

Climb the Mountain: Overcoming the Challenges of Substance Use Disorder

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Disclosures

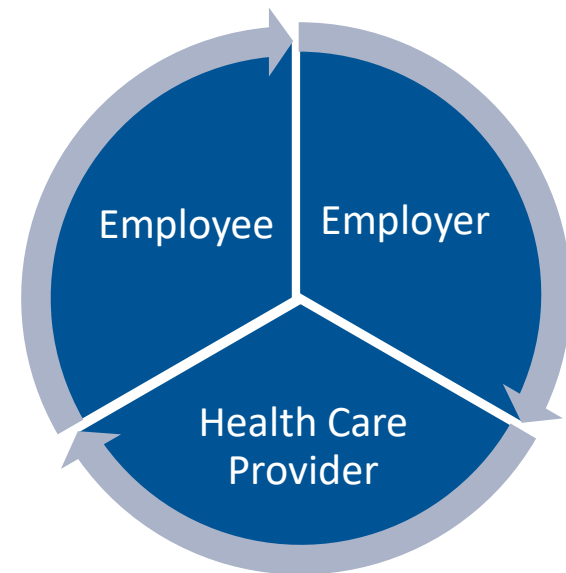
None, none, none, none, and none.

Medical Challenges & Barriers to Caring for Employees with Substance Use Disorder

Mary Taschner, DNP, ANP-BC

Challenges and Barriers

- Employees
 - Self Awareness
 - Distorted Thinking
 - Family
- Employers
 - Leadership/Culture
 - Management
 - Fellow Employees
 - Occupational Health
 - Human Resources
- Health Care Providers
 - Lack of Knowledge
 - Lack of Understanding of Workplace Environment



Challenges & Opportunities for Employers

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Introduction

Setting the Stage

- **SUD is a critical issue in the workplace**
- **Today, we'll explore the dual nature of this issue**
- **Challenges employers face**
- **Opportunities for proactive, supportive approaches**

The Scope of the Challenge

Substance Use Disorder: A Workplace Reality

- **Prevalence:** 9% of working adults have a substance use disorder, with many undiagnosed.
- **Economic Impact:** Workers with untreated SUDS can cost employers more than \$14,000 annually. \$81 billion lost annually due to absenteeism, lost productivity, and workplace accidents.
- **Safety Risks:** High-stress industries (construction, healthcare, etc.) are disproportionately affected.
- **Stigma:** Fear of job loss and reputational harm creates barriers to seeking help.
- SAMHSA *Addiction in the Workplace* June 1, 2023

Understanding the Neuroscience of Substance Use

Substance Use: A Chronic Brain Condition

- **Brain Hijacking:** Substances flood the brain with dopamine, rewiring reward pathways.
- **Stress and Trauma:** Workplace injuries and stressors often exacerbate substance use.
- **Chronic Condition:** SUD requires ongoing treatment, like diabetes or hypertension.

Key Takeaway: Employers must shift from punitive responses to compassionate, evidence-based approaches.

Employer Challenges

Key Considerations for Addressing SUD

1. Identifying the Issue:

- Employees often conceal substance use, and supervisors may misinterpret signs.

2. Balancing Safety and Compassion:

- Safety-sensitive industries must enforce standards while supporting recovery.
- Employers must navigate ADA protections for individuals in recovery.

3. Creating a Supportive Culture:

- Combating stigma and resource gaps is crucial, especially in smaller organizations.

Opportunities for Employers

Transforming the Workplace

Education and Awareness:

- Train supervisors to recognize and respond appropriately.
- Provide workshops and materials to destigmatize SUD and promote resources.

Supportive Infrastructure:

- Offer Employee Assistance Programs (EAPs).
- Build peer support networks to foster recovery.

Early Intervention:

- Design drug-free workplace policies prioritizing intervention over punishment.
- Conduct proactive wellness checks, including stress management resources.

Case Study: Transformation in Action

A Real-World Example

The Challenge: A manufacturing company faced rising workplace injuries linked to substance use.

Initial zero-tolerance policies led to high turnover and resentment.

The Transformation: After adopting trauma-informed practices:

- Workplace injuries decreased by 40% within two years.
- Employee retention improved, especially among those who sought treatment.
- Workplace culture shifted toward openness & mutual support.

Key Takeaway: Addressing SUD fosters resilience, trust, and a healthier workplace.

Behavior-Based Safety: Small Changes Lead to Big Results, Malik Dec 9, 2024

Closing Reflection



- Addressing SUD in the workplace is like climbing a mountain—it requires preparation, strength, and perseverance.
- But the journey offers breathtaking vistas: workplaces where individuals feel supported, valued, and empowered.
- By integrating neuroscience, psychology, and compassion, we can:
 - Transform challenges into opportunities.
 - Ensure recovery is not only possible but celebrated.

