COAA
Construction Owners
Association of Alberta

Canadian Model for Providing a Safe Workplace

Alcohol and Drug Guidelines and Work Rule

A best practice guide of
the Construction Owners
Association of Alberta

Version 5.0 – Effective October 8, 2014

Note to readers

The Canadian Model for Providing a Safe Workplace was developed through a consensus process approved by the Construction Owners Association of Alberta (COAA), which brought together volunteers representing varied viewpoints and interests to achieve a reasonable consensus in developing a general guideline for industry use. The content of this guide does not represent the views of any particular committee member. This document is a general guideline and COAA strongly recommends obtaining legal and other professional advice to complement and clarify specific implementation of this guideline. This guide is also subject to periodic review and readers should ensure they are referencing the most current version.

Suggestions for improving this guide are welcome and can be submitted directly to COAA.

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Construction Owners Association of Alberta
#800, 10123 – 99 Street
Edmonton, Alberta
Canada T5J 3H1

t: 780 420-1145
e: admin@coaa.ab.ca
w: www.coaa.ab.ca

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Alcohol and Drug Guidelines

INTRODUCTION

The Canadian Model for Providing a Safe Workplace (the Canadian Model) is a best-practice alcohol and drug policy that stakeholders in the construction industry across Canada can adopt and follow. The purpose of the Canadian Model is to ensure a safe workplace for all workers by reducing the risks associated with the inappropriate use of alcohol and drugs.

Prior to the introduction of the Canadian Model in 1999, the construction industry had no standard policy for addressing the use of alcohol and drugs in the workplace. Many parties in the industry had implemented their own policies, but others had none in place. At the same time, owners had their own policies to be adhered to on their sites, which often differed from the policies of contractors or service providers working on the sites. This lack of standardization and commonality led to confusion, redundancy and discrepancies, and was certainly inefficient and potentially unfair to employees caught in the middle.

In 1998, under the direction of the Construction Owners Association of Alberta (COAA), a group of key stakeholders from the construction industry came together to deal with this problem. Through extensive collaborative efforts, the working group developed consistent alcohol and drug guidelines and a policy that would standardize the approach, testing, application and, if needed, rehabilitation of workers. In February 1999, the first version of the Canadian Model was distributed among the construction industry stakeholders.

Recognizing that the development of a Canadian Model must take into account new information, technologies and trends that may arise over time, the COAA has undertaken periodic reviews necessary to keep the Canadian Model current and relevant. In the fall of 2000, the working group reconvened and reviewed the policy in light of the initial experience with the Canadian Model plus the emerging law and public policy in this area. In May 2001, a second version of the Model was completed.

The next step in the journey was in 2004 when a COAA committee was struck to re-examine the Canadian Model with a goal to further improve safety in the workplace. In particular, the committee examined new technologies and tools that had become available, and reviewed industry and legislative trends, current scientific information relating to the use of alcohol and drugs, and stakeholder feedback. A third version of the Canadian Model was then issued in October 2005.

In 2010, a fourth version was issued, incorporating the latest advances in the drug cut-off limits.

This fifth version, effective October 8, 2014, has undergone a comprehensive update by a review committee of industry experts. One notable change is the guidance provided on point of collection testing (urine), which may be appropriately used as a risk assessment tool but not as a basis for employment decisions.

The Canadian Model continues to be widely used and available at no cost to owners, construction companies and labour providers in Canada. Key stakeholders have committed to ongoing monitoring and review of the Canadian Model under the direction of the COAA Safety Committee and in conjunction with industry groups.

This Canadian Model is part of an overall approach to safety and is intended to be an integral part of a safety and loss management policy. It can also be used as a tool for improving safety through performance management and education. Awareness training for management, labour providers, bargaining agents, supervisors and workers is key to ensuring commonality and clarity across large sites. Mentoring relationships between more experienced and less experienced companies will maximize the effectiveness of these guidelines and make safer workplaces for all.

The Canadian Model aims to establish a minimum industry standard for a safe workplace, while recognizing that some companies may require higher or alternative standards based on the specific nature of their operations.

ACKNOWLEDGMENTS

Canadian Model for Providing a Safe Workplace

The COAA gratefully acknowledges those organizations that contributed toward the development of Version 5.0 of the Canadian Model through active participation on the Review Committee and/or the financial contributions to support the work of the Committee.

Review Committee participants

- Alberta Construction Safety Association
- Alberta Health Services
- Alberta Jobs, Skills, Training and Labour
- Building Trades of Alberta
- Canada's Building Trades Unions
- Canadian Construction Association
- Canadian Natural Resources Limited
- CannAmm Occupational Testing Services
- Christian Labour Association of Canada
- Construction Labour Relations – An Alberta Association
- Construction Owners Association of Alberta
- Drug and Alcohol Risk Reduction Pilot Project
- Gamma-Dynacare Medical Laboratories
- Homewood Health Inc.
- Merit Contractors Association
- Middlemiss Safety Management
- Nexen Energy ULC
- North West Redwater Partnership
- Oil Sands Safety Association
- Organizational Health Inc.
- Progressive Contractors Association of Canada
- Total E&P Canada

Contributors

- DriverCheck Medical Testing and Assessments
- eScreen Canada
- SureHire

GUIDING PRINCIPLES

Canadian Model for Providing a Safe Workplace

It is recognized that the use of illicit drugs and the inappropriate use of alcohol and prescription and non-prescription drugs can have serious adverse effects on a person's health, safety and job performance. A solid industry-wide model, including both a policy and guidelines, will help to enhance the level of health and safety at the workplace. In developing and revising the Canadian Model, the following principles were considered.

- The application of a standard alcohol and drug model across the construction industry helps to standardize the approach, testing, application and rehabilitation of workers. It also assists companies in implementing and managing consistent standards, and helps to ensure that all employees are treated fairly and with respect.
- Alcohol and drug policies do not reduce the need for effective performance management systems.
- Industry recognizes that awareness, education, effective interventions and rehabilitation are all key to a successful program. A standard policy will help provide a better understanding among industry stakeholders on the health and safety issues of the use of alcohol and drugs and on the sources of support available to workers for rehabilitation.
- Recognizing that every person has the right to a safe and reliable workplace, the industry is committed to ensuring no workers create a risk for themselves, others and/or physical plant equipment through the use of alcohol and drugs. Additionally, both individuals and companies have a legal and moral responsibility to ensure their own safety and the safety of others.
- The model must ensure and maintain confidentiality and credibility of the testing process and must be legally defensible.
- There is a correlation between workplace approaches and practices and family and community benefits. The industry recognizes this correlation and supports a standard alcohol and drug model that will benefit all stakeholders.
- There is a shared responsibility between owner companies, contractors, workers and labour providers for the success of this model.

ALCOHOL AND DRUG GUIDELINES

Canadian Model for Providing a Safe Workplace

In the construction industry, a strong commitment exists to ensure all people are provided with a safe, healthy and reliable workplace. This commitment also extends to the safety of customers and the general public.

The inappropriate use of alcohol and drugs can have serious adverse effects on the safety and well-being of workers, contractors and the public. Awareness of the potential risks associated with the use of alcohol and drugs can assist in providing a safe, healthy and reliable workplace.

