Employee Benefits & Workers' Comp News

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Substance Abuse June/July 2019 Volume 27 • Number 3

How to Fight the Opioid Epidemic

Death from an accidental opioid overdose has become one of the top five causes of death in recent years.

The United States is experiencing an epidemic of opioid addiction. The National Safety Council released a report that says a person born in 2017 has a greater chance of dying from an accidental opioid overdose than from a car crash. Accidental opioid overdose is now one of the top five causes of death behind heart disease, cancer, respiratory disease and suicide.

The Centers for Disease Control and Prevention estimates that the total "economic burden" of prescription opioid misuse in this country is $78.5 billion a year, which includes the costs of health care, lost productivity, treatment, and use of the criminal justice system.

The encouraging news is that employers can play an important role in mitigating this crisis by identifying early signs of drug abuse and educating employees about opioid alternatives and treatments.

How Opioids Became a Crisis

An opioid is a medication used to treat persistent or severe pain. People who take opioids often suffer from a variety of conditions including:

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This Just In…

The National Council for Occupational Safety and Health (National COSH) has announced "The Dirty Dozen" employers of 2019, highlighting companies that put workers and communities at risk due to unsafe practices. The Dirty Dozen 2019 report is released in observance of Workers' Memorial Week (last week in April), honoring workers who lost their lives on the job, as well as those who have suffered workplace injuries and illnesses.

"We can make our workplaces safer — if we listen to workers and take action to reduce hazards on the job," said Marcy Goldstein-Gelb, co-executive director of National COSH. "There is no reason to tolerate irresponsible behavior by employers who fail

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- Chronic headaches or backaches
- Severe pain after surgery or an injury
- Cancer

Opioids include oxycodone (OxyContin®), hydrocodone (Vicodin®), codeine and morphine. Heroin, while illegal, is classified as an opioid. Opioids block pain messages sent through the spinal cord to the brain. While opioids can be extremely effective in reducing pain, they also can be highly addictive.

The opioid epidemic began in the late 1990s after professional and consumer groups pushed for increased opioid use for pain management, and pharmaceutical companies assured physicians that prescription opioids were not addictive. At the same time, the makers of OxyContin (oxycodone) increased their marketing efforts and provided free samples at doctor's offices.

What Employers Can Do

An employee who abuses substances is a danger to themselves and to their families and communities. At work, substance abuse impacts workplace safety, health care costs, productivity, absenteeism and job performance.

As an employer, you can train managers to identify early signs and symptoms of substance use disorders and help employees get treatment. Drug-free workplace programs are cost-effective and can help employees avoid or manage a drug crisis. Effective programs consist of:

- Written policies
- Employee education
- Management training
- Employee assistance program
- Drug testing

Written Policy

A written policy tells your employees exactly what is expected at work and what options are available should they have a drug problem.

Work with your legal counsel and human resources department to ensure the policy follows federal and state guidelines.

A few topics your policy could cover:

- Prohibited behavior, including possessing or selling drugs or intoxicants
- Employee responsibilities
- Disciplinary actions
- Who to call for treatment

Employee Education

By promoting wellness policies and stressing the importance of self-care, you will support all your employees. Start with management teams; and share information with employees through workshops, flyers, emails, videos and social media. When hosting social events, require they be alcohol and drug-free.

Wellness talks can be an opportunity to discuss how easy it is to become addicted to opioids. Tell employees that substance use disorder is a preventable and treatable illness, and your workplace is recovery-friendly.

to provide a safe workplace — and force workers and families to pay the price."

The "Dirty Dozen" for 2019 are:

- **Amazon.com Inc., Seattle**
- **Atlantic Capes Fisheries Co., Cape May, New Jersey, and the staffing firm it uses, B.J.'s Service Co Inc., New Bedford, Massachusetts**
- **Bedrock Detroit LLC, Detroit**
- **Beiza Brothers Harvesting LLC, Moultrie, Georgia**
- **Facebook Inc., Menlo Park, California, along with contractors Accenture PLC, Cognizant Technology Solutions Corp., PRO Unlimited Inc. and Tech Solutions Co.**
- **Genan Inc., Houston**
- **Integra Health Management Inc., Timonium, Maryland**
- **The Johns Hopkins Hospital, Baltimore**
- **McDonald's USA LLC, Oak Brook, Illinois**
- **Purdue Pharmaceuticals LP, Stamford, Connecticut, and the opioid industry**
- **Tooma Enterprises Inc., Sterling Heights, Michigan**
- **XPO Logistics, Greenwich, Connecticut.**

For details on the violations that put these companies on the list, go to http://www.coshnetwork.org/2019-Dirty-Dozen-Release

Review policies about substance abuse affecting hiring, discipline, retention and termination of employees. Encourage employees to use sick days not only when they are ill, but for medical, dental, mental and/or chemical health.

