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Reducing the High Cost of Substance Abuse

Making Informed Choices As an Employer



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September 17, 2019



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The High Cost of Drug & Alcohol Abuse in the Workplace

Some impacts are clear, others hidden

- Tardiness/sleeping on the job
- Hangover or withdrawal affecting job performance
- Poor decision making
- Loss of efficiency
- Theft
- Lower morale of co-workers
- Increased likelihood of having trouble with co-workers/supervisors or tasks
- Preoccupation with obtaining and using substances while at work, interfering with attention and concentration
- Illegal activities at work including selling illicit drugs to other employees
- Higher turnover
- Training of new employees
- Disciplinary procedures

Substance Abuse Today



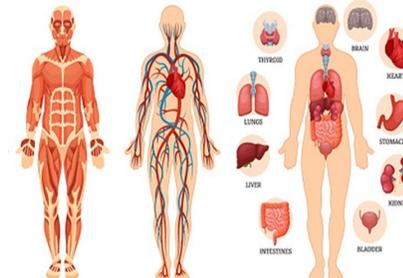
Lower cost of prescription
& illicit drugs



legalization
of cannabis



Untreated psychological or
emotional illness



Not understanding impact to
human body



Cannabis in the workplace

Cannabis is
legalized in at least

34
states

for medical use



- Legalized for retail sale/recreational use in at least 10 states
- Still classified as a Schedule I drug under the federal Controlled Substance Act (CSA)
- Reviewed by the DEA in 2016 and reaffirmed Schedule I status
- Federal requirements for drug free work places still require a negative test

Assessing Impairment

An imprecise science

- Assessing level of impairment for THC through testing is not possible today
- Urine testing is unable to determine if use is recent or past
- Cannabis is unregulated which means variable THC levels in medical and recreational use
- Unregulated THC levels means users don't know how much they consume
- Users are unable to determine how long a high will last
- Oral fluid testing can determine recent or past use but not impairment

Cannabis: Best Practices for Employers

Be upfront and clear in your communication

- Update policies to have enforceable language to prohibit cannabis use in the workplace or being impaired by cannabis during work hours or in the workplace
- Add oral fluid testing when testing for cause
- Train managers to identify cannabis impairment & how to handle employees suspected of impairment on the job
- Prepare a policy for addressing accommodation for medical marijuana use for a disability
- Communicate policies and consequences of violations clearly to all employees and new hires, in writing



Drug testing

Pros for Drug/Alcohol Testing Pre-hire

May help attract the “right fit” employee

- Deterrent to drug users and active alcoholics applying
- Reduces post hire health insurance claims
- Creates a safer workplace
- Reduces turnover
- Increased productivity

Pros for Drug/Alcohol Testing Post-hire

Gives employers options

- Deterrent to recreational use
Type: Random
- Remove potentially impaired workers from the workplace
Type: Reasonable Suspicion
- Allows testing after an incident or accident
Type: Post Accident
- Ensures returning workers are clean and stay clean
Type: If Returned to Work Post Positive Test

Cons for Drug/Alcohol Testing Post-hire

Pre- or post-hire

- **Cost**
 - High if regularly administering pre-hire or random for large workforces
- **Violation of Privacy**
 - Challenges to drug testing policies on the grounds of violation of privacy have generally not been successful
 - The manner in which the test was conducted or how the results were utilized may be challenged
- **Embarrassment of Legal Prescription Users and Legal Risk**
 - May engender dissatisfaction or anger towards employer; could raise disability discrimination issues
- **Decisions Made on Inaccurate or Unclear Results**
 - Legal risk if employment action is based solely on test results

Should You Require Pre-Employment Testing?

Five key questions

- Does the job involve driving, use of heavy or dangerous machinery, working with children, working in an environment where access to medications is possible (pharmacy, health care)
- What is the cost of the drug screen?
- What is the job market? Failed drug tests are at an all time high. Will you screen out too many candidates?
- Do you want to screen for marijuana use which is legal in more than half the states?
- How will you handle disclosure of authorized prescription drug use?

Pre-employment Drug/Alcohol Screening

Tip #1

- Make employment offer contingent upon passing the drug/alcohol screen
- Use a reputable drug testing company
- Ensure the test screens for a standard five panel of “street drugs” and can exclude marijuana, if desired
- Make sure the testing occurs within 24 hours of notice to the applicant of the need to appear for a drug/alcohol test

Drug/Alcohol Testing During Employment

Not every state is the same

- Many states regulate when drug testing during employment can occur; know your state's law
- In general, an employer can require an employee to take a drug or alcohol test when the employer has specific reasons to believe the employee is impaired due to drugs or alcohol; or
- The employee was involved in an accident
- Random drug testing should be truly random; use a computer based random number generator

Drug/Alcohol Screening During Employment

Tip #2 Have a clear written policy outlining:

- Circumstances under which testing will occur
- Substances to be tested
- Requirement that the test be completed within 24 hours of notice
- Testing method and procedures
- Consequences for refusal or failure to test
- Consequences of a positive test result

Employee Assistance Program

- EAPs can provide advice on how to deal with the employee's substance abuse, including help with obtaining other resources.
- EAPs usually provide a set number of counseling referrals (1-3) at no cost to the employee to fully assess the issue before making a recommendation/referral.
- EAP is strictly confidential and completely free to the employee
- EAP reporting to the employer relates to number of referrals and types of issues addressed in aggregate only

EAP: Why it's good for employers and employees

- Average annual cost: \$35/employee* the return on investment is \$5-\$16 on every dollar spent** due to employee retention and improved productivity.
- EAP can provide initial care that employees may avoid due to high health plan deductibles.
- EAP can be used in coordination with the employer's health plan to provide longer term resources for substance abuse.
- Contact your benefits consultant to partner with an EAP vendor

*www.you-can-learn-basic-employee-rights.com

**<https://www.investeap.org/why-eap/cost-benefit-research>

Last Chance Agreements

An employer can agree not to terminate an employee for misconduct or poor performance due to drugs addiction or alcoholism, in exchange for the employee's agreement to:

- Undergo substance abuse treatment
- Refrain from the use of drugs or alcohol
- Avoid further work performance issues

Why are Last Chance Agreements useful?

Last Chance Agreement can:

- Reduce the risk of a disability based employment claim (drug addiction and alcoholism can be disabilities)
- Be the catalyst for the employee to seek help and improve their performance;
- Help retain experienced employees who are struggling with substance abuse;
- Eliminate the cost barrier for initial screening and treatment

Last Chance Agreements

Tip #3

- Should be used in conjunction with EAP referral since many employees with substance use problems have trouble finding help
- Can result after a positive drug/alcohol screen
- Must be in writing and clearly set out the expectations and the timeframes for meeting expectations, the consequences for violating the agreement, and the date the agreement expires



A hypothetical example



Q + A

For More Information or
Help Developing Your Drug &
Alcohol Program

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