The objective of the following alcohol and drug guidelines and work rule is to reduce the risk of incidents (safety, health, environmental and operational) of which alcohol and drug use may be a contributing factor or cause. The Canadian Model strongly supports rehabilitation activities and opportunities for re-employment and applies to all positions within the company including management personnel.

1.0 Work standards

- No worker shall distribute, possess, consume or use alcohol or illegal drugs on any company workplace.
- No worker shall report to work or be at work under the influence of alcohol or drugs that may or will affect their ability to work safely.
- No worker shall test positive for any alcohol or drugs at concentrations as specified in Section 3.1 of the alcohol and drug work rule.
- No worker shall misuse prescription or non-prescription drugs while at work. If a worker is taking a prescription or non-prescription drug for which there is a potential unsafe side effect, he or she has an obligation to report it to the supervisor.

2.0 Roles and responsibilities

The successful implementation of these guidelines and work rule is the shared responsibility of owner companies, contractors, workers and labour providers.

Workers must:

- have an understanding of the alcohol and drug work rule
- take responsibility to ensure their own safety and the safety of others
- ensure they comply with the work standards as part of their obligation to perform work activities in a safe manner
- comply with the work rule and follow appropriate treatment if deemed necessary
- use medications responsibly, be aware of potential side effects and notify their supervisor of any potential unsafe side effects where applicable
- encourage their peers or co-workers to seek help when there is a potential breach or breach of policy.

Supervisors or leaders must:

- be knowledgeable about the company's alcohol and drug work rule and procedures
- ensure they comply with the work standards as part of their responsibility to perform their work-related activities in an effective and safe manner
- be knowledgeable about the use of alcohol and drugs and be able to recognize the symptoms of the use of alcohol and drugs
- understand their company's performance management policy and how this Canadian Model is integral to that policy
- take action on performance deviations
- take action on reported or suspected alcohol or drug use by workers
- complete supervisor awareness training in accordance with the minimum criteria set by the United States Department of Transportation (U.S. DOT) – Employer Guidelines.

Owners and contractors must:

- provide a safe workplace
- provide prevention programs that emphasize awareness, education and training with respect to the use of alcohol and drugs
- ensure the guidelines and work rule support other performance management systems
- ensure effective employee assistance services are available to workers
- assist workers in obtaining confidential assessment, counselling, referral and rehabilitation services
- actively support and encourage rehabilitation activities and re-employment opportunities where applicable
- provide supervisory training and awareness in dealing with the use of alcohol and drugs in the workplace in accordance with the minimum criteria set by the U.S. DOT – Employer Guidelines
- participate with unions, worker associations and employer organizations to assist in the provision of rehabilitating opportunities for persons who have problems with the use of alcohol and drugs
- ensure that all employees understand the existence of and content of the guidelines and work rule as part of the employee's orientation to that company
- ensure that the alcohol and drug testing is performed according to the standards set out in this document
- decide which form of drug testing (urinalysis or oral fluid) works in the context of their own environment. Urinalysis is contemplated for all forms of drug testing in the Canadian Model alcohol and drug policy. Oral fluid testing is also contemplated for those forms of drug testing set out in 4.8.2.

Unions, employer organizations, and worker associations must:

- communicate the work rule to their members
- support effective implementation of these guidelines
- participate in ongoing review and appropriate amendments of these guidelines
- ensure employee assistance services are identified or in place for members
- educate the industrial workforce about the risks associated with the use of alcohol and drugs and promote treatment programs.

The Construction Owners Association of Alberta (COAA), in partnership with the endorsing organizations, must:

- assume ownership of these guidelines and work rule
- ensure that reviews and amendments are made in an appropriate and timely manner with input from interested and appropriate stakeholders
- post the master copy of the Canadian Model for Providing a Safe Workplace on its website (www.coaa.ab.ca).

3.0 Education and awareness

The COAA and its stakeholders recognize the importance of making workers aware through education of the actual and potential work site risks related to the consumption or use of alcohol or drugs. COAA member companies shall use education and awareness as the principal methods of ensuring commitment to and compliance with these guidelines and reducing workplace health and safety concerns associated with non-compliance.

An education package, designed to create awareness and enhance understanding, which can be found within this document (see Alcohol and drug awareness for employers, supervisors and workers), is available to all workers upon the implementation of this Canadian Model and during orientation for all new workers. Also in support of these guidelines, Section 4.0 identifies a number of additional resources available to all workers.

4.0 Available resources

In support of these guidelines and work rule, following are a number of additional resources available to all workers. Note that some of the following information may change as time elapses.

Training

- Better SuperVision (Ron Cherlet, Edmonton, 780-451-5444)
- Our Responsibility for Safety: The Alcohol and Drug Policy That Works (3.5 hour supervisory workshop presented by the Construction Labour Relations – An Alberta Association, Ron Cherlet, 780-451-5444, www.clra.org)
- Program implementation (Alberta Construction Safety Association, ACSA, 1-800-661-2272, www.asca-safety.org)
- COHR Health Inc. (ph 1-866-252-1183 or 403-243-1122, fax 403-243-3686, or cohrhealth.com)
- Chandler Consulting Inc. (1-877-343-6869 or 403-343-6869, or www.chandlerconsulting.net)
- CannAmm Occupational Testing Services (www.cannamm.com/services/training)
- DriverCheck Tutorials (www.drivercheck.ca)
- Homewood Health e-learning (www.homewoodhumansolutions.ca)
- Shepell•fgi Workplace Learning Solutions (www.shepellfgi.com)

Third-party administrators

- COHR Health Inc. (1-866-252-1183 or 403-243-1122, cohrhealth.com)
- Drivercheck Inc. (1-800-463-4310, www.drivercheck.ca)
- ECS Safety Services (1-877-784-3784 or 403-362-5552, www.ecssafety.com)
- Chandler Consulting Inc. (1-877-343-6869 or 403-343-6869, www.chandlerconsulting.net)
- eScreen Canada ULC (1-888-378-4832, www.escreencanada.com)
- CannAmm Occupational Testing Services (1-800-440-0023, www.cannamm.com/services/training)

Laboratories (testing services)

- Gamma Dynacare Medical Laboratories, London, ON (519-679-1630) – U.S. Department of Health and Human Services – certified laboratory
- Gamma-Dynacare Medical Laboratories, Edmonton, AB (780-784-1190) – U.S. Department of Health and Human Services – certified instrumented initial testing facility

Employee assistance services

A wide range of employee assistance programs can be found on the Internet.

Alcoholism information and treatment centres

This information is available through employee assistance programs, substance abuse evaluations, case managers and physicians.

Model Alcohol and Drug Policy

MODEL ALCOHOL AND DRUG POLICY

Canadian Model for Providing a Safe Workplace

1.0 PURPOSES OF THE ALCOHOL AND DRUG POLICY

1.1 The alcohol and drug policy is established

(a) to provide a safe workplace for all employees and those whose safety may be affected by the conduct of employees, and

(b) to ensure that all employees are treated fairly and with respect.

2.0 THE ALCOHOL AND DRUG POLICY IS IMPORTANT

2.1 The use of alcohol and drugs adversely affects the ability of a person to work in a safe manner. Employees at construction workplaces are often working independently or with equipment or material in an environment that poses a threat to the safety of themselves, the workforce, the workplace and the property at the workplace, if handled without proper care and attention. In setting the requirements in the Work Rule it is acknowledged that assessments of risks relating to work activities, equipment and processes may lead to a workplace adopting more rigorous requirements in relation to the risks faced in particular work. This policy will remind employees of the risks associated with the use of alcohol and other drugs and provide understandable and predictable responses when an employee's conduct jeopardizes the safety of the workplace.