Inform employees that there are alternatives to opioids for pain management, and that opioids are not more effective for most pain. Dr. Don Teater, a medical advisor for the National Safety Council, said that for pain related to common workplace-related injuries, opioids are not any more effective than non-steroidal anti-inflammatory drugs (NSAIDS) alternatives such as Tylenol, Advil or generic ibuprofen. They also usually are more affordable and safer than opioids.

Management and supervisor training

Train supervisors to convey the company policy to enforce drug and prescription drug policies, and that there are programs available to help battle addiction. Supervisors also must know what to do if someone seeks assistance or they see signs that someone is under the influence.

The medication Naloxone temporarily blocks opioid effects during an overdose. Make sure you have Naloxone on hand and supervisors are trained to administer it if an employee overdoses.

Employee Assistance Program

Work with your health care coverage broker to find a plan supporting several pain management treatment options, including cultural practices, chiropractic, massage, acupuncture, physical therapy, exercise, mindfulness, cognitive behavioral therapy and occupational therapy.

Consider a plan with an Employee Assistance Program (EAP). An EAP assists employees in resolving personal problems, including alcohol or substance abuse; child or elder care issues; relationship challenges; financial or legal problems; wellness matters; and assistance in handling traumatic events. Vendors who are part of comprehensive health insurance plans can provide care over the phone, computer or in person at no cost to employees.

Drug testing

While drug testing can be intrusive, it also is a valuable tool to prevent drug-related incidents. Drug-testing programs often curb drug abuse because employees fear getting caught. Seek legal guidance before starting any drug testing program to ensure it complies with state law and federal guidelines. Also remember that testing done before an employee starts work will not detect drug use after they begin employment.

Typical drug tests detect opiates/heroin, cocaine, marijuana, PCP and amphetamines. Many commonly abused prescription drugs are not included in federally mandated tests or many other drug testing panels. As an employer, you often can choose to test for more drugs than regulations require. However, the Americans with Disabilities Act may protect an employee's use of over-the counter or prescription drugs to treat a disability.

Please contact us if you need assistance developing substance abuse guidelines for your firm. ■

To Pay or Not to Pay Parental Leave?

There are no laws mandating unpaid leave to care for employee's family members.

The Family Medical Leave Act allows employees of covered employers to take 12 weeks of unpaid leave in a 12-month period to care for a newborn or adopted child. An employee also can use the unpaid leave to take care of themselves or a family member who has a serious health condition.

Despite the protections FMLA provides, there's no U.S. statute mandating that leave time be paid to ALL employees and the financial toll that unpaid leave takes on families can be brutal. The United States Congress Joint Economic Committee reports that 25 percent of two-income families and 13 percent of single-parent families that file for bankruptcy do so after missing two or more weeks of work because they were sick or caring for an ill family member.

With that in mind, more and more companies now offer paid maternity, paternity or parental leave. Providing paid leave to take care of young or sick children ensures that employees will be able to return to their jobs.

According to the Society for Human Resource Management (SHRM), more than one in three U.S. employers offer paid maternity

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leave longer than the amount required by FMLA, up from one in six businesses earlier this decade. Still, as of 2017, only 15 percent of U.S. workers received paid family leave, according to the U.S. Bureau of Labor Statistics.

Also, employers who do offer parental leave don't always offer it to all their employees. World at Work, a global association for human resources management professionals and business leaders, surveyed 385 employers in 2017 and found that about 22 percent of companies offering paid leave only gave it to some workers. This is not unusual. Part-time workers typically are excluded, while middle- and upper-income workers are more likely to have access to paid leave.

Employer Benefits of Paid Leave

One reason employers offer paid leave is that it's an easy way to help retain employees without raising wages. Employees who feel appreciated are less likely to seek employment elsewhere. Plus, research shows that the cost of offering paid leave often is less expensive than paying recruiting and training costs for new employees. The Center for American Progress says that the typical median cost of turnover for most positions is 21 percent of an employee's annual salary.

Paid parental leave probably is most important to lower-wage workers — particularly those who are paid hourly — and who are less likely to be able to afford a day without pay. Working mothers, who usually are responsible for staying home with sick children and family members, benefit greatly from having paid sick leave. A 2010 Joint Economic Report (11th U.S. Congress) found that half of working mothers miss work if their child is sick compared to only 30 percent of working fathers.

