  - Too expensive
  - Too much uncertainty
  - Settlements
  - Changing disputes
The Chancellor’s Foot

Dueling experts

Specific facts

Personal tolerance

A standard will eventually cohere, but the costs and time......

Risk for the subjects of the inquiry

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Tis all one as if they should make the Standard for the measure, we call a Foot, a Chancellor’s Foot; what an uncertain Measure would this be! one Chancellor has a long Foot, another a short Foot, a Third an indifferent foot. 'Tis the same thing in the Chancellor’s Conscience.

(John Selden)
So, is it bad to go forth based on judicial decisions??

- Maybe it is
- Those who seek ‘aid’
  - Privacy law
  - Human Rights
  - Freedom (the Charter)
- Challenges to the Testing System
- Uncertainty continues
- Question – does testing make it safer???
There is an Issue with Weed that is Unique

- Hangover effect (pun intended) (and remember the last time you were hungover at work?? Would you rather work with...??)
- Fat soluble so....
- The testing (almost all) is for metabolites, so it is a history test
- Reliable, approved active THC testing is not yet available
Merci,
Avez-vous des Questions?