

The Opioid Epidemic and Drug Testing in Today's Workplace: Advice for Employers

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Why this Topic Matters

- As many as 50,000 Americans may have died last year alone of opioid-related overdose.
- A recent study showed 2 million Americans had a substance use disorder involving prescription pain relievers, while drug overdose is now the leading cause of death of Americans under the age of 50.
- Abuse of the drug has had tragic consequences across the nation, ravaging communities and tearing apart families.
 - Sam Quinones, *Dreamland*

The Future Doesn't Look Good

- There are now nearly 100 deaths a day from opioids, a swath of destruction that runs from New England to the Appalachian foothills
 - That toll could spike to 250 deaths a day, if potent synthetic opioids like fentanyl continue to spread rapidly and the waits for treatment continue to stretch weeks in hard-hit states like West Virginia and New Hampshire

Why the Crisis Occurred

- Opioids may be found in any medicine cabinet.
- This group of drugs includes the regularly prescribed painkillers oxycodone, hydrocodone, morphine, and fentanyl.
- These drugs interact with opioid receptors on nerve centers in the brain to create a pleasurable experience and relieve pain.
- Due to the relief they experience, consumers of these drugs often become dependent upon them.
- Once addicted, individuals may turn to heroin, which, although illegal, is often a cheaper and more accessible opioid. In fact, approximately four in five heroin addicts developed their addiction after taking prescription painkillers.

Why Employers Play an Important Role in this Crisis

- Employees may be prescribed opioids to relieve pain following a workplace injury, which could begin a path to dependency.
- Opioid dependency often leads to drowsiness, shifting moods, anxiety, and depression.
- An employee with an opioid addiction may struggle to maintain regular attendance, achieve quality goals, or pose a safety hazard to him or herself and coworkers.
- Addiction to these drugs usually also causes financial issues because the addict is in constant search for a fix. This could lead to cases of workplace theft or embezzlement.

Why Employers Play an Important Role in this Crisis

- Interact with employees every day and every week
- Employers know if there are issues with employee's life (e.g., change in behavior, missing work, etc.)
- The employee's addiction may have begun at work (e.g., taking pain medication for the first time after an injury/workers' compensation claim)
- Unfortunately, workplaces are often a marketplace for prescription opioids (originally obtained with a prescription).

Create an Environment Where Employees are More Likely to Disclose Opioid-Related Issues

- Consider encouraging employees to tell you when they have a problem or suspect that another employee may have an issue with prescription painkillers.
- This starts by creating a workplace environment conducive to the free exchange of information.
- This is an evolving area of human resources and business management; you must balance the concern of being viewed as an employer who attempts to invade employees' private home life versus later dealing with an employee who quits, overdoses, or creates a safety concern due to an addiction you may have ignored.
- Also helps with workplace violence issues (e.g., restraining order)

Create an Environment Where Employees are More Likely to Disclose Opioid-Related Issues

- The key to preventing opioid addiction is educating employees on the potential harmful impacts of abusing painkillers.
- If you become aware of an employee's potential abuse of opioids, attempt to approach the employee in a cordial, non-confrontational manner to offer assistance with this condition.
- Pay special attention to employees returning to work after an injury.
- Consult your counsel on navigating any potential ADA or HIPAA issues. Addressing these issues early may help prevent a larger issue later.

Reconsider Zero Tolerance Drug Testing Failure Policies

- An employee who loses his or her job because they fail a drug test may fall further into the depression often caused by opioid use.
- Unemployment may lead to more drastic outcomes for the employee, including intentional or accidental overdose.
- In order to avoid such a tragedy, employers should revisit their zero tolerance drug testing policy.

Reconsider Zero Tolerance Drug Testing Failure Policies

- Many employers are modifying their drug testing policy due to OSHA's recent new rule.
- Effective [December 1, 2016](#), OSHA's new rule requires employers to drug test after a workplace accident only when you have a reasonable basis to believe that the incident or injury was likely to have been caused by the employee's impairment, and that the drug test will determine whether the employee was impaired at the time of the incident or injury (versus a test that shows mere historical drug use).
- When modifying their drug testing policy, and in light of the opioid epidemic, employers should think seriously about ***removing any provision requiring the automatic termination of the employee after the first positive drug test.***
- Instead, employers can amend the policy to include required counseling for employees who fail drug tests. This not only gives the employee a second chance to become "clean" and attempt to end their dependency, it also provides the employee with an opportunity to obtain much needed education and counseling on their condition. The permitted use of prescription drug use while working at the worksite must also be clearly explained in the policy.

Consider Enhanced Monitoring of Workers' Compensation Claims

- Many workers' compensation carriers (and even employers) often seek to minimize the potential impact of workers' compensation claims by finding the most inexpensive treatment option possible.
- Carriers may be more inclined to pay for opioid prescriptions to “treat” an on-the-job injury versus considering more aggressive treatment options (i.e., steroid injections, surgical intervention, etc.) in the first instance (even when medical providers recommend more aggressive treatment).
- As such, there can be a higher incident of dependency – and increased tolerance levels in the event of a future surgery – simply in the name of reducing the financial impact of a workers' compensation claim. Employers should monitor these trends, and even their medical providers, and evaluate the care provided to injured workers.

Revisit and Enhance Drug Counseling Programs

- Now is the time for employers to evaluate and enhance their drug counselling programs.
- Does your insurance provider offer drug counseling to employees? Is there an extra cost for this service? Are employees aware of this amenity?
- Providing employees robust counseling on opioid use and addiction may prevent further use from occurring.



Questions?

Thank You!

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