

Preparing for an Employee's Return to Work After Prescription Drug Misuse



Companies need to understand how to manage their response when an employee's use of prescription medication represents a violation and/or becomes a safety issue.



This fact sheet explains employers' options when an employee has been detected for potentially misusing those medications or violating their safety instructions about driving or using machinery. Additionally, this fact sheet provides information for employers to consider before allowing an employee with a detected problem to return to work and also offers other important information about prescription drug misuse and treatment.

A Case Study

"Henry Jones," a non-safety-sensitive employee at "Planet Enterprises," received a confirmed positive urine lab test result for oxycodone (OxyContin®). Planet Enterprises' Medical Review Officer (MRO) contacted Henry to determine if there was a legitimate medical explanation for the presence of a prescription medication in his urine. Since Henry reported that he "borrowed" the medication from his Aunt Harriett, the MRO verified Henry's drug test as positive. Henry was referred to his company's employee assistance program (EAP) for a substance misuse evaluation. The EAP recommended that Henry undergo substance misuse treatment and provided names of competent treatment programs covered by Henry's insurance.

■ *What Should the Employer Do If It Learns an Employee May Be Misusing Prescription Drugs?*

If an employer's drug-free workplace program includes restrictions on the use of prescription drugs (such as prescription opioids), and the employer learns an employee was using these drugs, the employer needs a written policy that defines next steps. All employer policies should be reviewed to ensure that both the detection process and employer actions are in compliance with local, state, and/or federal laws and regulations. For example, some states and jurisdictions require an employer to offer rehabilitation after a first-time drug test violation.

The actions that an employer takes after a confirmed violation will vary based on the company's written policy. Generally, employer policies fall into three broad categories:

- Continuing employment of the employee violator,
- Termination of the employee violator with the possibility of rehire, or
- Termination of employee violator with no future possibility of rehire.

An offer of continuing employment or rehire following a violation is generally contingent on the employee obtaining a substance misuse evaluation from a recognized expert and successfully completing all of the evaluator's recommendations. Employees in federally regulated safety-sensitive positions must be evaluated by professionals who have specialized training in their role as guardians of public safety.



Evaluation recommendations may include the following:

- Substance misuse education,
- Substance misuse treatment,
- Ongoing professional recovery services following return to work,
- Ongoing participation in 12-step recovery support meetings, and
- Relapse monitoring by the treating physician.

EAPs have the capability of conducting substance misuse evaluations or linking employees to a qualified professional. They also can monitor an employee's participation and compliance with treatment as well as return-to-work recommendations. They will also keep the employer updated on the employee's progress and will provide an estimated time frame of when the employee may be available to return to work. Typically, readiness to return to work can take anywhere from 4 weeks to 12 weeks. Employees required to have medical certificates to perform their duties may experience a longer time frame.

Regardless of whether the employer will or will not permit the continued employment of the violating employee, the company should immediately remove the employee from his or her duties. This safeguards the employee, coworkers, and customers from workplace injuries and accidents. If notification of the violation occurs while the employee is on the job, the employer should arrange for the employee's safe transportation home.



■ *Special Considerations*

When an employer offers continuing employment or rehire following a prescription drug misuse violation, it may want to prepare for the following concerns:

Access to Health Insurance, Sick Leave, and Short-Term Disability Benefits: When an employer terminates an employee rather than offering continuing employment, the separation action will generally result in loss of benefits that support an employee in being successful with the return-to-work process. An employee may be eligible to continue his or her health insurance through the Consolidated Omnibus Budget Reconciliation Act (COBRA) or qualify for coverage under the Affordable Care Act. In these situations, the employer's EAP should be prepared to help separated employees access affordable recovery services and support within the employee's local community.

Preapproval of Medications: Historically, employees who have been returned to work following drug misuse are restricted from taking addictive substances as part of their return-to-work agreement. The situation is different for employees in medical need of prescription drugs such as ADHD medications or opioid pain relievers. Return-to-work policies should establish a procedure, coordinated by the employer's medical examiner, if it has one, for the preapproval and safe use of these medications on a case-specific basis. The EAP can help design this procedure. In some locales, it is possible to restrict former misusers to a single provider and/or dispenser for abusable drugs. The employee's physician also has the ability to use clinical laboratory tests to monitor compliance with the agreed dosage schedule.

Alternative Therapies: Evidence-based alternative pain therapies, such as therapeutic massage and mindful meditation, often (but do not always) provide effective pain management without opioid pain medications. Employer health coverage for these therapies thus increases drug-free options for return to work. (See the companion fact sheets on alternative pain management therapies and on tailoring a health benefit plan sensitive to prescription drug misuse issues.)

Temporary Accommodations: An employee who legitimately is using a medication that may impair safe performance of assigned duties may be able to perform alternative duties safely. Likewise, an employee violator who has transitioned from primary treatment to a step-down phase of continuing treatment may be eligible to return to work but not yet resume his or her regularly designated responsibilities. Alternative work may prove beneficial for both the employer and employee. Ready access to the essential duties of all job descriptions can facilitate medical approval of alternative work accommodations.

Posting Essential Job Duties for Each Position:

Posting the essential job duties of each company position on an employee website will allow ready access to this important document. Employees should be encouraged to share their written job duties with their medical providers. The medical provider can then provide an employee with informed guidance about whether any medication prescribed to the employee can be safely used when working. For the physician to assess conflicts accurately, it is critical that job descriptions indicate if an employee must occasionally drive or perform other tasks where performance deficits can pose safety hazards.

Physicians and Other Treatment Providers with Specialization in Addiction Medicine: When evaluating third-party vendors for a company's injury management, health insurance benefit, and EAPs, employers can ask prospective vendors to report on the strength of their provider networks relative to training and treatment of prescription drug misuse and other substance misuse disorders. These providers will be resources in preventing and treating prescription drug misuse within the employee population.

■ **Termination Without Rehire**

An employer may decide to terminate permanently an employee who is using unauthorized prescription medications. If the employer decides to do this, it is advisable to stipulate in the employer's written drug-free workplace policy that unauthorized use of a prescription drug will result in termination without offer of rehire. The definition of what is unauthorized should be clear. The company's medical examiner can assist in developing this definition. A written policy supports enforceability of a termination action and may help deter use that has not yet crossed into dependency.

■ **How Effective Is Employer-Mandated Treatment?**

Treatment for drug misuse disorders is as effective as treatment for other chronic diseases (McLellan et al., 2000). Success depends on a variety of factors, such as treatment quality, medication adherence (if indicated), motivation, problem severity, underlying medical and psychiatric problems, and family resources and support (McLellan et al., 2000; NIDA, 2012). Longer treatment stays are associated with

better outcomes, and employees in treatment with a workplace mandate may stay in treatment longer than those without such a mandate. This is why existing studies suggest that coerced treatment is as effective as client-initiated therapy (Chopra, Preston, & Gerson, 1979; Lawental et al., 1996; Weisner et al., 2009).

■ **References**

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