Workplace Drug Use and Testing in a New Era

Presented by

Scott Good, MBA
Principal and Research Director

crescendo

And

Kenji Saito, MD, JD
Medical Director of Workplace Health

MaineGeneral Medical Center
Workplace Health
Welcome

Local, Member centered, health insurance company based in Lewiston
Call Centers in Lewiston and Fort Kent
Qualified Health Plan (Marketplace certification)
Non-profit 501(c)29
Providing health plans to individuals and small and large businesses throughout Maine

Michael Gendreau
Director, Outreach, Education and Communications

www.HealthOptions.org
Agenda and Today’s Presenters

- Setting the context
- Special challenges associated with marijuana opioid use issues in the workplace
- Reviewing techniques to perform substance use assessments in the workplace

Scott Good, MBA

Kenji Saito, MD, JD
Since 1999, sales of prescription opioids in the U.S. have quadrupled.
National Overdose Deaths
Number of Deaths Involving All Drugs

- Total
- Female
- Male

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
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<tr>
<td>2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
National Overdose Deaths
Number of Deaths from Opioid Drugs

Source: National Center for Health Statistics, CDC Wonder
Marijuana Legislation by State
March 2018

Source: National Conference of State Legislatures
SUD Spending Increases Every Year

Total amounts paid for opioid addiction and overdose treatment diagnoses for enrollees in large employer plans, in millions, 2004-2016

- **Inpatient**
- **Outpatient**
- **Prescriptions**

<table>
<thead>
<tr>
<th>Year</th>
<th>Inpatient</th>
<th>Outpatient</th>
<th>Prescriptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>$911</td>
<td>$1,281</td>
<td>$435</td>
</tr>
<tr>
<td>2015</td>
<td>$764</td>
<td>$1,366</td>
<td>$361</td>
</tr>
<tr>
<td>2014</td>
<td>$582</td>
<td>$1,165</td>
<td>$339</td>
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<td>2013</td>
<td>$554</td>
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<td>2012</td>
<td>$486</td>
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<td>$324</td>
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<td>2011</td>
<td>$492</td>
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<td>$261</td>
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<td>2010</td>
<td>$390</td>
<td>$231</td>
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<td>2009</td>
<td>$301</td>
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<td>$172</td>
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<td>2008</td>
<td>$217</td>
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<td>2007</td>
<td>$202</td>
<td>$172</td>
<td>$172</td>
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<td>2006</td>
<td>$149</td>
<td>$172</td>
<td>$172</td>
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<tr>
<td>2005</td>
<td>$172</td>
<td>$172</td>
<td>$172</td>
</tr>
<tr>
<td>2004</td>
<td>$166</td>
<td>$172</td>
<td>$172</td>
</tr>
</tbody>
</table>

Source: Kaiser Family Foundation analysis of Truven MarketScan data, 2016 • Get the data • PNG
With a Mix of Federal and State Laws

- Opioid Prescribing restrictions were in 23 states at last count
  - Most include statutory limit on length of opioid prescribing (e.g. 3 – 14 d for acute pain); Many promote access to naloxone
- Eighteen states have drug testing provisions in their legal codes.
- Federal agencies (DOD; DOT) require workforces and contractors which they regulate implement drug testing programs and policies.

NCSL: Prescribing Policies: States Confront Opioid Overdose Epidemic
Maine and Mass Laws Add Complexity

- With the exception of employers working under Federal mandates, Maine employers wanting to enact a drug testing program must have a policy approved by the Maine Department of Labor.
- Maine was the eighth state to legalize recreational marijuana sales, but the first to explicitly prohibit employers from firing or refusing to hire a person due to their off-site recreational marijuana use.
- Supreme Judicial Court of Massachusetts has held that medical marijuana may constitute a “reasonable accommodation” for employees.
Workplace Health

- Full service occupational medicine clinics in Augusta and Waterville
- Non-regulated drug testing
- FMCSA Dot drug & alcohol testing consortium
- Mobile on-call testing available
- Certified MRO physician onsite
- EAP Services
- Employee Wellness

Kenji Saito, MD, JD, Medical Director; Regulatory Liaison
MaineGeneral Health

http://workplacehealth.mainegeneral.org
What industries do you represent?
What profession are you in?
What part of Maine are you from?
Do you have a drug screening policy at your workplace?

- If yes, do you have a regulated or non-regulated drug screening policy?
  - Regulated
  - Non-Regulated
  - Don’t know
Why Drug Test?

Drug Testing & Safety: What's the Connection?

Enacting a clear drug testing policy to eliminate workplace substance abuse is an important step toward maintaining a safe work environment.
Why Drug Test?