Employee Benefits of Paid Leave

The biggest advantage of paid parental leave is financial security. The Federal Reserve's Survey of Consumer Finances showed that low income earners are least likely to have a savings account, and of those who make $25,000 annually, the average savings account is only $500. Employees who have to pay surprise medical bills and take unpaid time off obviously are those most susceptible to filing for bankruptcy.

In addition, employees who can afford to stay home when their child is first born help their children get a strong start in life.

Preparing for a Workers' Compensation Premium Audit

Your workers' compensation policy might include a provision that allows your insurer to conduct a workers' compensation premium audit. The results of the audit will affect your premiums, so it benefits you to be prepared!

Your workers' compensation premiums depend on two factors: your payroll and your classifications. Insurers assign a classification code to the employer based on industry. Your employees will also have occupational codes. These codes reflect the relative risks of the industry and the job. For example, in a relatively high-hazard industry like heavy construction, most employees will have high-hazard jobs; their occupational code would reflect that risk. But the bookkeeper and other office staff would have a lower risk of injury, so they would have different job codes.

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Unless you're a smaller employer with a "minimum premium" policy, your workers' compensation policy likely includes a provision that allows your insurer to conduct a workers' compensation audit. That's because your premiums are based on an estimate of your payroll and employees' job classifications. At the end of the policy period, an audit will determine the insurer's actual risk exposure based on exact payroll and classifications. This "audited exposure" determines whether you owe additional premium or whether the insurer owes you a refund.

Insurers may conduct an audit shortly after a policy starts to ensure the accuracy of their premium estimate. More commonly, they will conduct an audit at the end of the policy term. You might get audited annually or less frequently. If your policy has a three-year "lookback," for example, the insurer reserves the right to audit premiums for the past three years. When it does, it can collect premiums owed for that time, but it will also refund you any overpayments you might have made.

Audits have another important function. The information on your organization's payroll, classifications and loss experience will be pooled with data from other employers. These statistics help insurers more accurately predict their risk and rate their policies.

What Does an Insurer Look for in an Audit?

The insurer will look for three types of information:

- **Payroll information:** You'll want a list of all employees and the hours they work, along with their payroll information. Payroll for workers' compensation purposes may differ from payroll you report for tax purposes. This can include: wages or salaries; commissions; bonuses; overtime; and sick, holiday and vacation pay. Some states allow employers to count overtime pay as straight time, and you can generally exclude tips.
- **Job descriptions:** These should include a list of daily duties and where employees perform those duties. Be as accurate as possible. Job descriptions will determine the employee's occupational class, which determines the rate you'll pay for coverage.
- **Independent contractors and subcontractors:** Be prepared by having pay information on any of your independent contractors. Your insurer might request it to ensure you are not avoiding paying workers' compensation by misclassifying workers who should classified as employees.

You might also need information on subcontractors' employees, including occupational class and payroll. In some industries, particularly construction, a sub's employees might not have adequate coverage, leaving the employer liable for claims. To avoid this, obtain certificates of insurance from your subcontractors, showing that they had workers' compensation coverage on their employees during the time they worked for you.

To perform the audit, the insurer might simply send you a form to complete. If you get a paper-based (or web-based) audit request, respond as quickly and completely as possible.

Sometimes an insurer will want to do a physical audit, in which the auditor visits the employer's location. If there are questions on your audit, or if you think the insurer has misclassified some of your employees, you might request a physical audit.

We can help you prepare for a workers' compensation audit. For more information, please contact us.

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The Bright Side of a Workers' Compensation Audit

In this edition we tell you how to prepare for a workers compensation premium audit if your insurance company requires it.

But there's another kind of workers compensation audit you may want to conduct on your own. Because this audit involves determining whether the classifications used to determine your premium are correct. For example, high risk businesses such as roofing companies and sawmills often end up getting their clerical staff classified along with high risk workers even though they never set foot on a roof or in the sawmill.

"Misclassifications can have a major impact on premium costs," says Kevin Ring, the lead workers' compensation analyst at the Institute of WorkComp Professionals in Asheville, N.C. "The problem is pervasive — as many as 70 percent of companies overpay their workers' compensation insurance premiums — and exacerbated by a complex classification system. More than 650 business and job codes are used to determine premiums, which apply for a 12-month period."

"It's very important for an HR department to work with the insurance broker on code classifications," notes Randy Sieberg, founder and principal of Workers Compensation Consultants in Columbia, Mo. "Different insurance companies can interpret the application of classifications differently, and you want to work that out ahead of time."

The longer you take to find out about classification errors, the more premium payments you stand to lose. Kevin Ring cites a case in which a Wisconsin auto parts manufacturer overpaid its workers' comp premiums by roughly $12,000 annually for years due to coding errors

If you suspect any of your classifications are incorrect, please give us a call.

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