Employment & ADA Considerations Related to Substance Use Disorder

Debra Dyleski-Najjar, J.D., APM


Shareholder

Najjar Employment Law Group, PC (Boston and North Andover)

ADA: Drug and Alcohol

PROTECTIONS FOR
SUBSTANCE ABUSE

Protection Under the ADA

- The ADA protects recovering and recovered drug addicts (Not Active Drug Users) from discrimination (42 U.S.C. § 12114(b)).
 - The ADA protects alcoholics (active and recovered) from discrimination.
 - Note: Compliance with Federal Drug Testing laws and regulations, and state drug testing laws is beyond the scope of this presentation.
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Drug Use Under the ADA

- ADA prohibits discrimination against a rehabilitated drug addict (No Active Drug Use).
- An individual who is currently using illegal drugs (defined as both use of controlled substances and abuse of otherwise legal drugs, but not use of drugs authorized by medical supervision) is not an “individual with a disability” under the ADA.
- An employer may discharge or deny employment to persons who currently engage in the illegal use of drugs.
- Current drug use means that the illegal use of drugs occurred recently enough to justify an employer's reasonable belief that involvement with drugs is an ongoing problem.
 - The use does not have to occur on the day the employer takes the adverse employment action for it to be considered current. Whether or not drug use is current is to be determined by employers on a case-by-case basis. Courts vary in their interpretations of "current" drug use. See EEOC Technical Assistance Manual on the ADA 8.3.
- The ADA protects employees who are "erroneously regarded" as engaging in illegal drug use, but who are not engaging in drug use.
 - For example, an employer should give an employee an opportunity to explain a positive test result that may have been caused by the use of a legitimate prescription medication before taking any adverse employment action.

(42 U.S.C. §§ 12111, 12114, and 12210 and 29 C.F.R. § 1630.3.)

ADA Direct Threat Considerations

- “Direct Threat” is a “significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.” 42 U.S.C. 12111(3)
- The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. 42 U.S.C. 12113(b)
- An employer is also permitted to require that an individual not pose a direct threat of harm to his or her own safety or health. See 29 C.F.R. 1630.2(r)
- The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job.
- This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:
 - (1) The duration of the risk;
 - (2) The nature and severity of the potential harm;
 - (3) The likelihood that the potential harm will occur; and
 - (4) The imminence of the potential harm. See 29 C.F.R. 1630.2(r)

No Use in the Workplace

- An employer may:
 - prohibit the illegal use of drugs and the use of alcohol in the workplace;
 - require that employees are not under the influence of alcohol in the workplace.
- Employees who use drugs or alcohol may be required to meet the same standards of performance and conduct set for other employees even if any unsatisfactory performance or behavior is related to the employee's drug use or alcoholism.

(42 U.S.C. § 12114 and 29 C.F.R. § 1630.16.)



Alcohol Use Under the ADA

- The ADA may protect a “qualified” alcoholic who can meet the definition of “disability.”
- An employer may discipline, discharge, or deny employment to an alcoholic whose current use of alcohol impairs job performance or conduct if similar performance or conduct would not be acceptable for other employees (uniformly applied conduct standard).
- Alcoholic may be entitled to a reasonable accommodation.
- If employee mentions alcoholism to the employer but makes no request for accommodation, the employer may ask if the employee believes an accommodation would prevent further problems with performance or conduct.
- If the employee requests an accommodation, the employer should begin an “interactive process” to determine if an accommodation is needed to correct the problem.


See EEOC, [The Americans with Disabilities Act: Applying Performance and Conduct Standards to Employees with Disabilities](#)



EEOC Example

“An employer has warned an employee several times about her tardiness. The next time the employee is tardy, the employer issues her a written warning stating one more late arrival will result in termination. The employee tells the employer that she is an alcoholic, her late arrivals are due to drinking on the previous night, and she recognizes that she needs treatment. The employer does not have to rescind the written warning and does not have to grant an accommodation that supports the employee’s drinking, such as a modified work schedule that allows her to arrive late in the morning due to the effects of drinking on the previous night. However, absent undue hardship, the employer must grant the employee’s request to take leave for the next month to enter a rehabilitation program.”

See EEOC, [The Americans with Disabilities Act: Applying Performance and Conduct Standards to Employees with Disabilities](#)



EEOC Example – Active Drug Use

“Alice returns from a break smelling of marijuana smoke. You send her for a drug test, which comes back positive. Alice tells you that before you hired her, she was diagnosed as a drug addict and completed a drug rehabilitation program. Even though Alice's record of drug addiction means that she might have been protected by the ADA as a person with a record of a disability, her current illegal use of drugs means that you may terminate her without violating the ADA.”