- DATIA and SHRM survey
  - companies with high workers' compensation incidence rates reported a drop from 14 percent to 6 percent after implementing drug testing programs

- NSDUH and SAMHSA
  - Around 8.9 percent of those employed full time reported use of illicit drugs in our workplaces.

- DOL
  - drug and alcohol abuse in the workplace causes 65 percent of on-the-job accidents
  - 38 percent to 50 percent of all workers' compensation claims are related to the abuse of alcohol or drugs in workplace
Third man charged in Twin Cities' February drug bust
Lewiston Sun Journal - Mar 12, 2018
In court records, U.S. Drug Enforcement Administration Special Agent Michael Gagnon wrote that a search of Poland's office turned up files for his company, TY Construction, which is incorporated in Maine. In the office, agents discovered the pink Ecstasy pills in a small credenza between two bookshelves.

Raid in Lewiston-Auburn lead to drug trafficking charges against ...
Local Source - Press Herald - Mar 12, 2018

Maine Voices: Fentanyl now public enemy No. 1 in America's war on ...
Press Herald - Apr 10, 2018
Millions of Americans are addicted to drugs, and overdose deaths number over 50,000 annually, despite the use of the overdose-reversal medication naloxone. In Maine, we lose more than one a day – cutting short the lives of enough young adults to affect our demographic makeup in a state that is one of ...

Maine Voices: Opioids aren't our only drug problem
Press Herald - Apr 1, 2018
Of the 418 drug overdoses in Maine last year, 91 (22 percent) were caused by cocaine. That number has been growing since 2013, when only 13 (7 percent) deaths were caused by cocaine. Nationwide, according to the Centers for Disease Control and Prevention, cocaine was second only to heroin as the ...

Maine fire departments may start teaching people how to give Narcan
NewsCenterMaine.com WCSH-WLBZ - Apr 6, 2018
(NEWS CENTER Maine) – With both state and federal lawmakers discussing increasing the availability of the opioid overdose reversal drug, naloxone, some fire departments in Maine may start teaching the general public to administer it to a person overdosing. Kim Whitman asked NEWS CENTER NOW ...
Types of Workplace Drug Testing

- Pre-Employment Drug Testing
- Random Drug Testing
- For Cause Drug Tests
- Post-Accident Drug Test
Types of Workplace Drug Testing

- Pre-Employment Drug Testing
- Random Drug Testing
- For Cause Drug Tests
- Post-Accident Drug Test

Health and Safety
### Applicant Substance Abuse Testing Policy

**SUBSTANCES TO BE TESTED FOR**

- All screening tests will be conducted using the EMIT (Enzyme Multiplied Immunoassay Test)
- All confirmation tests will be conducted using the GC/MS (Gas Chromatography/Mass Spectrometry) methodology.
- Applicants will be tested for one of their illicit substances.

<table>
<thead>
<tr>
<th>To Be Tested</th>
<th>Employees</th>
<th>Testing Type</th>
<th>With POCT</th>
<th>Without POCT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>20 or Fewer</td>
<td>Probable Cause</td>
<td>Download</td>
<td>Download</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Random</td>
<td>Download</td>
<td>Download</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Arbitrary</td>
<td>Download</td>
<td>Download</td>
</tr>
<tr>
<td></td>
<td>More than 20 EAP</td>
<td>Probable Cause</td>
<td>Download</td>
<td>Download</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Random</td>
<td>Download</td>
<td>Download</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Arbitrary</td>
<td>Download</td>
<td>Download</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Probable Cause/Random</td>
<td>Download</td>
<td>Download</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Substances</th>
<th>300 ng/ml</th>
<th>300 ng/ml</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methaqualone</td>
<td>300 ng/ml</td>
<td>300 ng/ml</td>
</tr>
<tr>
<td>Opiates and/or metabolites</td>
<td>2000 ng/ml</td>
<td>2000 ng/ml</td>
</tr>
<tr>
<td>Phencyclidine</td>
<td>25 ng/ml</td>
<td>25 ng/ml</td>
</tr>
<tr>
<td>MDA</td>
<td>-</td>
<td>250 ng/ml</td>
</tr>
<tr>
<td>MDEA</td>
<td>-</td>
<td>250 ng/ml</td>
</tr>
</tbody>
</table>

Employee Testing Policies

- Probable cause testing (also known as reasonable suspicion) is based on a determination by a qualified observer that the employee may be abusing a substance.

- Random testing is based on randomly selecting individuals from a pool.

- Arbitrary testing is based on an event. This may be an employment anniversary, a contract obligation, or other non-cause related occurrence.

http://www.maine.gov/labor/labor_laws/substance_abuse_testing/employee_model_policies.html
Testable Substances and Sample Collection

In Maine, the substances that can be tested are determined by the Department of Health and Human Services, as are the screening and concentration levels at which they can be tested. The table below summarizes the screening and confirmation concentrations of the testable substances.

