



Plenary

Addiction Issues: Fitness for Duty, Addiction, Mental Health, & Response

Presentation by

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Fitness for Duty, Addiction, Mental Health, & Response

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Solutions EAP

Local IUOE 478 Operating Engineers

Synopsis

- How should employers revise their thinking about workers suffering from addiction or mental health challenges, and what are the steps employers can take to begin to develop and/or revise substance abuse and other policies to reflect these principles?

Bartlett Brainard Eacott

Marko Kaar, CHST



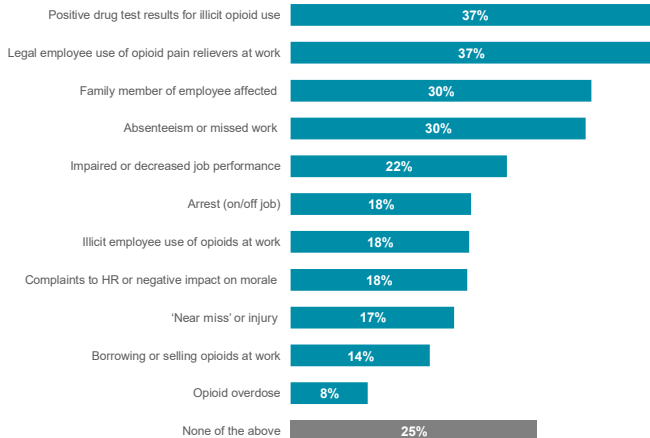
Addiction

- ▶ Illicit Drugs
 - ▶ Opioids
 - ▶ Cannabis
- ▶ Prescription Drugs
 - ▶ Opioids
 - ▶ Cannabis
- ▶ Alcohol
- ▶ Gambling
- ▶ Porn
- ▶ Others

Workplace Incidents Related To Opioid Usage

Three Quarters Of Employers Have Experienced The Effects Of Opioid Usage

Incidents Experienced Due To Opioid Usage ...



Facts about the impact of opioids on US Employers

75%
... have been affected in some way by employee use of opioids

38%
... have experienced absenteeism or impaired worker performance

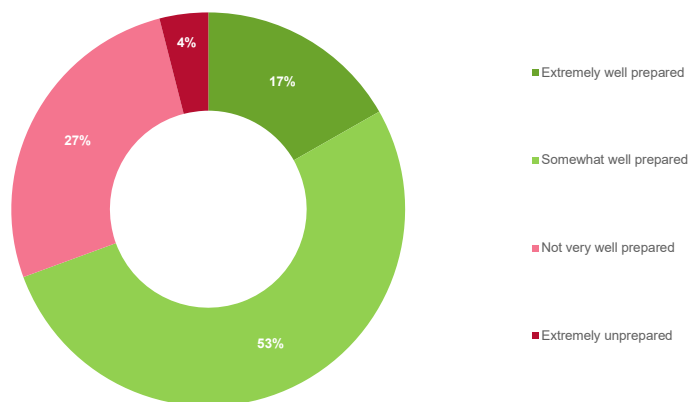
31%
... have experienced a near-miss/injury, overdose or arrest

Base: 526
All Respondents

Q11. Which of the following are you aware of having occurred in your workforce? All information is kept strictly confidential.

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Employer Preparedness To Deal With Opioid Use in the Workplace



Base: 526
All Respondents

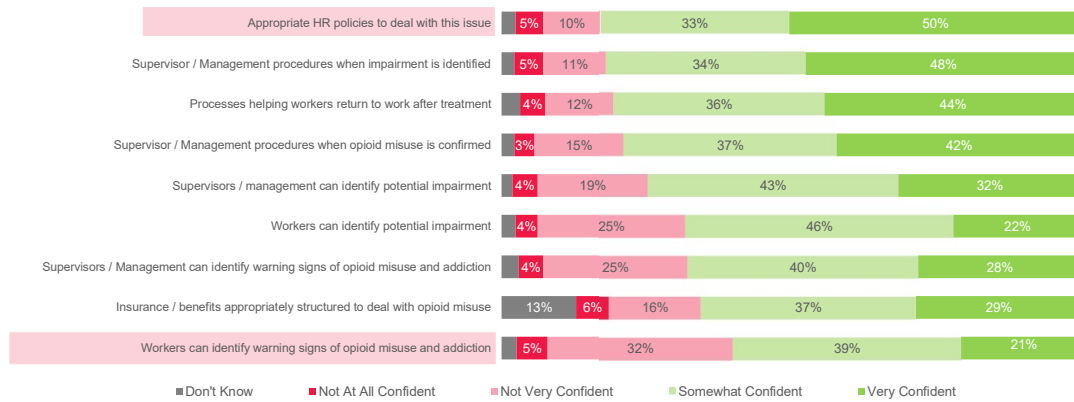
Q30. How well prepared do you think your organization is when dealing with opioid use in the workplace?

