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THE WORLD'S LARGEST JUNK REMOVAL SERVICE

Substance Abuse in the Workplace

Identifying Signs of Drug Use & Legalized/Medical Marijuana Employer Concerns



PRESENTED BY:
LIBERTY INSURANCE AGENCY

Steve Pscolar

YOUR LIBERTY TEAM



Kevin Heher
CPCU, ARM,
AFSB, AAI
PRESIDENT

Kevin is President of Liberty Insurance Agency, a family owned business established in 1950. We work for our clients and strive to be their go-to trusted advisor for insurance & risk management strategies and solutions.



Jason Rigby, CRM
**SENIOR VICE
PRESIDENT, PROPERTY
& CASUALTY**

Jason joined Liberty Insurance Agency as a Broker/Producer in 2013. Jason's focus has been to bring his knowledge and understanding of enterprise risk management to employers who wish to better understand and more aggressively manage the quality and cost of their risk management program. As Senior Vice President of the Commercial Property & Casualty Department, Jason has worked to deliver a higher level of value to Liberty's clients through innovative strategies aimed at expanded support to Human Resource Directors.

YOUR LIBERTY TEAM



Steve Pcsolar, CISR
ACCOUNT MANAGER

Steve's primary role is to assist with day-to-day account service activities and requests, including correspondences, account file maintenance, certificate requests, MVR reports, etc. Steve has over 8 years of property-casualty experience and completed the Certified Insurance Service Representative (CISR) designation in 2015. To further expand his service capabilities he is working towards his Certified Risk Manager designation.



Anthony Viola
CLAIM MANAGER

Anthony is responsible for coordinating the claims handling process. Anthony has over 20 years of property & casualty experience working as a multi-line claims adjuster with Travelers Insurance. Anthony serves as an advocate to the client to achieve the best optimal outcome. He monitors the performance of the carriers to ensure the highest level of customer service and participates in claim review meetings.




Agenda

- **Why you need to be concerned about possible employee drug use.**
- **Substance Abuse In the Workplace**
- **Illegal drugs that could impact your operations**
- **Understand Substance Abuse Disorder**
- **Signs of Substance Abuse – Determining reasonable suspicion**
- **Opioid use and addiction**
- **Drug Free Workplace Policy – Establish a plan and stick to it**
- **Addressing the issue of legalized and medical marijuana**



What businesses are subject to Federal Motor Carrier Safety Administration Regulation

 You are subject to FMCSA regulations if you operate any of the following types of commercial motor vehicles in interstate commerce: A vehicle with **a gross vehicle weight rating or gross combination weight rating (whichever is greater) of 4,537 kg (10,001 lbs.) or more (GVWR, GCWR, GVW or GCW)**

****Any franchise that is servicing clients across state lines is subject to FMSCA regulations.**





- **The FMCSA has a responsibility to prevent crashes, injuries and fatalities related to the use of commercial motor vehicles. To accomplish this, they use an enforcement program called Compliance, Safety and Accountability (CSA).**
- **CSA is a monitoring and evaluation system that allows the FMCSA to intervene when safety regulations are not being followed by carriers or their drivers.**





The Controlled Substances/Alcohol BASIC is one of seven categories the FMCSA uses to determine how a motor carrier stacks up compared to other carriers with a similar number of safety events (e.g., inspections, violations or crashes). The Controlled Substances/Alcohol BASIC addresses Federal Motor Carrier Safety Regulation (FMCSR) requirements 49 CFR Parts 382 and 392, and aims to prevent **the operation of commercial motor vehicles by drivers who are impaired by alcohol, illegal drugs, or the misuse of prescription or over-the-counter medications.**



According to the Substance Abuse and Mental Health Administration (SAMHSA) 68.9% of drug users are employed and active in workplaces in the U.S.

10-20% of American workers who die at work have a positive result when tested for drugs or alcohol.

Workers with alcohol problems are 2.7 times more likely than workers without to have injury-related absences.

Analyses of workplace fatalities showed that at least 11% of the victims have been drinking.