Please contact mdol@maine.gov or 207-623-7902 for more information.

<table>
<thead>
<tr>
<th>Substances</th>
<th>Urine</th>
<th>Hair</th>
<th>Oral Fluids</th>
<th>Sweat (per patch)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Screen</td>
<td>Confirm (only if morphine &gt; 2000)</td>
<td>Screen</td>
<td>Confirm</td>
</tr>
<tr>
<td>6-Acetylmorphine</td>
<td>10 ng/L</td>
<td>10 ng/mL</td>
<td>N/A</td>
<td>200 pg/mg</td>
</tr>
<tr>
<td>Alcohol</td>
<td>0.02 g/100mL</td>
<td>0.02 g/100mL</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Amphetamine/ Methamphetamine</td>
<td>500 ng/mL</td>
<td>250 ng/mL</td>
<td>500 pg/mg</td>
<td>300 pg/mg</td>
</tr>
<tr>
<td>Barbiturates</td>
<td>300 ng/mL</td>
<td>300 ng/mL</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Benzodiazepines</td>
<td>300 ng/mL</td>
<td>200 ng/mL</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Cocaine and/or metabolites</td>
<td>150 ng/mL</td>
<td>100 ng/mL</td>
<td>500 pg/mg</td>
<td>Cocaine, 500 pg/mg metabolites, 50 pg/mg</td>
</tr>
<tr>
<td>Marijuana and/or metabolites (Cannabinoids)</td>
<td>50 ng/mL</td>
<td>15 ng/mL</td>
<td>1 pg/mg</td>
<td>0.05 pg/mg</td>
</tr>
<tr>
<td>MDA</td>
<td>N/A</td>
<td>250 ng/mL</td>
<td>N/A</td>
<td>300 pg/mg</td>
</tr>
<tr>
<td>MDEA</td>
<td>N/A</td>
<td>250 ng/mL</td>
<td>N/A</td>
<td>300 pg/mg</td>
</tr>
<tr>
<td>MDMA</td>
<td>500 ng/mL</td>
<td>250 ng/mL</td>
<td>500 pg/mg</td>
<td>300 pg/mg</td>
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<tr>
<td>Methadone</td>
<td>300 ng/mL</td>
<td>300 ng/mL</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Methaqualone</td>
<td>300 ng/mL</td>
<td>300 ng/mL</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Opiates and/or metabolites (Morphine, Codeine)</td>
<td>2000 ng/mL</td>
<td>2000 ng/mL</td>
<td>200 pg/mg</td>
<td>200 pg/mg</td>
</tr>
<tr>
<td>Phencyclidine</td>
<td>25 ng/mL</td>
<td>25 ng/mL</td>
<td>300 pg/mg</td>
<td>300 pg/mg</td>
</tr>
</tbody>
</table>

B. Controlled substance recipients by age and sex

- Opioids (f)
- Benzodiazepines (f)
- Stimulants (f)
- Opioids (m)
- Benzodiazepines (m)
- Stimulants (m)

Percentage

Age

0-9 10-19 20-29 30-39 40-49 50-59 60-69 70-79 80+


https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4987068/
Special Workplace Challenges

- Conflicting regulations
- Workforce shortages
- Growing awareness of consumer rights
- Continued issues of stigma, shame, fear
- Costs (Presenteeism, absenteeism, etc.)
Maine Department of Labor
Guide for Employers: Marijuana & Other Substances of Use in the Workplace*

Under the Maine Medical Use of Marijuana Act (MMUMA) –

- “an employer may not refuse to employ or otherwise penalize a person solely for that person’s status as a qualifying patient...”; however,
- The MMUMA does not require “an employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.”
- Drug tests for marijuana typically show levels in a person’s system well after the “effects” wear off, so if marijuana is legalized, employees may fail a drug test and yet not have used marijuana while at work and not have a level in their system that causes impairment.
- Employers’ policies may require that employees not use marijuana or other substances of use while at work and that they may not come to work impaired even if their use is “legal.” Employers can take appropriate disciplinary action when company policies or state/federal substance use laws are violated. Other rules related to unemployment, treatment and counseling may also apply.
- Under current unemployment employee misconduct presumptions, use of “illegal” drugs may be considered misconduct; it remains unclear, however, if marijuana were to be “legalized” on a state level but remained illegal on a federal level, how that presumption would be interpreted. This may require a statute change to clarify.

Maine Department of Labor Recommendations

- Employers should first establish a drug-free workplace policy (DFWP) that articulates their requirements and expectations of employees regarding substance use and impairment while in the workplace.