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Confidence In Opioid Usage Workplace Procedures & Policies

Employers Are Not Fully Confident In The Ability Of Employees To Identify Misuse



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Base: 526
All Respondents

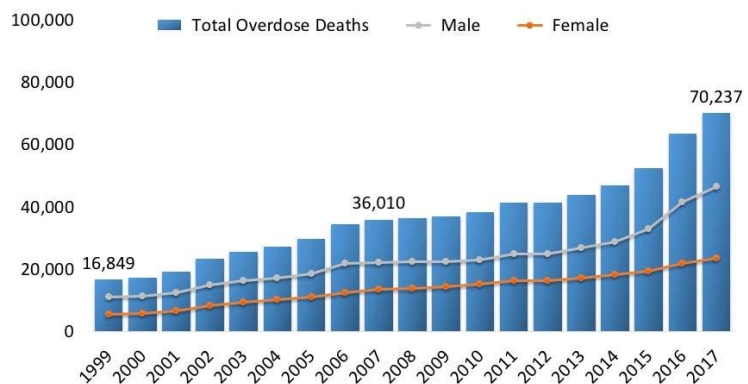
Q12. How confident are you in the following statements about your workplace regarding opioid use?



Overdose Deaths

- 2017 CT – 1072 up 12.8% from 2016
- 2017 US – 70,237 up 9.6% from 2016

Figure 1. National Drug Overdose Deaths
Number Among All Ages, by Gender, 1999-2017



Source: Centers for Disease Control and Prevention, National Center for Health Statistics. Multiple Cause of Death 1999-2017 on CDC WONDER Online Database, released December, 2018

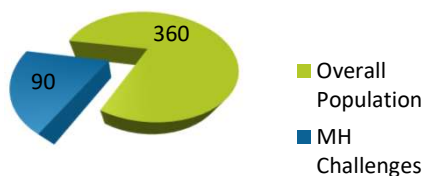
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► Diagnosed Illness

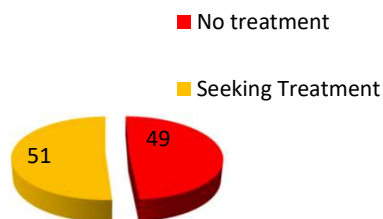
- ▶ Bipolar
- ▶ Depression
- ▶ Anxiety
- ▶ PTSD
- ▶ Others



Population with Mental Health Challenges



Treatment

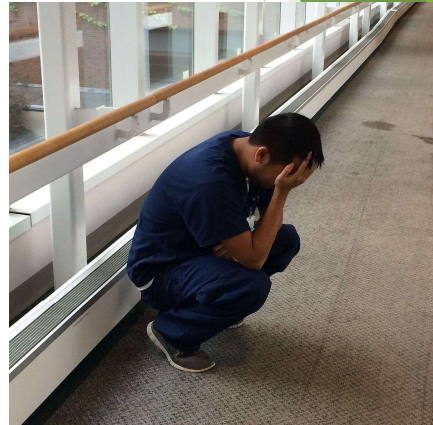


Of 90 million, average 51% seek treatment, but varies tremendously by age, race, and “social status”