2.2 By pursuing the purposes of this alcohol and drug policy, the company promotes

(a) the safety and dignity of its employees,

(b) the welfare of its employees and their families,

(c) the best interests of the bargaining agent or labour provider to which employees belong, and

(d) the best interests of the company, the owner, the construction industry and the public.

2.3 There are no other reasonable alternatives available to the company that impose a smaller burden on any rights an employee may have under the Alberta Human Rights Act and at the same time are equally as effective in promoting the purposes of this alcohol and drug policy.

3.0 ALCOHOL AND DRUG WORK RULE

3.1 An employee shall not

(a) use, possess or offer for sale alcohol and drugs or any product or device that may be used to attempt to tamper with any sample for a drug and alcohol test while on company property or at a company workplace,

(b) report to work or work

(i) with an alcohol level equal to or in excess of 0.040 grams per 210 litres of breath,

(ii) with a drug level for the drugs set out below equal to or in excess of the concentrations set out below:

or

(iii) while unfit for work on account of the use of a prescription or non-prescription drug,

(c) refuse to

(i) comply with a request made by a representative of the company under 4.3, or

(ii) comply with a request to submit to an alcohol and drug test made under 4.4, 4.5, 4.6 or 4.7, or

(iii) provide a sample for an alcohol and drug test under 4.8,

(d) tamper with a sample for an alcohol and drug test given under 4.8.

Urine drug concentration limits:

Drugs or classes of drugs	Screening concentration equal to or in excess of ng/ml	Confirmation concentration equal to or in excess of ng/ml
Marijuana metabolite	50	15
Cocaine metabolite	150	100
Opiates • Codeine • Morphine	2000 — —	— 2000 2000
6-Acetylmorphine	10	10
Phencyclidine	25	25
Amphetamines • Amphetamine • Methamphetamine	500 — —	— 250 250
MDMA[1] • MDMA • MDA[2] • MDEA[3]	500 — — —	— 250 250 250

Oral fluid drug concentration limits:

Drugs or classes of drugs	Screening concentration equal to or in excess of ng/mL	Confirmation concentration equal to or in excess of ng/mL
Marijuana (THC)	4	2
Cocaine metabolite • Cocaine or Benzoylecgonine	20 —	— 8
Opiates • Codeine • Morphine • 6-Acetylmorphine	40 — — —	— 40 40 4
Phencyclidine	10	10
Amphetamines • Amphetamine • Methamphetamine • MDMA[1] • MDA[2] • MDEA[3]	50 — — — — —	— 50 50 50 50 50

1 Methylenedioxymethamphetamine
2 Methylenedioxyamphetamine
3 Methylenedioxyethylamphetamine

3.2 An employee complies with 3.1(a) or 3.1(b)(iii) of the alcohol and drug work rule if he or she is in possession while at a company workplace of a prescription drug prescribed for him or her or a non-prescription drug and

(a) the employee is using the prescription or non-prescription drug for its intended purpose and in the manner directed by the employee's physician or pharmacist or the manufacturer of the drug, and

(b) the use of the prescription or non-prescription drug does not adversely affect the employee's ability to safely perform his or her duties, or

(c) the employee has notified his or her supervisor or manager before starting work of any potentially unsafe side effects associated with the use of the prescription or non-prescription drug.

3.3 The supervisor or manager who has received a notification under 3.2 may not disclose any information provided under 3.2 to any person other than a person who needs to know, to discharge a statutory or common-law obligation.

4.0 IMPLEMENTATION OF THE ALCOHOL AND DRUG WORK RULE

4.1 Education

4.1.1 The company is committed to informing employees of the existence of this alcohol and drug policy and to taking such other steps as are reasonable to inform its employees of the safety risks associated with the use of alcohol and drugs and the assistance available under the employee assistance services program.

4.1.2 The likelihood that an employee will comply with the alcohol and drug work rule is increased if he or she knows the safety risks associated with the use of alcohol and drugs and the assistance available under the employee assistance services program.

4.2 Self-help

4.2.1 This policy encourages employees who believe that they may require the help provided by substance abuse experts (SAEs) and employee assistance services programs (EAPs) to voluntarily request that help. An employee requesting help will not be disciplined unless he or she:

(a) has failed to comply with the alcohol and drug work rule,

(b) has been requested to confirm compliance with the alcohol and drug work rule under 4.3,

(c) has been requested to submit to an alcohol and drug test under 4.4, 4.6 or 4.7, or

(d) has been involved in an incident referred to in 4.5.

4.2.2 An employee who believes that he or she may be unable to comply with the alcohol and drug work rule must seek help by taking such steps as are necessary to ensure that he or she presents no safety risk to himself or herself or to others at the workplace, and:

(a) contacting a person responsible for the administration of the employee assistance services program,

(b) informing a family member or friend and asking for assistance in contacting a person responsible for the administration of the employee assistance services program, or

(c) informing a co-worker, a supervisor, or a representative of the company, the bargaining agent or labour provider to which the employee may belong of his or her wish to contact a person responsible for the administration of the employee assistance services program.

4.2.3 In responding to an employee's request for help, a co-worker must inform a person in authority of the request.

4.2.4 In responding to an employee's request for help, a foreman, supervisor, manager or person in authority to whom the request was made known must:

(a) take such steps as are necessary to ensure that the employee is fit for duty and presents no risk to himself or herself or to others at the workplace, and

(b) inform the employee of the assistance available under the employee assistance services program, and

(c) encourage the employee to utilize the employee assistance services program which may assist the employee, and

(d) inform the employee that if he or she fails to utilize the employee assistance services program the company may insist that the employee submit to any or all of the following:

(i) a medical assessment conducted by a physician,
(ii) alcohol and drug testing as set out in 4.8,
(iii) an assessment conducted by a substance abuse expert,

and he or she must provide confirmation to the employer that he or she submitted to (i), (ii) and/or (iii) above, and that his or her failure to submit to (i), (ii) and/or (iii) above may result in the termination of his or her employment.

A person providing assistance under an employee assistance services program in respect to an employee's use of alcohol or drugs, including a case manager, shall advise the employee that should he or she become aware of a failure of the employee to comply with the terms and conditions of a program established to help the employee and/or that the employee presents a serious and imminent risk to himself or herself or to others at the workplace, he or she must inform the employer of the failure to comply with the terms and conditions and/or of the safety risk.

4.2.5 An employee who receives assistance from the employee assistance services program on account of his or her use of alcohol and drugs must comply with the terms and conditions of any program established to help the employee as a condition of his or her continued employment.

4.2.6 An employee who is at work and enrolled in the employee assistance services program must comply with the alcohol and drug work rule.

4.3 Possession of alcohol and drugs

4.3.1 A representative of the company or the owner who has reasonable grounds to believe an employee may not be in compliance with 3.1(a) of the alcohol and drug work rule, must request

(a) that employee to confirm that he or she is in compliance with 3.1(a) of the alcohol and drug work rule, or

(b) the assistance of appropriate authorities to confirm that employee's compliance with 3.1(a) of the alcohol and drug work rule.

