

## INSIGHTS + NEWS

### HRMA Perspectives publishes “Opioid Crisis in America Remains at Epidemic Proportions”

BY TIMOTHY P. VAN DYCK • JUNE 3, 2019

According to a recent poll, one in four Massachusetts residents know someone who has died of an opioid overdose, and a study published in the American Journal of Public Health last year estimated that 4.6% percent of all adults and children older than age 11 in Massachusetts suffered from opioid use disorder in 2015. Employers are increasingly feeling the effects of this phenomenon. Studies have found that the majority of individuals with opioid use disorders are full-time employees, and a significant portion of those individuals are covered by commercial insurance, largely through employer-sponsored plans.

While the impact of the opioid epidemic is pervasive, the construction and manufacturing industries, as well as others that call for physical labor, are particularly susceptible to opioid addiction in their workforces. Indeed, a report from the Massachusetts Department of Public Health released last year found that construction and extraction workers were six times more likely to suffer an opioid-related death than the average worker.

Opioid abuse is both a health and safety issue in your workplace. Substance abuse by employees has been found to result in higher work loss costs and health care expenses for employers, higher rates of absenteeism, reductions in job productivity and performance, increased worker’s compensation and disability claims, and increased safety risks on the job site. Taking the proactive steps outlined below can help to reduce employee substance abuse and create a safe and healthy environment in which both employees and business thrive.

#### STEPS EMPLOYERS SHOULD TAKE NOW

The key to addressing opioid abuse in the workplace is to take action to head off problems before they begin, and to have a plan in place to address issues that come to your attention. We recommend that employers take the following steps:

##### **Develop A Detailed Workplace Drug Policy**

Policies should go further than simply announce the boilerplate “we are a drug-free workplace.” A comprehensive and easy to understand substance abuse policy should provide a specific prohibition on the illegal or unauthorized use of prescription drugs, indicate under what circumstances drug testing will be conducted, and outline the procedures for employees and supervisors who have “reasonable suspicion” of an employee’s impairment or drug abuse. Workplace policies should encourage employees to seek treatment as soon as possible, and state clearly that appropriate disciplinary action will be taken if job performance is affected or safety risks are perceived.

##### **Offer Insurance Coverage and Employee Assistance Programs**

Employers should consider offering health benefits that provide comprehensive coverage for substance use disorders, including aftercare and counseling. In addition, Employee Assistance Programs (EAPs) are recommended to provide employees with confidential access to screening and treatment resources for substance abuse and other issues faced by employees. Research shows that workers in recovery have lower turnover rates, are less likely to miss work days, are less likely to be hospitalized, and have fewer doctors' visits. Employers should also ensure that employees are aware of the resources available to them. Providing a statement of support and an overview of available resources at employee orientation should be considered, and it may also be helpful to post information about EAPs or other substance abuse treatment options in employee common areas.

### **Ensure That Narcan Is Accessible to Employees In the Event of an Emergency**

According to a poll recently released by Blue Cross Blue Shield of Massachusetts, 70% of Massachusetts residents believe that the opioid-reversal drug naloxone — commonly known as Narcan — should be kept onsite at workplaces in a manner similar to automatic external defibrillators (AEDs). Employers should consider keeping a Narcan “kit” in an area accessible to employees in the event of an overdose emergency.

### **Invest in Employee Training**

Consider mandatory training for employees about substance abuse and the dangers of opioid dependence. Employees and supervisors should also be trained in identifying impaired behavior and understanding the warning signs of opioid abuse, and what to do if they have concerns. While supervisors should not attempt to diagnose a medical condition, they, in concert with Human Resources, should be prepared to act on their concerns by referring an employee to an EAP, drug testing, or removing an employee who poses a safety risk. Additionally, employers who choose to keep Narcan on their premises should ensure that any employees who would administer the drug are properly trained. Employers should consider making employees aware of free Narcan training sessions offered in some locations by community organizations or municipal agencies.

Training sessions can also provide employers with a good opportunity to reduce the stigma and shame associated with opioid abuse. This stigma can cause employees to delay or even forego seeking necessary treatment and can also hinder the progress of employees in recovery. Employers should refrain from using stigmatizing language (e.g., by referring to individuals with substance abuse disorders as “addicts,” “drug abusers,” or “junkies”) and should encourage employees to seek help for dependency and addiction.

### **Implement Drug Testing**

Drug testing can be a valuable tool in preventing drug-related incidents and reducing risk. Employers should ensure that drug tests include screening for opiates and related compounds. Employees should be notified of the drug testing policy and the specific circumstances when testing will be used. Note that under a 2016 OSHA rule and guidance released in 2018 interpreting that rule, drug testing for the purpose of evaluating the root cause of a workplace incident that harmed or could have harmed employees is generally permissible if the employer tests all employees whose conduct could have contributed to the incident, not just employees who reported injuries.

Finally, keep in mind that an employee's prescription drug use or substance abuse treatment may implicate employment laws. For example, lawful use of prescription medications to treat a disability will be protected by the ADA and the Massachusetts non-discrimination law, Chapter 151B, and employers may have a duty to reasonably accommodate such use, including modifying job responsibilities. In addition, the Family and Medical Leave Act (FMLA) provides employees up to 12 weeks of leave per year to receive treatment for a serious health condition, which may include substance abuse. The leave must be for treatment itself — absence because of the employee's use of the substance will not qualify for FMLA leave.

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