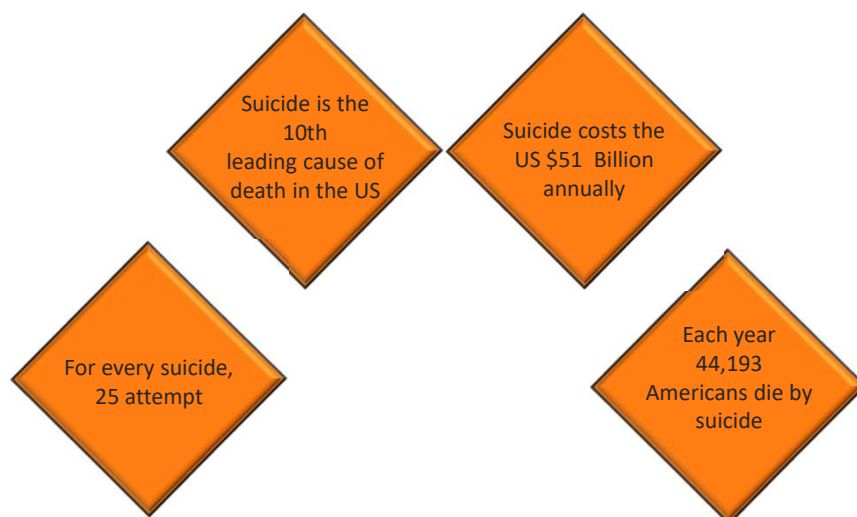
Substance Abuse and Mental Health Services Administration (SAMHSA) Data

Overlap

- ▶ Suicide
- ▶ Workplace Violence
- ▶ Presenteeism



Suicide



American Foundation for Suicide Prevention Data

Fitness for Duty

- ▶ In order to provide a safe workplace, employees must be able to perform the essential duties of their jobs in a safe, secure, productive, and effective manner, without presenting a safety hazard to themselves, other employees, the workplace, or the public.

Early Identification

- ▶ Early Identification of workers who may be experiencing or at risk for addiction or mental health challenges

- ▶ CTDPH

Instant Support

- ▶ Instant Support for counseling and treatment of affected workers and their families

▶ CTDPH

Employer Flexibility

- ▶ Employer Flexibility with respect to time off for medical appointments, light duty, and return-to-work

▶ CTDPH

Regular Review

- ▶ Regular Review of progress toward recovery and adjustment to reentry into the workplace

▶ CTDPH

Enlisting Success

- ▶ Enlisting Success by tapping into the knowledge and experience of employees who have navigated similar struggles

▶ CTDPH

Where do we start?

- ▶ Enlisting Success - this group
- ▶ Fitness for Duty - Shelley Halligan
- ▶ Regular Review - Bob Brody (legal & program)
- ▶ Employer Flexibility - Beth DuPont, Eric Daigle (processes in place)
- ▶ Instant Support - Tom Matthews (EAP)
- ▶ Early Identification - Kyle Zimmer (outreach and LAP/MAP)
- ▶ Regular Review - All (progress and adjustment)

Aware Recovery Care

Shelley Halligan, DNP, PMHNP



What is Fit For Duty Exam (FFDE)?

- ▶ A fitness for duty exam certifies that an employee is medically or psychologically able to carry out the duties of a position.
 - ▶ Fit for duty, with no restrictions.
 - ▶ Fit for duty, but with restrictions or modifications, or
 - ▶ Unfit for duty.
- ▶ An FFDE can be triggered by a perceived threat in the workplace or by a reasonable suspicion that the individual has a psychological problem that might affect his work performance.

A Psychiatric Fitness-for-Duty Evaluation is warranted in the following situations:

1. Suspected history of psychiatric or substance use.
2. **Employees returning to work after an episode of emotional illness or substance use.**
3. Employee's demonstrating potential threats to workplace safety and productivity.
4. Safety-sensitive occupations.
5. Situations when an employee is demonstrating behavioral problems on the job.
6. Employees referred to the EAP or Human Resources by management for evaluation of performance.
7. Situations when risk assessments are needed in order to ascertain the reliability, trustworthiness and mental stability of employees or prospective employees in the hiring process.
8. Individuals being evaluated for high stress or high-risk jobs.

Prevention

- ▶ Employee Assistance Programs
 - ▶ Referrals, orientation, mention at staff meetings
- ▶ Drug Use or Impairment Policies-Make these very Clear
 - ▶ Read and sign for all staff members
- ▶ Drug Screening/ Drug Testing Programs (DSPs) and Educational Programs
 - ▶ Wellness days, invite speakers to staff forums, have resources on staff media platforms (Workplace)

Treatment

- ▶ Beginning of recovery
- ▶ In Network programs/Out of Network
- ▶ Finding the right program

Follow up Care

- ▶ Random drug screens
- ▶ 12 Step meeting
- ▶ Self care
- ▶ Therapist, PCP, IOP
- ▶ Wellness
- ▶ Road to Recovery
 - ▶ AA/NA Material in the work place
 - ▶ Wellness programs
 - ▶ Resources available and visible
 - ▶ Provide education and training for your employees and additional training for supervisors and other appropriate staff.