4.3.2 A representative of the company or the owner must provide to the employee the reason for the request under 4.3.1.

4.4 Observation of employee conduct

4.4.1 A supervisor or a manager of an employee must request an employee to submit to an alcohol and drug test under 4.8 if the supervisor or manager and the next level of management present at the company workplace, if any, have reasonable grounds to believe that an employee is or may be unable to work in a safe manner because of the use of alcohol and drugs.

4.4.2 A supervisor or manager of an employee must provide to the employee the reason for the request under 4.4.1.

4.5 Incidents and near misses

4.5.1 A supervisor or manager of an employee must request an employee to submit to an alcohol and drug test under 4.8 if the supervisor or manager and the next level of management present at the company workplace, if any, have reasonable grounds to believe that an employee was involved in an incident or near miss.

4.5.2 A supervisor or manager of an employee must provide to the employee the reason for the request under 4.5.1.

4.5.3 A supervisor or manager must make a request under 4.5.1 immediately following an incident or near miss unless it is not practicable or reasonable to do so until a later time.

4.5.4 A supervisor or a manager of an employee need not request the employee to submit to an alcohol and drug test if the supervisor or manager and the next level of management present at the company workplace, if any, conclude that there is objective evidence to believe that the use of alcohol and drugs did not contribute to the cause of the incident or near miss.

4.6 Random testing

4.6.1 At work sites where the employer has confirmed in writing that each employee is covered by an employee assistance services program, the employer may implement a lawful computer-generated random alcohol and drug testing program in accordance with the procedures set out in the United States Department of Transportation Workplace Drug and Alcohol Testing Programs in force as of the date of this publication. In the event a lawful random alcohol and drug testing program is to be adopted by an employer, a written notice shall be delivered to each employee and a written notice shall be provided to any bargaining agent of affected employees of the implementation of random alcohol and drug testing at least 30 days prior to implementation of that program at the work site.

4.6.2 Where an owner directly or by contract requires random alcohol and drug testing, such a random testing program must be applicable to all companies and employees at the work site.

4.6.3 Where an employer, in accordance with the Guidance Document for the Occupational Health and Safety Pilot Project: Reducing Safety Risks Related to the Use of Alcohol and Other Drugs, requires random alcohol and drug testing, such a random testing program must adhere to all of the terms of the approved application for participation in the Pilot Project.

4.7 Site access testing

When an owner directly or by contract requires site access testing, an employer may require alcohol and drug testing under 4.8 of any employee as a condition of access to the owner's property.

4.8 Alcohol and drug testing

4.8.1 The company agrees to retain a laboratory, as defined in this policy, to conduct urine drug testing under 4.8 in accordance with those parts of the United States Department of Transportation Workplace Drug and Alcohol Testing Programs in force as of the date of this publication, which relate to testing procedures in laboratories. A laboratory certified by the United States Department of Health and Human Services as an instrumented initial test facility is permitted to test samples under this policy. Additionally, the company agrees to have alcohol testing under 4.8 conducted by personnel in accordance with the above standards and procedures as they relate to alcohol testing.

4.8.2 The company agrees to retain a laboratory, as defined in this policy, to conduct oral fluid testing under 4.8. Oral fluid testing may be permitted for incident and near miss (post incident), observation of employee conduct (reasonable cause), and random testing. Oral fluid testing is not permitted for site access or any testing that is included in conditions established pursuant to 5.2.2(b) or 5.4.2.

4.8.3 A summary of the features of the alcohol and drug tests is set out in Appendix A of this alcohol and drug policy.

4.8.4 By continuing his or her employment with the company the employee accepts the terms of this alcohol and drug policy and authorizes the laboratory to provide the test results to the company or any person with legal authority to require the disclosure of the test results, subject to 4.9.7, below. Further, the employee authorizes the medical review officer or

the employer to provide the test results to a substance abuse expert or program case manager to whom the employee has been referred under the provisions of this policy.

4.8.5 Notwithstanding 4.8.1 through 4.8.4 and Appendix A, if a test is requested pursuant to 4.4 or 4.5, the employer may use a point of collection test (POCT) as one of a number of options for assessing the risk of having the employee return to work pending the report of the medical review officer respecting the oral or urine based laboratory test. A POCT device used for this purpose must have Health Canada approval, must be intended for urine assessment only, and must be calibrated to the extent possible with the cut-off levels in 3.1(b)(ii). Only collection personnel trained to U.S. DOT standards shall administer the POCT. Such collection personnel must comply with standard operating procedures that must, at a minimum, address chain of custody and quality control. Irrespective of whether this risk assessment option is used, a test must be completed in accordance with 4.8.1 through 4.8.4.

4.9 Alcohol and drug testing results

4.9.1 Alcohol and drug test results can be negative, positive, refusal to test or cancelled with additional comments as required. A negative test result means the employee is in compliance, a positive test result means non-compliance, a refusal to test result means non-compliance, and a cancelled test result cannot be relied upon to determine compliance or non-compliance. All test results will be provided in a confidential written report from the medical review officer to the designated company representative with explanation and direction when required.

4.9.2 A report from the medical review officer to the designated company representative that the employee's sample produced a negative test result without a safety advisory means that the employee complied with 3.1(b) of the alcohol and drug work rule. The designated company representative must notify the employee of the negative test result and that no other steps under this alcohol and drug policy will be taken. If a safety advisory is issued by a medical review officer then a fitness for work assessment should be conducted to ensure the safety of the employee and others at the workplace, and because there may have been a failure to comply with 3.2. It may be appropriate to pursue procedures under other policies or take other steps, including a medical assessment, in order to assist the employee to perform at a satisfactory level.

4.9.3 A confidential written report from the medical review officer to the designated company representative that the employee's sample produced a positive test result means that the employee failed to comply with 3.1(b) of the alcohol and drug work rule.

4.9.4 A confidential written report from the medical review officer to the designated company representative that the employee refused to test means that the employee failed to comply with 3.1(d) of the alcohol and drug work rule.

4.9.5 A confidential written report from the medical review officer to the designated company representative that the employee's sample is cancelled means that the test cannot be relied upon for the purposes of this work rule.

4.9.6 Where a person is referred to testing required under 4.7 by the bargaining agent or labour provider of that person, a confidential written report from the medical review officer shall be issued to the designated representative of the bargaining agent or labour provider.

4.9.7 In order to preserve the confidentiality of test results, the designated company representative and any person to whom disclosure is permitted under this alcohol and drug policy must not disclose the test results to any person other than a person who needs to know the test results to discharge an obligation under this alcohol and drug policy.

4.10 Assistance of a representative

4.10.1 A representative of a bargaining agent or labour provider of which an employee is a member and with whom the employer has a bargaining relationship may assist the employee with any matter arising under this alcohol and drug policy if the employee wishes to have the assistance of a representative.

4.10.2 A representative of a bargaining agent or labour provider of which an employee is a member and with whom the employer has a bargaining relationship, may attend any meeting or discussion which takes place under this alcohol and drug policy

if the employee wishes the representative to attend and the attendance of the representative does not unduly delay the time at which the meeting or discussion takes place.

5.0 CONSEQUENCES FOR FAILURE TO COMPLY WITH THE ALCOHOL AND DRUG WORK RULE

5.1 Company responses to violations

The company may discipline, or terminate for cause, the employment of an employee who fails to comply with the alcohol and drug work rule. The appropriate consequence depends on the facts of the case, including the nature of violation, the existence of prior violations, the response to prior corrective programs and the seriousness of the violation.