- **Substance use disorder negatively affects U.S. industry through lost productivity, workplace accidents and injuries, employee absenteeism, low morale, and increased illness.**
- **U.S. companies lose billions of dollars a year because of employees' alcohol and drug use and related problems.**
- **Research shows that the rate of substance use varies by occupation and industry.**



- **Alcohol**
- **Marijuana**
- **Inhalants**
- **Stimulants**
- **Depressants**
- **Narcotics**
- **Hallucinogens**
- **Designer Drugs**
- **Over the counter (OTC)**
- **Prescription Meds.**



- **Medications that relieve pain.**
- **They reduce the intensity of pain signals reaching the brain and affect those brain areas controlling emotion, which diminishes the effects of a painful stimulus.**
- **Medications that fall within this class include hydrocodone (e.g., Vicodin), oxycodone (e.g., OxyContin, Percocet), morphine (e.g., Kadian, Avinza), codeine, and related drugs.**

*Taken from an on-line article from the National Institute of Drug Abuse





- Hydrocodone products are the most prescribed for a variety of painful conditions, including dental and injury-related pain.
- Morphine is often used before and after surgical procedures to alleviate severe pain.
- Codeine, on the other hand, is often prescribed for mild pain.
- In addition to their pain-relieving properties, some of these drugs - codeine and diphenoxyate (Lomotil) for example - can be used to relieve coughs and severe diarrhea.





- **Substance Use Disorder is a disease that affects a person's brain and behavior.**
- **When a person is given a prescription pain reliever, they may feel if one pill "calms down" the pain, two may stop it completely.**
- **When drugs are misused, their pleasurable effect eventually makes a person want to keep using them.**





- **Appearance: Usually well-kempt employee may appear disheveled as substance use disorder becomes worse.**
- **The following physical signs from [Helpguide.org](https://www.helpguide.org/) may indicate drug use:**

**Bloodshot eyes, dilated or constricted pupils.
Change in appetite: weight loss or gain.
Unusual smells on breath, body, or clothing.
Tremors, slurred speech, or impaired coordination.
Needle marks with heroin abuse.**





- If an employee is injured at work and is prescribed an opioid, they may become dependent upon the medication to manage their pain.
- If the physician determines their pain is no longer at the level where opioids are necessary, they may discontinue prescribing them.
- If an employee has a dependency problem, they can turn to other methods to find relief for their real or imagined pain.
- This can lead to the use of heroin or other similar drugs.





- **Aggression**
- **Burnout**
- **Anxiety**
- **Depression**
- **Paranoia**
- **Denial**



All can be documented for
Drug testing under reasonable suspicion



- **Increased aggression or irritability**
- **Changes in attitude/personality**
- **Becoming more secretive/suspicious**
- **Depression**
- **Sudden changes in a social network**
- **Dramatic changes in habits and/or priorities**
- **Financial/legal problems**
- **Involvement in criminal activity – Stealing from clients**





- **Poor quality/quantity of work**
- **Poor quantity**
- **Constant disagreements with co-workers, supervisors or clients**
- **Theft of company property or money**
- **Attendance issues**
- **Constantly drowsy**





Drug-Free Workplace Policy

- **Sets the tone of the program**
- **Outline's responsibilities of the employer and employees**
- **References available help**
- **Explains the program including**
 - **Prohibited conduct,**
 - **Types and circumstances of testing, and**
 - **The consequences for violations**





Course of Action

- **May include:**
 - **Disciplinary**
 - **Training**
 - **Reassignment of duties**
 - **Restructure workplace**
 - **Periodic review for employees and supervisors**
 - **Workplace policies and rules**
 - **Employee handbook**
 - **Performance management**



- **Employees and managers should understand that drug abuse in the workplace can lead to increased injuries and other issues**
- **Policies and procedures in place should be followed and enforced**
- **All employees should be aware of the types of assistance available**
- **There are many good resources available on-line such as National Council on Alcohol and Drug Dependence**
- **Reach out to your team at Liberty Insurance for assistance in creating or revising your drug free workplace policy!**



Reduce your exposure to problems that can arise from employee substance abuse.

- **Reduce your liability by putting the proper drug free workplace policies in place, communicating them to management and employees and promptly addressing all complaints.**
 - **Consider additional employee/supervisor training stressing a zero-tolerance policy for drug use in the workplace.**
 - **Utilize written employment policies and best practices**
 - **Thoroughly investigate every incident of probable cause to determine if testing is appropriate.**
 - **Document all occurrences and remain consistent**



As of 2018, 29 states and the District of Columbia have enacted laws to legalize medical marijuana, and a number of states have pending legislation on the subject. 18 States have legalized recreational marijuana. This trend creates an uncertain situation for employers, who must tread carefully to balance their employees' rights, including disability and privacy laws, against the safety of their workplace.