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WORKPLACE LAWYERS FOR MANAGEMENT

Bob Brody

What is the Law?

- ▶ Americans with Disabilities Act (ADA)
- ▶ Drug Free Workplace Act
- ▶ The Occupational Safety and Health Act (OSHA)
- ▶ Connecticut Commission on Human Rights and Opportunities (CHRO)
- ▶ Connecticut Drug Testing Laws
- ▶ Palliative Use of Marijuana Act (PUMA)
- ▶ Connecticut Department of Public Health's white paper: "The Opioid Crisis and Connecticut's Workforce" - NOT A LAW

Best Practices

- ▶ Set forth a clear drug and alcohol workplace policy
- ▶ Ask yourself the tough question:
 - ▶ Do employees get a second chance or not?
- ▶ What are some possible accommodations?
- ▶ Prepare for the interactive process
- ▶ Open-Door Policy

Important Considerations

- ▶ Should you implement a Last Chance Agreement?
- ▶ Are you going to train your supervisors to identify substance abuse in your workforce?
 - ▶ How?
- ▶ How much money/time/resources do you want to spend?
- ▶ How can you address mental health concerns without it consuming your business?

O&G Industries

Beth DuPont



Construction

- ▶ Heavily regulated
- ▶ Safety sensitive

Unions

- ▶ Symbiotic Relationship
- ▶ Workforce Care, Development and Sustainability
- ▶ Shared Responsibility

Fit for Duty

- ▶ Pre-employment physical, drug screen + background screen POST OFFER

Raising Awareness + Action

- ▶ Remove shame/stigma (upstream)
- ▶ Encourage VOICE - Let's Talk
- ▶ You hear/see something - say something
- ▶ Own it
- ▶ Am I going to lose my job?
- ▶ Last-chance agreement and Union Support

Raising Awareness + Action

- ▶ No retaliation
- ▶ Culture of Open Communication + Mutual Respect/Dignity
- ▶ Candid BUT KIND Communication with Accountability
- ▶ SAFETY, SAFETY, SAFETY, SAFETY, SAFETY

LAZ Parking

Eric Daigle



Putting People Before Profits

- ▶ LAZ Parking as an organization
 - 1) Highly-decentralized
 - 2) Safety-sensitive organization
 - 3) Highly-regulated with DOT operations
- ▶ LAZ has an employee-centric culture and focus
- ▶ Creating an environment of caring
 - 1) Open Door policy
 - 2) Encourage employees to come forward
 - 3) Utilize your EAP as a resource - management referral

Taking Care of Our Most Important Resources - Our People

- ▶ Implementation of a 2nd Chance / Last Chance Program
 - 1) What to consider - ADA considerations / evolving litigation around medicinal/recreational marijuana usage
 - 2) Pre-employment considerations
 - 3) Utilization of EAP as compliance check-in resource
 - 4) Acknowledge and execute 2nd chance / last chance agreement to mitigate risk
 - 3) Exclusion of DOT regulated positions (with exceptions)
- ▶ Consistency and continuity critical to mitigating internal risk

Taking Care of Our Most Important Resources - Our People

- ▶ Mental Health / Substance Abuse Considerations
 - 1) ADA
 - 2) Utilize leave of absence programs to their fullest extent
 - 3) Train line-level supervisory/managerial employees on reasonable suspicion
- ▶ Safety and employee well-being paramount to successful business operations and mitigation of risk

Solutions EAP

Tom Matthews



How Should an Employer Respond?

- Federal Omnibus Transportation Employee Testing Act
- DOT Safety-Sensitive Transportation Employees (AKA - SAP Cases)
 - Employer's options are very limited - actions governed by federal requirements
 - Two hours of training required for all persons who supervise drivers
 - Mandatory testing
 - www.fmcsa.dot.gov
 - *(Be certain the SAP is a SAP)*

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How Should an Employer Respond? (Non-SAP)

- Train key personnel to recognize reasonable suspicion
 - *Understand and explain that management is not expected to:*
 - Diagnose;
 - Prescribe treatment;
 - Provide counseling services
- Who can help?
 - *Consider an EAP*
 - *Direct relationship and liaison with treatment providers*
 - *Peer support programs*
 - *Public safety chaplaincy*

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Positive Confrontations

- ▶ Say something positive, affirming past work history, contributions, technical skills, etc.
- ▶ Present the performance problem(s). Have documentation ready to present as a visual illustration of the problem, if needed, to break through defensiveness, arguing.
- ▶ Clearly state your expectations for improvement, preferably in writing, including a timeframe.
- ▶ Set consequences, if any, resulting from the current situation, including future steps if the stated expectations are not met.
- ▶ Arrange for follow-up plans to monitor progress and/or continue with discipline process.