5.2 Violation of 3.1(b) of the alcohol and drug work rule

5.2.1 Prior to the company making a final decision with regard to disciplining or terminating the employment of an employee, who has failed to comply with 3.1(b) of the alcohol and drug work rule, the company shall direct the employee to and the employee shall meet with a substance abuse expert. The substance abuse expert shall make an initial assessment of the employee and make appropriate recommendations. The assessment by the substance abuse expert shall be applied utilizing the processes and approaches set out in Appendix B. The employee shall, through the substance abuse expert, provide to the company a confidential report of his or her initial assessment and recommendations. The company then shall make the final decision under 5.1. The initial assessment is to be completed as soon as possible, and the report shall be delivered to the company within two days of completion. Failure by the employee to attend the assessment or follow the course of corrective or rehabilitation action shall be cause for termination of the employee. During the period of assessment and corrective rehabilitative programs recommended by the substance abuse expert the employee shall be deemed to be suspended from his or her employment without pay.

5.2.2 In addition to disciplining or terminating for cause the employment of an employee who fails to comply with 3.1(b) of the alcohol and drug work rule, the company may give written notice to that person that the person will not be re-employed again by the company unless the person provides the company with the following:

(a) a certificate issued

(i) by the rehabilitation program service provider certifying that the person who was terminated has successfully completed its rehabilitation program and continues to comply with all the requirements of the rehabilitation program, or

(ii) by a licensed physician with knowledge of substance abuse disorders certifying that the person who was terminated is able to safely perform the duties he or she will be required to perform if employed by the company, or

(iii) by a substance abuse expert or program case manager, and

(b) a statement signed by the person and, if represented by a bargaining agent or labour provider, by the bargaining agent or labour provider acknowledging that the person agrees to any conditions imposed as part of a corrective rehabilitative program and such other reasonable conditions set by the employer. The employer may terminate the employment of the employee who fails to comply with the conditions set out in such statement.

5.3 Violation of 3.1 (a), (c) or (d) of the alcohol and drug work rule

If a company decides to discipline or terminate for cause the employment of an employee who fails to comply with 3.1(a) or (c) or (d) of the alcohol and drug work rule, the company shall refer such employee to a substance abuse expert and shall notify the bargaining agent or labour provider, if the employee has one, of such referral.

5.4 Owner responses to violations

5.4.1 The owner of a site where a person was working when he or she failed to comply with the alcohol and drug work rule may give the person who failed to comply with the alcohol and drug work rule written notice that he or she shall not enter the owner's site.

5.4.2 The owner of a site where a person was working when he or she failed to comply with the alcohol and drug work rule may give that person who has been denied permission to enter its site under 5.4.1 written notice that the person may enter the owner's site if

(a) a company engaged in work at the owner's site, or

(b) the bargaining agent or labour provider of that person, if the person is represented by a bargaining agent or labour provider, or

(c) a company engaged in work at the owner's site and the bargaining agent or labour provider of that person

provides the owner with a written statement by the person who has been denied permission to enter the owner's work site under 5.4.1 acknowledging that that person agrees to reasonable conditions imposed by the owner or the contractor or the bargaining agent or labour provider or a part of a corrective or rehabilitative program.

5.4.3 The owner may withdraw permission given under 5.4.2 if the person given permission to enter the owner's work site under 5.4.2 fails to comply with the alcohol and drug work rule or any condition imposed under 5.4.2.

5.4.4 The owner is not obliged to give a person who has been denied permission to enter the owner's site under 5.4.3 another opportunity to work on the owner's site.

5.5 Bargaining agent or labour provider responses to violations

A bargaining agent or labour provider shall decline to dispatch a person to a company until that organization has reviewed the initial assessment, referred to in Article 5.2 or 5.3, and until the conditions set out therein for the person have been met.

6.0 DEFINITIONS

6.1 In this alcohol and drug policy, the following definitions apply:

(a) **Alcohol**: Any substance that may be consumed and that has an alcoholic content in excess of 0.5 per cent by volume.

(b) **Alcohol and drug**s: Alcohol or drugs or both.

(c) **Alcohol and drug test**: A test administered in accordance with 4.8.1 of this alcohol and drug policy.

(d) **Alcohol and drug work rule**: The alcohol and drug work rule set out in 3.1 of this alcohol and drug policy.

(e) **Case manager:** A professional with training, knowledge and experience in case management and substance abuse disorders. The case manager facilitates and confirms compliance with treatment recommendations, and provides supportive and objective case management services, including aftercare and return to work conditions recommended by the substance abuse expert, to support the worker and maintain the safety of the worker and those around him or her on a safety-sensitive work site.

(f) **Company**: A corporation, partnership, association, joint venture, trust or organizational group of persons whether incorporated or not.

(g) **Company workplace**: Includes all real or personal property, facilities, land, buildings, equipment, containers, vehicles, vessels, boats and aircraft whether owned, leased or used by the company and wherever it may be located.

(h) **Drug paraphernalia**: Includes any personal property which is associated with the use of any drug, substance, chemical or agent the possession of which is unlawful in Canada.

(i) **Drugs**: Includes any drug, substance, chemical or agent the use or possession of which is unlawful in Canada or requires a personal prescription or authorization from a licensed treating physician, any non-prescription medication lawfully sold in Canada and drug paraphernalia.

(j) **Employee**: Any person engaged in work on a work site where this policy applies.

(k) **Employee assistance services program**: Services that are designed to help employees who are experiencing personal problems such as alcohol and drug abuse.

(l) **Employer**: A person who controls and directs the activities of an employee under an express or implied contract of employment.

(m) **Incident**: An occurrence, circumstance or condition that caused or had the potential to cause damage to person, property, reputation, security or the environment.

(n) **Laboratory**: A laboratory providing urine-based drug testing services or oral fluid-based drug testing services must be certified by the United States Department of Health and Human Services under the National Laboratory Certification Program. A laboratory providing oral fluid-based drug testing services must ensure that the oral fluid testing be performed in such a manner that: (1) acceptable forensic practices and quality systems are maintained; (2) specimen validity testing is deployed; (3) regular independent audits occur; and (4) proficiency test samples are included.

(o) **Manager**: Includes team leaders and other persons in authority.

(p) **Medical review officer (MRO)**: A licensed physician, currently certified with the American Association of Medical Review Officers or Medical Review Officer Certification Council, with knowledge of substance abuse disorders and the ability to evaluate an employee's positive test results who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

(q) **Negative test result**: A report from the medical review officer that the employee who provided a specimen for alcohol and drug testing (laboratory-based) did not have an alcohol and drug concentration level equal to or in excess of that set out in 3.1(b).

(r) **Owner**: The person in legal possession of a site.

(s) **Positive test result**: A report from the medical review officer that the employee who provided a specimen for alcohol and drug testing (laboratory-based) did have an alcohol or drug concentration level equal to or in excess of that set out in 3.1(b).

(t) **Reasonable grounds**: Includes information established by the direct observation of the employee's conduct or other indicators, such as the physical appearance of the employee, the smell associated with the use of alcohol or drugs on his or her person or in the vicinity of his or her person, his or her attendance record, circumstances surrounding an incident or near miss and the presence of alcohol, drugs or drug paraphernalia in the vicinity of the employee or the area where the employee worked.