The laws in each state differ in certain respects, but they do share some features. All of them permit physicians to prescribe medical marijuana for cancer, chronic pain and various other conditions, though the included conditions vary by state. Most of the laws remove any criminal penalties associated with possessing or using marijuana if it is for medical purposes, but do not require employers to allow it in the workplace.

Though the federal government still classifies marijuana as an illegal substance, the Justice Department does not prosecute individuals using marijuana medicinally, as long as they are in accordance with state law. This policy alleviated a prior conflict between the state and federal laws.



How do these laws affect you?

- Unfortunately, the employer's obligations and liabilities are not clear-cut in this situation.





Because marijuana is prescribed for various medical conditions, disability and privacy laws become a factor. For instance, asking employees about medical conditions could violate health privacy regulations. Also, punishing employees for their use of medical marijuana could result in a discrimination lawsuit. The matter becomes even more unclear in trying to set a standard for acceptable use of medical marijuana. Even if the employee uses only at home, it stays in one's system much longer, so the employee could fail a drug test. Unfortunately, drug tests can only tell if it was used within a general range of time, not when specifically. Thus, if your policy forbids marijuana use at work but allows it privately at home, it is tough to enforce. How can you tell if the employee is impaired at work or not?

Navigating this issue can be tricky, so consulting legal counsel is advised.



Of course, any discussion of marijuana, medicinal or not, brings up the subject of safety. As an employer, one of your paramount responsibilities is maintaining a safe workplace. Though marijuana affects people differently, it is generally known to impair the user in some way, which may interfere with one's work responsibilities. Not all users become too impaired to work at full capacity, but how can you determine their level of functionality? A workplace accident involving an employee known to be using marijuana presents an enormous liability to your company.

Once again, navigating this issue can be tricky, so consulting legal counsel is advised.



- How should you navigate the balancing act between these two potential liabilities? There is no legal guidance for employers on this situation, so it will vary from business to business.
- However, the best strategy for employers is to anticipate this situation, especially if you operate in a state that has legalized or is considering legalizing medical marijuana.
- That means reviewing your policies, updating them as necessary, communicating to your employees and staying consistent in your approach. You need to decide what is best for your company and stick with it.



- Most experts agree that the numerous state laws require no obligation from the employer to accommodate an employee's use of medical marijuana.
- In addition, state Supreme Court cases have tended to side with the employer, allowing them to forbid any employee marijuana use, even private use for medicinal purposes, and allowing them to make employment decisions based on that rule.
- If you decide to stick with a no-tolerance policy, make sure your written policy specifies that even medicinal use is unacceptable, and a positive test will be grounds for termination.



- **A clear, well-communicated policy—and consistent enforcement—should protect you from an anti-discrimination suit.**
- **Some companies have decided to allow private use of medical marijuana or even marijuana use at work if the employee demonstrates that it does not affect his or her performance. You do not have to allow this, but the decision will be different for each company, depending on various factors.**
- **Regardless of your approach, make sure your written policies are clear and well-communicated to employees, so no one can claim discrimination or that they were unaware of your policy.**



- Once you decide what your workplace policy should be, there are other considerations to take into account.
- Treat employees who use marijuana medicinally as any other injured or physically-limited employee. More than likely, they were prescribed medical marijuana for a very serious medical condition, so there may be other ways you can help them feel more comfortable during work.
- Try to find ways to modify their schedule or workload to accommodate their illness or condition, separate of allowing marijuana use.
- Working to accommodate employees in other ways based on their physical needs can also protect against a discrimination charge, even if you maintain a no-tolerance marijuana policy.



Working Together

- Take the first step in reducing your exposure to employee drug use.
- We can help you:
 - Develop a Drug-Free Workplace policy compliant with your state guidelines
 - We have resources on the marijuana laws for every state. Please reach out to us for information on your specific operating territories
 - Establish loss control procedures and policies
 - Avoid litigation

Working together to reduce impact of employee drug use on your franchise!



Thank you!

A horizontal line of red dots is positioned below the text "Thank you!".

Liberty Insurance Agency is your trusted advisor and here to service your account! Please do not hesitate to contact Jason or Steve directly with any questions or concerns.

We will be breaking down the topics in this training to focus specifically on the areas where you can make improvements if needed. While every 1-800-GOT-JUNK? operation should be considered Best-In-Class, we take great pride in making sure this message is sent loud and clear to the carriers writing your policies.