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When Dealing with Troubled Employees, Do NOT:

- ▶ Diagnose the employee's problem.
- ▶ Pry into the employee's personal life, or give advice.
- ▶ Accept excuses, or ignore the problem.
- ▶ Wait until the employee's job is in jeopardy.
- ▶ Take responsibility for solving the employee's problem.
- ▶ Make decisions based on what you hear through the office grapevine.

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Possible Employee Responses

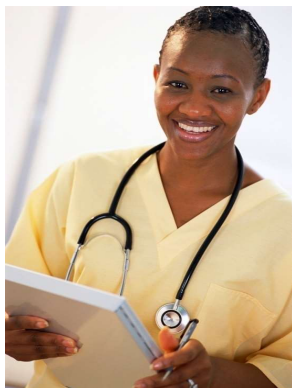


- ▶ Denial
- ▶ Defensiveness
- ▶ Hostility
- ▶ Fear
- ▶ Anger
- ▶ Distress
- ▶ Silence
- ▶ Projection

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Treatment Options



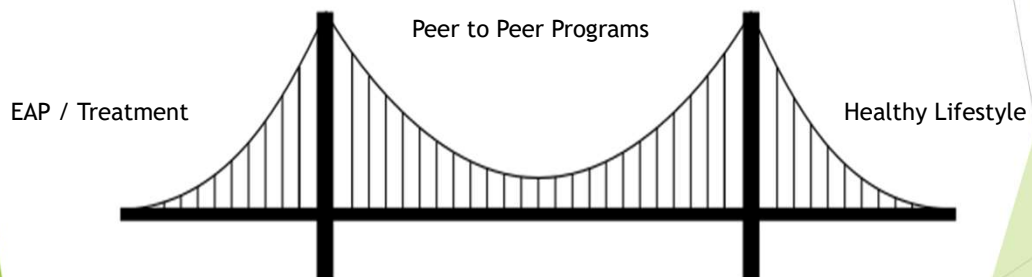
- Inpatient hospitalization
- Partial hospitalization (Day/eve.)
- Outpatient counseling
- AA/NA meetings or other self-help groups