See <https://www.eeoc.gov/fact-sheet/how-comply-americans-disabilities-act-guide-restaurants-and-other-food-service-employers>

Caution: State law re drug testing, medical marijuana, and state handicapped discrimination law. (see *Barbuto v. Advantage Sales & Marketing, LLC*, 477 Mass. 456 (2017)).

JAN Suggested Accommodations: Substance use disorder

- Allowing the use of paid or unpaid leave for inpatient medical treatment
- Providing a flexible schedule to attend meetings and receive ongoing treatment
- Minimizing exposure to stress and other potential relapse triggers
- Reducing distractions to help with concentration
- Lessening physical exertion to help with fatigue
- Reducing or eliminating exposure to drugs and alcohol while working (e.g., in hospitals, pharmacies) and implementing additional workplace supports if needed

See <https://askjan.org/disabilities/Substance-Use-Disorder.cfm>

Last Chance Agreements

- Last Chance Agreement:
 - agreement between employee and employer
 - employer agrees not to terminate the employee in exchange for an employee's agreement to receive substance abuse treatment, refrain from further use of alcohol or drugs, and avoid further workplace problems.
 - A violation of such an agreement usually warrants termination because the employee failed to meet the conditions for continued employment
- Employer is not required to offer last chance agreement, but may choose to do so.

Employee Recovery Testimonial

Anya Taschner

Timeline



2020 ↔ Rescued

Maverick & Adelaide

1983 ↔ Raised in Lynnfield, MA - *Academically & Athletically Talented*

1996 ↔ First Drug use was Marijuana - *Quickly followed by Alcohol, Pills, Ecstasy*

2000 ↔ Sent to Elan School - *Troubled Teen Industry Survivor*

2002 ↔ Saint Anselm College - *Cocaine, OxyContin, Special K, 6-year Bachelors*

2008 ↔ *Wanted to Get Sober - aka wanted Consequences to Stop*

2011 ↔ **Wanted** to Get Sober - *Broken Enough that Willing to Do Anything*

** Clean Date: August, 11 2011 - Sober Living, 12 Steps, Reparation of Relationships **

2012 ↔ Moved to Bangkok - *Traveled to 20+ Countries & Counting*

2014 ↔ Began Reparation of 480 Credit Score & Professional Brand

2020 ↔ Left AA after 9 years of Rigorous Abstinence

2020 ↔ First Time Homeowner - *no cosigner needed!*

2022 ↔ Completed Harvard Kennedy Public Leadership Credential

2025 ↔ FinTech Director of Sales on track to VP

Choose Hope.



Honesty Over Everything.



Happiness is a Choice.



Assume Good Intent.



Person Tells Me They're Ready to Take Action:

[Substance Abuse Treatment Facility Locator](#)

- SAMHSA offers an online tool to help locate nearby treatment facilities based on specific needs and preferences.

SAMHSA's National Helpline: 1-800-662-HELP (4357)

- This free, confidential, 24/7 helpline provides referrals to local treatment facilities, support groups, and community organizations (English & Spanish)

[American Addiction Centers](#)

- AAC provides evidence-based treatment and mental healthcare services at multiple locations nationwide.

[AddictionResource.net](#)

- This free resource offers information on substance abuse, addiction, and treatment options.

[Massachusetts Alliance of Sober Living \(MASH\)](#)

- MASH serves as the primary agency for accountability of all certified homes in Massachusetts.

Person Tells Me They Want Help, But Aren't Ready to Change:

"A meeting is like trying a new restaurant - some are better than others, and you have to keep exploring until you find something you like."

[SMART Recovery](#)

- This organization provides free science-based, self-empowering support groups for individuals seeking abstinence from substances.

[Alcoholics Anonymous \(AA\) / Narcotics Anonymous \(NA\)](#)

- These well-established support groups offer free, anonymous meetings for individuals struggling with alcohol or drug addiction.

[Alcoholics Anonymous \(AA\) Meeting Finder App](#)

- The app helps people find A.A. meetings and resources near them. A.A. service entities provide the meeting data for the app.

[Al-Anon](#)

- These support groups are designed for family members and friends of individuals struggling with addiction.

Resources for Employees, Families, Patients, and Health Care Providers

- Learn2cope: www.learn2cope.org
- Al anon: <http://al-anon.org>
- MDPH Helpline: www.helpline-online.com
- Recovery Research Institute at MGH: <https://www.recoveryanswers.org/media/11-indicators-of-effective-addiction-treatment-infographic/>
- CDC/NIOSH Substance Use in the Workplace: <https://www.cdc.gov/niosh/substance-use/about/index.html>
- US DOL Employment and Training Administration - A Recovery Ready Workplace Resource Hub: <https://www.dol.gov/agencies/eta/RRW-hub>

THANKS FOR LISTENING!