(u) **Rehabilitation program**: A program tailored to the needs of an individual which may include education, counselling and residential care offered to assist a person to comply with the alcohol and drug work rule.

(v) **Substance abuse expert (SAE)**: A licensed physician; a licensed or certified social worker; a licensed or certified psychologist; a licensed or certified employee assistance expert; or an alcohol and drug abuse counsellor. He or she has received training specific to the SAE roles and responsibilities, has knowledge of and clinical experience in the diagnosis and treatment of substance abuse-related disorders, and has an understanding of the safety implications of substance use and abuse.

(w) **Supervisor**: The person who directs the work of others and may, depending on the nature of the company's structure, include the foreman, general foreman, supervisor, superintendent and team leader.

(x) **Tamper**: To alter, meddle, interfere, substitute or change.

(y) **Work**: Includes training and any other breaks from work while at a company workplace.

(z) **Work site**: A place at which a person performs work for an owner or employer.

APPENDIX A – ALCOHOL AND DRUG TESTING PROCEDURES

The following procedures are a general overview only. For more detailed information, contact your testing provider.

I Alcohol testing

General

1. The donor is the person from whom a breath or saliva sample is collected.

2. The donor is informed of the requirement to test in private and is directed to go to a collection site for the purpose of providing a breath or saliva specimen. The donor must be escorted to the collection site if the test is for random, follow-up, post incident or reason cause purposes.

3. The breath alcohol technician (BAT) or the screening test technician (STT) as appropriate, establishes the identity of the donor. Government or employer-issued photo identification is preferable. Positive identification by a company representative who holds a supervisory position is acceptable.

4. The BAT or STT as appropriate, explains the testing procedure to the donor.

5. The company must securely store information about alcohol test results to ensure that disclosure to unauthorized persons does not occur.

6. Breath testing and saliva testing devices are used to conduct alcohol screening tests, with breath evidentiary devices used to confirm the screening tests. These devices must be listed on the National Highway Traffic Safety Administration's (NHTSA) conforming products lists – the list for screening devices or the list for evidentiary devices. These devices must also meet the function requirements outlined in the U.S. DOT rules and regulations.

Breath testing

1. The BAT and the donor complete those parts of the alcohol testing form that are to be completed before the donor provides a breath sample.

2. The BAT opens an individually wrapped or a sealed mouthpiece in the presence of the donor and attaches it to the breath testing device in the prescribed manner.

3. The BAT explains to the donor how to provide a breath sample and asks the donor to provide a breath sample.

4. The BAT reads the test result and ensures that the test result is recorded on the alcohol testing form after showing the results to the donor.

5. The BAT completes the part of the alcohol testing form that is to be completed after the donor provides a breath sample and asks the donor to do so as well.

6. If the test result shows an alcohol level that is less than 0.020 grams/210 litres of breath, the BAT informs the donor that there is no need to conduct any further testing and reports the result in a confidential manner to the company's designated representative. While the initial communication need not be in writing, the BAT must subsequently provide a written report of the test result to the company's designated representative.

7. If the test result shows an alcohol level that is equal to or greater than 0.020 grams/210 litres of breath, the BAT informs the donor of the need to conduct a confirmation test.

Saliva testing

1. The STT and the donor complete those parts of the alcohol testing form that are to be completed before the donor provides a sample.

2. The STT checks the expiration date of the saliva testing device, shows the date to the employee and uses a saliva testing device only if the expiration date has not passed.

3. The STT opens an individually wrapped or a sealed package containing the saliva testing device in the presence of the donor.

4. The STT invites the donor to insert the saliva testing device into the donor's mouth for the time it takes to secure a proper specimen.

5. The STT reads the result the saliva testing device produces and records the test result on the alcohol testing form after showing the results to the donor.

6. The STT completes the part of the alcohol testing form that is to be completed after the donor provides a saliva sample and asks the donor to do so as well.

7. If the test result shows an alcohol level that is less than 0.020 grams of alcohol in 100 millilitres of saliva or an equivalent concentration in other units, the STT informs the donor that there is no need to conduct any further testing and reports the result in a confidential manner to the company's designated representative. While the initial communication need not be in writing, the STT must subsequently provide a written report of the test results to the company's designated representative.

8. If the test result shows an alcohol level that is equal to or greater than 0.020 grams of alcohol in 100 millilitres of saliva or an equivalent concentration in other units, the STT informs the donor of the need to conduct a confirmation test.

Confirmation test

1. If a breath alcohol testing device was used for the screening test, an evidential breath alcohol device must be used to conduct the alcohol confirmation test. If a saliva testing device was used for the screening test, the confirmation test will use an evidential breath alcohol testing device.

2. The BAT advises the donor not to eat, drink, put anything into his or her mouth or belch before the confirmation test is complete.

3. The confirmation test must start not less than 15 minutes after the completion of the screening test. If the confirmation test cannot begin with 30 minutes, the elapsed time and the reason must be documented on the alcohol testing form.

4. The BAT and the donor complete those parts of the alcohol testing form that are to be completed before the donor provides a breath sample.

5. The BAT opens a new individually wrapped or sealed mouthpiece in the presence of the donor and inserts it into the breath testing device in the prescribed manner.

6. The BAT explains to the donor how to provide a breath sample and asks the donor to provide a breath sample.

7. The BAT reads the test result on the device and shows the donor the result displayed. If the confirmation test result is equal to or in excess of 0.040 grams per 210 litres of breath, the BAT will do an external calibration check (accuracy check) to ensure the device is in working order. The BAT ensures that the test result is recorded on the alcohol testing form. The BAT verifies the printed results with the donor.

8. The BAT completes the part of the alcohol testing form that is to be completed after the donor provides a breath sample and asks the donor to do so as well.

9. The BAT immediately reports in a confidential manner the test results to the company's designated representative. While the initial communication need not be in writing, the BAT must subsequently provide a written report of the test result to the company's designated representative.

II Drug testing (urine)

1. The donor is the person from whom a urine specimen is collected.

2. The donor is informed of the requirement to test in private and is directed to go to a collection site. The donor must be escorted to the collection site if the test is for random, follow-up, post incident or reasonable cause purposes.

3. The collection site person must establish the identity of the donor. Government or employer-issued identification is preferable. Positive identification by a company representative who holds a supervisory position is acceptable.

4. The donor must remove coveralls, jacket, coat, hat or any other outer clothing and leave these garments and any briefcase or purse with the collection site person.

5. The donor must remove any items from his or her pockets and allow the collection site person to inspect them to determine that no items are present which could be used to adulterate a specimen.

6. The donor must give up possession of any item which could be used to adulterate a specimen to the collection site person until the donor has completed the testing process. Clear evidence of an attempt to adulterate or substitute is a refusal to test and ends the collection process.

7. The collection site person may set a reasonable time limit for providing a urine specimen.

8. The collection site person selects or allows the donor to select an individually wrapped or sealed specimen container. Either the collection site person or the donor, in the presence of the other, must unwrap or break the seal of the specimen container.

9. The donor may provide his or her urine specimen in private, in most circumstances. The specimen must contain at least 45 millilitres.

10. In respect of any collection that may be incomplete or determined to be a refusal, the collection site person must promptly document all circumstances and details respecting the collection effort and the reasons it was incomplete.