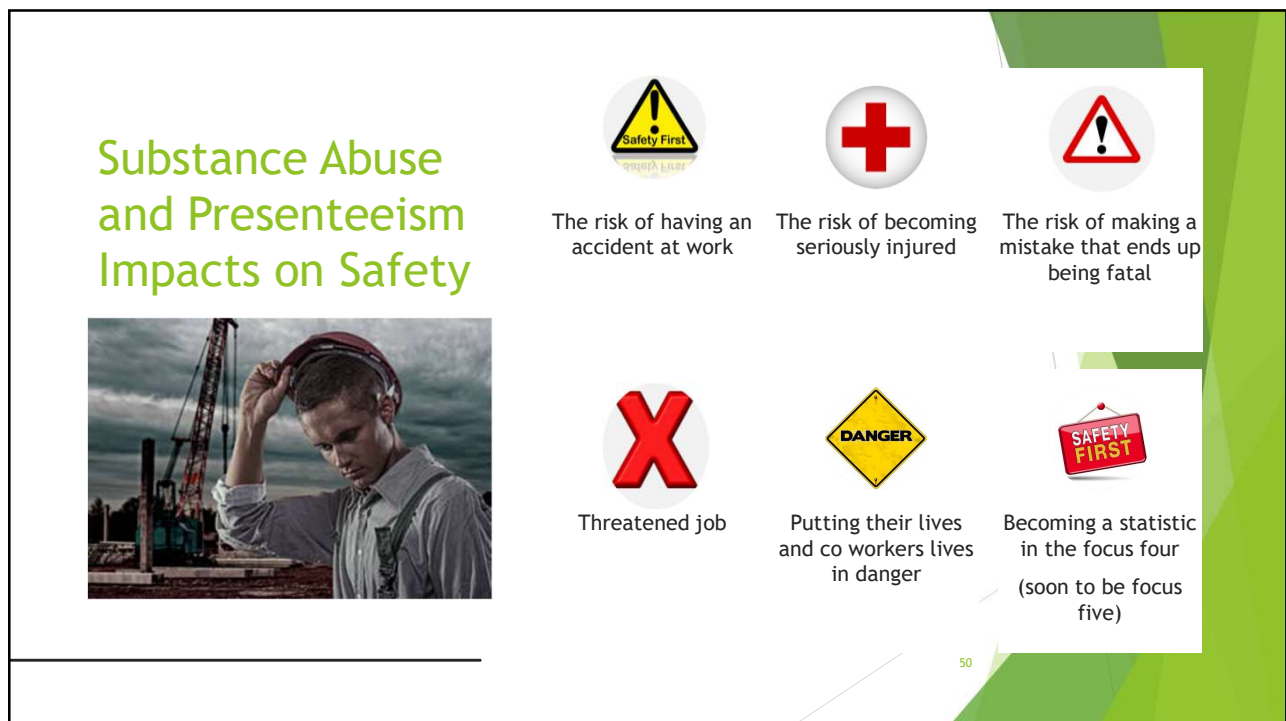
IUOE Local 478

Kyle Zimmer



Who/how best to recognize issues early?





Who are workplace peers?

Peers can be someone who has been successful in recovery who help others experiencing similar situations

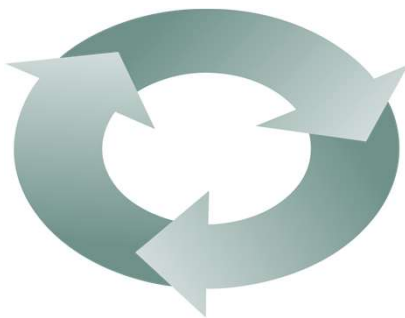
Source: Samsha

Peers can be family members of those who have suffered and through experience, are able to help others.

Peers may not have any personal connection to substance abuse, suicide, or behavioral health disorders, they may just have the passion to assist others who are struggling

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Recognize, React, Recommend

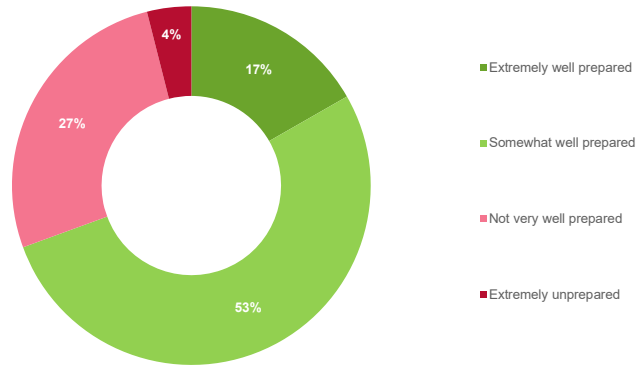


Recognizing signs of problem behaviors

Reacting to the behaviors and initiating a conversation, or contacting another person to initiate a conversation

Recommend the person to another level of care, also recognize when the problem may be much more serious and immediate outside care is needed.

Can We Improve Upon This? Employer Preparedness To Deal With Opioid Use in the Workplace



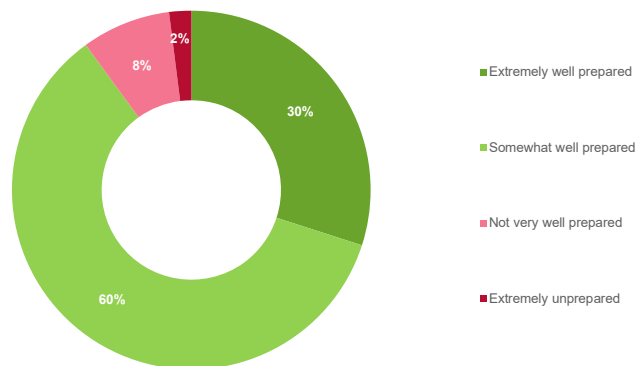
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Base: 526
All Respondents

Q30. How well prepared do you think your organization is when dealing with opioid use in the workplace?



Goal...How Soon? Employer Preparedness To Deal With Opioid Use in the Workplace



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Base: 526
All Respondents

Q30. How well prepared do you think your organization is when dealing with opioid use in the workplace?



