



How Will Psychedelics Impact the Workplace as Therapeutic Treatment Gains Popularity? 4 Things Employers Should Know

Insights

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You may think of “magic mushrooms” as nothing but a novelty, but psychedelics like psilocybin are gaining popularity as a therapeutic mental health treatment – raising questions about their impact on the workplace. Are your employees partaking in such treatments? Are they microdosing at work? Can you cover off-duty treatments as a mental health benefit? Or even allow your employees to microdose to spark their creative side? On the flipside, can you ban the use of psychedelics altogether? These topics are more likely to reach your desk now that some researchers, Silicon Valley executives, and even celebrities like NFL star Aaron Rogers have publicly endorsed such therapies. Moreover, states and cities are starting to decriminalize or legalize the use of psychedelics in certain circumstances. But psilocybin and most other psychedelics are still illegal under federal law, which creates complex compliance issues as you navigate this new trend. Here’s what you need to know about psilocybin and other psychedelics, their legal status, and their potential impact on your workplace policies.

1. Support Is Growing

The results from a [2023 UC Berkeley study](#) illustrate why employers should start paying attention to this topic:

- 61% of registered voters who responded to the survey support legalizing regulated therapeutic access to psychedelics.
- 78% support making it easier for researchers to study psychedelic substances.
- 49% support removing criminal penalties for personal use and possession.

But what conditions are psychedelics used to treat? [According to Duke University](#), researchers are exploring their ability to alleviate opioid addiction, post-traumatic stress disorder, depression, obsessive-compulsive disorder, and more conditions.

In addition to psilocybin, psychedelic-assisted treatments may include the use of MDMA, LSD, DMT, ketamine, or ayahuasca.

“When people use psychedelics, several processes are believed to be at play in the brain,” said Dan Vahaba, PhD, Director of Communications at the Duke Institute for Brain Sciences. “The substances

can change how certain mood-related chemicals including serotonin receptors work, potentially reduce inflammation, and increase communication between specific emotional and sensory processing networks.”

While the research is still developing, changing attitudes and heightened interest in the therapeutic effects of psychedelics are putting these options on a trajectory towards mainstream acceptance.

Practical Tip: Keep up to date on the trends and research developments in this area that may affect the workplace, including general attitudes toward psychedelics as a therapeutic mental health treatment.

2. The Legal Landscape Is Still Shaky

Like many businesses, your organization has probably grappled with the impact of cannabis on the workplace for a while – and there are similar considerations for psychedelics. For one thing, psilocybin and other hallucinogens like peyote and LSD are still considered illegal Schedule I substances under federal law, meaning they are categorized as having no medicinal value and a high potential for abuse. While researchers and other proponents of psychedelics are challenging that classification – and the FDA has signaled approval for certain research – large-scale changes don’t happen overnight.

Meanwhile, most of the movement is happening at the state and local level – so you’ll want to pay particular attention to decriminalization and legalization efforts in the places you operate. For example, Oregon was the first state to legalize supervised adult psilocybin use for therapeutic purposes through a ballot initiative in 2020. Additionally, Colorado decriminalized psilocybin possession and use in 2022 and allows its use in supervised settings, although sales are still illegal. A number of cities – in states like California, Massachusetts, Michigan, and Washington – have also legalized or decriminalized psilocybin to some degree. More states, including California, are expected to follow suit with similar laws.

Practical Tip: Employers will want to proceed with caution and an eye for compliance, since psychedelics remain illegal under federal and most state laws. Be sure to consult with experienced counsel to review your policies and ensure they are up to date and compliant with all federal, state, and local laws that apply.

3. Safety Comes First

As a starting point, employers should recognize that they don’t have to tolerate employee use on the job even if off-duty use is legal. This is true for consumption of alcohol, cannabis, psychedelics, and other substances that cause impairment.

Employers with safety-sensitive roles – and jobs that are covered by state and federal regulations – should pay particular attention to their policies and procedures for maintaining substance-free

workplaces. Keep in mind that the typical five-panel drug test does not include substances like psilocybin. Rather, it covers amphetamines, phencyclidine (PCP), cocaine, opiates, and marijuana. Thus, if psilocybin use is a concern for your business, you may want to consider ways to effectively screen for it, though the process may be more complex and expensive than the standard test. Of course, such policies must be applied consistently and comply with applicable federal, state, and local requirements.

Depending on risk tolerance and company culture, you may want to take a more relaxed approach for lower-risk jobs by refraining from drug testing altogether. But as you build or adapt your policies, you should recognize that all employers have a duty to provide a safe work environment.

You should also note that despite the recent buzz about business leaders who support on-the-job microdosing – which involves ingesting a small fraction of the typical dose for therapeutic purposes – this practice remains illegal in most jurisdictions.

Practical Tip: Employers that opt not to screen for drug use should consider creating policies that focus on impairment on the job. Develop clear guidelines on how supervisors can detect impairment and what to do when an employee is suspected of working under the influence. Clearly communicate what the consequences will be for violating company policy and be sure to apply your policies consistently.

4. There's Talk About Psychedelics as Accommodations and Health Benefits

You'll also want to consider whether off-duty use of psilocybin or other psychedelic substances could require a reasonable accommodation when administered in accordance with state or local law. Because these accommodations would present complex and novel issues, you should consult your attorney before responding to such requests.

Can employers cover psychedelic treatments under their employee benefits plan? Last year, a start-up in the health-benefits realm reported that 50 companies signed a letter of interest saying they'd like to do so. While it may be too soon for most companies to consider this option, this will likely be a hot topic for a while – and we may see more benefits like this in the future, particularly as the FDA approves research and treatment and more states and cities legalize therapeutic use of psychedelics.

Practical Tip: Again, because this is uncharted territory and the use of psychedelics is illegal at the federal level, you'll want to consult your attorney before taking action. But you should also stay tuned for further developments as the legal landscape, scientific research, and public opinions evolve.

Conclusion

We'll monitor these developments and provide updates where warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have any questions, please contact your Fisher Phillips attorney, or the authors of this Insight.

Related People



Nazanin Afshar
Partner
818.230.4259
[Email](#)



Nicole Kamm
Partner
818.230.4253
[Email](#)





Ariella Kupetz
Associate
213.402.9564
Email



Lisa Nagele-Piazza
Legal Content Counsel
404.760.7943
Email

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