11. The collection site person determines the volume and temperature of the urine in the specimen container.

12. The collection site person inspects the specimen and notes on the custody and control form any unusual findings.

13. If the temperature of the specimen is outside the acceptable range or there is evidence that the specimen has been tampered with, the donor must provide another specimen under direct observation in accordance with U.S. DOT rules and regulations by the collection site person or another person if the collection site person is not the same gender as the donor.

14. The collection site person splits the urine specimen into two specimen bottles. One bottle is the primary specimen and the other is the split specimen.

15. The collection site person places a tamper-evident bottle seal on each of the specimen bottles and writes the date on the tamper-evident seals.

16. The donor must initial the tamper-evident bottle seals to certify that the bottles contain the urine specimen the donor provided.

17. The donor and the collection site person complete the custody and control form and seal the specimen bottles and the laboratory copy of the custody and control form in a plastic bag.

18. The collection site personnel arrange to ship the two specimen bottles to the laboratory as quickly as possible.

19. The laboratory must be the holder of a certificate issued by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services under the National Laboratory Certification Program.

20. The laboratory must use chain of custody procedures to maintain control and accountability of urine specimens at all times.

21. Laboratory personnel inspect each package along with the enclosed specimens for evidence of possible tampering and note evidence of tampering on the specimen forms.

22. Laboratory personnel conduct validity testing to determine whether certain adulterants or foreign substances were added to the urine specimen.

23. Laboratory personnel conduct an initial screening test on the primary specimen for the drugs set out in 3.1 using established immunoassay procedures. No further testing is conducted if the initial screening test produces a negative test result.

24. Laboratory personnel conduct a confirmatory test on specimens identified as positive by the initial screening test. The confirmatory test uses approved mass spectrometry techniques.

25. A certifying scientist reviews the test results before certifying the results as an accurate report.

26. The laboratory reports the test results on the primary specimen to the company's medical review officer (MRO) in confidence.

27. If the laboratory reports a positive, adulterated, substituted or invalid result, the certified MRO attempts to conduct a verification interview with the donor to allow the opportunity for the donor to discuss the results and present a legitimate medical explanation. Once the interview is complete, the MRO shall report to the employer whether the test result is negative, negative with safety advisory, refusal to test and why, cancelled with or without further direction or positive. A safety advisory indicates a medical clearance is required prior to performing safety-sensitive duties in accordance with the job description.

28. An employee who has received notice from the MRO that he or she has tested positive may ask the MRO within 72 hours of receiving notice that he or she has tested positive to direct another laboratory to test the split specimen. The employer is permitted to seek reimbursement from the employee.

29. The laboratory reports the test results on the split specimen to the company's MRO in confidence. Should the laboratory fail to reconfirm the split specimen results, the MRO will provide direction to the company's designated representative.

III Drug testing (oral fluids)

1. The donor is the person providing his or her oral fluid for the purposes of a drug test.
2. The donor is informed of the requirement to test in private and is directed to go to a collection site. The donor must be escorted to the collection site if the test is for random, follow-up, post incident or reasonable cause purposes.
3. The collector must establish the identity of the donor. Government or employer-issued identification is preferable. Positive identification by a company representative who holds a supervisory position is acceptable.
4. The donor must clear any foreign material from the mouth (e.g. food, gum, tobacco products, lozenges, etc.).
5. The collector observes the donor for a minimum of 10 minutes prior to providing the specimen. The donor may not eat, drink, smoke or put anything in his or her mouth during the observed waiting period.
6. The collector checks and records the lot number and expiration date of the device.
7. In the presence of the collector, the donor opens the sealed device and the specimen is collected according to the manufacturer's specification.
8. The collected specimen should be kept in view of the donor and the collector at all times prior to it being sealed and labelled for shipment to laboratory.
9. The collection site person places a tamper-evident seal on the specimen collection device.
10. The collector records the date and has the donor initial the seal(s) on the specimen(s).
11. The donor and the collection site person complete the custody and control form and seal the specimen(s) and the laboratory copy of the custody and control form in a chain of custody bag. In respect of any collection that may be incomplete or determined to be a refusal, the collection site person must promptly document all circumstances and details respecting the collection effort and the reasons it was incomplete.
12. The collection site personnel arrange to ship the specimen bottle to the laboratory as quickly as possible.
13. The laboratory must be the holder of a certificate issued by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services under the National Laboratory Certification Program.
14. The laboratory must use chain of custody procedures to maintain control and accountability of specimens at all times.
15. Laboratory personnel inspect each package along with the enclosed specimen(s) for evidence of possible tampering and note evidence of tampering on the specimen forms.
16. Laboratory personnel conduct validity testing to determine the suitability of the specimens.
17. Laboratory personnel conduct an initial screening test on the specimen for the drugs set out in 3.1 using established immunoassay procedures. No further testing is conducted if the initial screening test produces a negative test result.
18. Laboratory personnel conduct a confirmatory test on specimens identified as positive by the initial screening test. The confirmatory test uses approved mass spectrometry techniques.
19. A certifying scientist reviews the test results before certifying the results as an accurate report.
20. The laboratory reports the test results on the primary specimen to the company's medical review officer (MRO) in confidence.
21. If the laboratory reports a positive, adulterated, substituted or invalid result, the certified MRO attempts to conduct a verification interview with the donor to allow the opportunity for the donor to discuss the results and present a legitimate medical explanation. Once the interview is complete, the MRO shall report to the employer whether the test result is negative, negative with safety advisory, refusal to test and why, cancelled with or without further direction or positive. A safety advisory indicates a medical clearance is required prior to performing safety-sensitive duties in accordance with the job description.
22. An employee who has received notice from the MRO that he or she has tested positive may ask the MRO within 72 hours of receiving notice that he or she has tested positive to direct another laboratory to retest the specimen. The employer is permitted to seek reimbursement from the employee.
23. The laboratory reports the results of the retest to the company's MRO in confidence. Should the laboratory fail to reconfirm the test result, the MRO will provide direction to the company's designated representative.

APPENDIX B – SUBSTANCE ABUSE EXPERT

The substance abuse expert

The substance abuse expert (SAE) is a person who evaluates the individuals who are seeking to be assessed or who have been referred for an assessment.

The SAE is a professional who is qualified to make recommendations regarding the individuals assessed. These recommendations typically involve treatment options such as education, various counselling or inpatient treatment services, follow-up testing and the overall general conditions of post assessment care.

The responsibility and function of the SAE is to apply quality and diligence in the assessment process in order to protect the client's and the workplace's safety and health. However, the SAE is not an advocate for any stakeholder in the process beyond the mandate of the assessment. The SAE remains impartial and does not advocate for the employee, bargaining agent or employer.

The SAE has the responsibility to function in his or her role as an evaluator of the client's apparent condition. The qualifications to conduct this assessment extend across several types of disciplines in the mental health and medical community.

SAEs all have one aspect in common. Each is a licensed or certified professional who has met the educational, experiential and competency criteria to be in good standing with a professional agency that governs their respective discipline.

The SAE providing the assessment evaluation can be a licensed physician, registered psychologist, or a certified or licensed social worker as allowed to diagnose within their respective provincial regulated health professionals, who also has experience or a specialization in the field of addiction.