- Employers who wish to conduct substance abuse testing may also develop a drug testing policy for approval by MDOL
  - See [www.maine.gov/labor/labor_laws/substance_abuse_testing](http://www.maine.gov/labor/labor_laws/substance_abuse_testing) for more information about the policies and the testing law

- The Department provides guidance and written templates to employers who wish to develop either a drug-free workplace policy or any drug testing policies.
Keys to A Successful Approach

- Clarity of purpose
- Internal management support
- A clear, proven methodology and objectivity; understand the ultimate purpose of the Assessment
- Validated information sources
- Consensus around objectives and processes
  - Link the plan to your existing reporting processes, where possible
What’s in Your Plan?

- **Drug Free Workplace Policy**
- **SAMHSA’s drug-free workplace toolkit**
  - Non-impairment agreement for employees SAMPLE on next page
  - [https://www.samhsa.gov/workplace/toolkit](https://www.samhsa.gov/workplace/toolkit)
- **A written testing policy**
- **Employee education**
- **Supervisor training**
  - Impairment detection training SafetyWorks
- **An employee assistance program (EAP)**
- **Drug testing professionals**
Challenges to Avoid

- Structural
- Operational / Relational
- Technical
Successful Processes

Do more than

“It’s a safety issue”
Have a policy that is adhered to

Develop a

Drug Free Workplace Policy
Relationship with EAP

Document

Impairment
Drug screening professional
## Messaging Reminders

<table>
<thead>
<tr>
<th>Instead of…</th>
<th>Try:</th>
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</thead>
<tbody>
<tr>
<td>Addict</td>
<td>Person with Substance Use Disorder</td>
</tr>
<tr>
<td>Alcoholic</td>
<td>Person with Alcohol Use Disorder</td>
</tr>
<tr>
<td>Drug abuse</td>
<td>Substance use disorder</td>
</tr>
<tr>
<td>Urine is clean/dirty</td>
<td>Urine screened positive for…</td>
</tr>
<tr>
<td>Person is clean</td>
<td>Person not actively using</td>
</tr>
</tbody>
</table>

Non-Impairment Agreement Sample

- As part of [Company’s] drug-free workplace policy, it is required for all employees to be not under the influence of a substance of use or ‘non-impaired’ when they report to his/her workplace (including all job sites at other locations and in company owned vehicles) each day and during his/her entire shift.

- In accordance with our drug-free workplace policy, [Company] requires that all employees sign an agreement to abstain from the use of alcohol and/or other substances of use, to include ingestion and inhalation, during work hours and on all work premises including company-owned vehicles.

- While Maine law expressly prohibits employees from being discriminated against for lawfully engaging in conduct involving the use of marijuana, whether medical or recreational, the law does not require [Company] to accommodate an employee’s ingestion of marijuana in the workplace or to permit an employee to work while under the influence of marijuana – therefore, the activity is prohibited.

- The legal use of prescribed drugs is permitted on the job only if it does not impair an employee’s ability to perform the essential functions of the job effectively and safely, in a manner that does not endanger clients or other individuals in the workplace.

*http://maine.gov/labor/labor_laws/substance_abuse_testing/index.html*
Finalizing Your Plan

- Start reporting early
  - Draft interim documents that can be used to guide near-term activities.
- Engage Leadership and Employee members to help design Implementation Plan tasks.
- Establish a “dashboard” to track progress
- Report-out regularly
- Document how the policy is used to support your purpose
Duke, a 6-year-old German shepherd patrol and drug search dog, is trained to find crack cocaine, cocaine, methamphetamine and Ecstasy.

The department purchased Duke five years ago for $12,000. Duke was born in Slovakia and transported to Connecticut Canine Services in Bethany, Connecticut.
Risk thresholds for alcohol consumption: combined analysis of individual-participant data for 599,912 current drinkers in 83 prospective studies
Wood, Angela M; Wood, Angela M et al.
The Lancet, Volume 391, Issue 10129, 1513 - 1523
Read the full story
Business Impact

Treating Addiction with an App

Using smartphone data and artificial intelligence to track and interpret behavior, a
Drug Testing Resources

- DOT – Am I Covered? [https://www.transportation.gov/odapc/am-i-covered](https://www.transportation.gov/odapc/am-i-covered)
- Workplace Health – [http://workplacehealth.mainegeneral.org](http://workplacehealth.mainegeneral.org) or call 207-872-4455
Thank You.
Contact Information

- Scott Good, (207) 774-2345 ext 115, scottg@crescendocg.com

- Kenji Saito, MD, JD Kenji.Saito@MaineGeneral.org
  - Sharon Crowe, (207) 872 - 4455
    Sharon.Crowe@MaineGeneral.org