STOP. THINK. PREVENT.

Think about the lost men and women.

Think about the injuries.

Think about the near misses.

Think about the physical and emotional challenges so many of our friends face.

Think about who we are going home to.

Think about what you're going to do next.

Help us prevent the next one...



One is Too Many.



Seriously

It's Time to Get Uncomfortable

Thanks to



References

- ▶ The Opioid Crisis and Connecticut's Workforce - CTDPH
 - ▶ [https://portal.ct.gov/-/media/Departments-and-Agencies/DPH/dph/environmental_health/occupationalhealth/Opioid-conference-writeup_FINAL-FINAL_11_28_18-\(2\).pdf?la=en](https://portal.ct.gov/-/media/Departments-and-Agencies/DPH/dph/environmental_health/occupationalhealth/Opioid-conference-writeup_FINAL-FINAL_11_28_18-(2).pdf?la=en)
- ▶ National Safety Council online survey published 3/17/19
 - ▶ <https://www.nsc.org/in-the-newsroom/poll-75-of-employers-say-their-workplace-impacted-by-opioid-use>
- ▶ National Institute on Drug Abuse
 - ▶ <https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates>
- ▶ CTData
 - ▶ <https://data.ct.gov/Health-and-Human-Services/Accidental-Drug-Related-Deaths-2012-2018/ecj5-r2i9>

Resources

- ▶ <http://www.columbiaforensic.com/fitness-for-duty-evaluations-ffde.html>
- ▶ Mental Health First Aid
 - ▶ <https://www.mentalhealthfirstaid.org/>
 - ▶ Anyone, anywhere can be the one to make a difference in the life of someone with a mental health or substance use challenge - if they know what to do and what to say

Resources

SAMHSA

Substance Abuse and Mental Health Services Administration

<https://www.samhsa.gov/workplace/toolkit/plan-implement-program#assess>

- *Plan and Implement a Program*
 1. *Assess your workplace and its needs related to substance use.*
 2. *Identify available resources.*
 3. *Develop a written policy for your drug-free workplace.*
 4. *Determine whether to have an Employee Assistance Program (EAP).*
 5. *Determine whether to do drug testing.*
 6. *Plan to provide education and training for your employees and additional training for supervisors and other appropriate staff.*

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Resources

Connecticut Clearinghouse

<https://www.ctclearinghouse.org/>

- *Connecticut Clearinghouse is a statewide library and resource center for information on substance use and mental health disorders, prevention and health promotion, treatment and recovery, wellness and other related topics. Materials from our specialized library and resource center are available to Connecticut families, teachers, students, professionals, communities and children.*

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Resources

US Department of Transportation (DOT)

<https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/overview-drug-and-alcohol-rules-employers>

- *The DOT adopted regulations requiring commercial motor vehicle operators required to maintain a commercial driver's license (CDL) to be tested for alcohol and drugs. You cannot delegate your responsibility to comply with all applicable requirements and procedures. You are responsible for all actions of your employees, representatives, and agents in carrying out the requirements of the DOT regulations.*

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Mental Health and Addiction in the Workplace

Robert G. Brody, Esq.

“What is the Law?”

Americans with Disabilities Act (ADA)
Provides protection from discrimination to those with a disability, including mental disorders such as depression and anxiety. The ADA also provides some protections for recovering drug abusers and for alcoholics.

Palliative Use of Marijuana Act (PUMA)
A Connecticut law legalizing medical marijuana and prohibiting employers from firing, penalizing or threatening an employee solely on that person's status as a user or caregiver of a user.

Occupational Safety and Health (OSH) Act
Aimed at reducing workplace hazards and implementing safety and health programs for employers and their employees.

Connecticut Commission on Human Rights and Opportunities (CHRO)
State agency charged with enforcing human rights laws related to discrimination in employment, housing, and public accommodations.

Drug-Free Workplace Act (DFWA)
Requires some federal contractors and all federal grantees to agree that they will provide drug-free workplaces as a precondition of receiving a contract or grant from a Federal agency.

“What Are Some Best Practices?”

Keep a list of **Community Resources** on hand.

Consider providing an **Employee Assistance Program (EAP)**.

Consider bringing in an **Expert** to educate employees on these issues if they are a big issue in your workplace.

Train your supervisors to identify issues early.

Maintain an **Open-Door Policy** and **Encourage Communication** between employees and management.

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