He or she has received training specific to the SAE roles and responsibilities, has knowledge of and clinical experience in the diagnosis and treatment of substance abuse-related disorders, and has an understanding of the safety implications of substance use and abuse.

Evaluation and assessment

The foundation of sound clinical expertise and well established standards of practice is the context for each assessment. The evaluation is based on proven and reliable methods of face-to-face clinical interview practices, reliable and valid alcohol and drug abuse assessment tools (also called psychometrics), and quality assurance clinical supervision provided as additional expertise to the SAE. This gives the SAE a consistent level of support for applying his or her clinical abilities toward the best fit and most exact assessment outcome in each particular assessment.

The evaluation can include consultation with a physician specialist in the area of substance use disorders or the medical review officer (MRO) involved with any substance screen results referenced in the assessment. The MRO or medical specialist in substance use disorders are contacted only when there is a specific need to discuss the substance screen result per se or if there are potential medical complications involved in a person's history.

The face-to-face interview includes assessment of all the relevant factors that are known to be essential in the evaluation of individuals with possible substance use disorders. These factors are examined by questions regarding the client's life and family history, employment situation and current mental status. The in-depth interview also explores the individual's drug and alcohol use history. This includes areas such as the substances used and for how long, the episodic trends of substance preferences, emotional and physical characteristics that are considered relevant in substance use, and other factors that can give a comprehensive clinical understanding of the person.

The evaluation will provide a clear statement of the assessment's outcome (the diagnosis), along with treatment recommendations. The recommendations are the basic outline of a treatment plan. The individual is free to add to the treatment recommendations, however, the treatment recommendations are the conditions required for successful return to safety-sensitive work. Therefore, they are the essential ingredients of care that the individual must successfully complete.

The evaluation process provides a signed confidential report to the stakeholders involved in the assessment. These parties can include the bargaining agent, a case manager and the employer, and the individual assessed if he or she wishes to receive a copy. The SAE report issued to the person assessed does not include the number of unannounced tests, but does include the period over which the unannounced tests may be conducted.

Post-assessment referral and treatment

As a result of the evaluation and assessment, the SAE will refer the client to the appropriate contact person, program or case manager involved in the next steps for this person's return to work. Formal case management is considered the best practice approach in order to ensure that the recommendations are completed and adhered to as outlined in the SAE assessment report.

The SAE report and any other relevant information necessary for admission to a treatment program can be forwarded to the appropriate contact personnel. This is done only with client consent to do so.

Follow-up treatment for counselling or relapse prevention will be provided by an SAE as identified above, as qualified to provide such treatment.

Follow-up evaluation

The case manager or representative acting in a role that monitors the individual's compliance with the return to work process will evaluate the client's compliance with the return to work recommendations. The client's compliance will be supported by a written report or personal communication with the respective education and/or treatment program professionals.

The client's ability to successfully demonstrate compliance with the initial treatment recommendations will be determined in a clinically based follow-up contact. Continued monitoring will ensue to ensure ongoing compliance to the SAE recommendations.

In the event that an individual is demonstrating difficulty in maintaining or complying with the stated recommendations in the SAE report, a formal review will take place. The review of the new data is conducted in conjunction with discussions with the individual and/or treatment program or relevant professionals.

Written communication, often in the form of an amended SAE report, will be issued to address the current situation for the individual. Sometimes, if developments indicate the need, a new assessment will be conducted.

Independent Legal Opinion

INDEPENDENT LEGAL OPINION

Canadian Model for Providing a Safe Workplace

The Construction Owners Association of Alberta (COAA) has asked whether the Canadian Model for Providing a Safe Workplace: A best practice guide of the Construction Owners Association of Alberta – Alcohol and Drug Guidelines and Work Rule – Version 5.0 – Effective October 8, 2014 (the Canadian Model) is legally defensible.[1] In preparing this opinion, we have considered obligations under: the *Alberta Human Rights Act (the Human Rights Act)*[2]; the *Personal Information Protection Act* (PIPA)[3]; the *Occupational Health and Safety Act* (OHSA)[4]; the Criminal Code[5]; and applicable jurisprudence.

We are of the opinion that as of the date of this opinion, the Canadian Model is legally defensible. However, the law regarding alcohol and drug testing is changing rapidly, and the specific circumstances of each case are of great importance in determining the legality of alcohol and drug testing in a particular workplace. It follows that those considering adopting the Canadian Model will want to obtain independent legal advice that takes into account the current state of the law and their own circumstances, including the context of their own work environment.[6]

We will explain the considerations that led to this conclusion by setting out the key features of the Canadian Model and the main parts of the legislative provisions, and we will review the basic principles of the law on human rights, privacy, and occupational health and safety. The leading cases will be reviewed in the context of the Canadian Model.

Canadian Model background

The Canadian Model has been established to accomplish two goals. First, it will "provide a safe workplace for … employees and those whose safety may be affected by the conduct of employees [covered by the Canadian Model]."[7] Second, adherence to the Canadian Model will "ensure that all employees are treated fairly and with respect."[8] Importantly, the Canadian Model is only one part of an overall approach to safety.[9]

An important part of the Canadian Model is the work rule. It is clear and unequivocal. An employee may not use or possess alcohol and drugs while on company property or a company workplace or report to work or work with an alcohol and drug level in excess of the prescribed cut-offs.[10]

The Canadian Model incorporates a number of features to ensure employees will abide by the work rule. First, there is an educational component. A company that adopts the Canadian Model must take reasonable steps to educate its workforce "of the safety risks associated with the use of alcohol and drugs and the assistance available under the employee assistance services program."[11] Second, the Canadian Model encourages self-help.[12] Third, there is a simple enforcement measure. An employee must submit to an alcohol and drug test in specified circumstances. One is where an observer has reasonable grounds to believe that an employee may be unable to work in a safe manner.[13] Another is where an observer has reasonable grounds to believe that an employee was involved in an incident or near miss.[14] The Canadian Model further contemplates random testing and site-access testing in some circumstances.[15]

Part of the Canadian Model explains why the work rule is important:

> The use of alcohol and drugs adversely affects the ability of a person to work in a safe manner. Employees at construction workplaces are often working independently or with equipment or material in an environment that poses a threat to the safety of themselves, the workforce, the workplace and the property at the workplace, if handled without proper care and attention. In setting the requirements in the Work Rule it is acknowledged that assessments of risks relating to work activities, equipment and processes may lead to a workplace adopting more rigorous requirements in relation to the risks faced in particular work. This policy will remind employees of the risks associated with the use of alcohol and other drugs and provide understandable and predictable responses when an employee's conduct jeopardizes the safety of the workplace.[16]

A worker who fails to comply with the alcohol and drug work rule faces a range of consequences.[17] According to the Canadian Model the "appropriate consequence depends on the facts of the case, including the nature of the violation, the existence of prior violations, the response to prior corrective programs and the seriousness of the violation."[18] Prior to returning to work, the worker may have to complete a rehabilitation program or secure a certificate from "a licensed physician with knowledge of substance abuse disorders" that the worker "is able to safely perform the duties he or she will be required to perform if employed by the company" and comply with other reasonable demands.[19]

Implementing work rules

In unionized work environments, work rules, like the Canadian Model, can be agreed to by the parties as part of collective bargaining. Alternatively, if a work rule has not been bargained, management is free to implement work rules subject to any express collective agreement terms providing otherwise or legislative restrictions. Further, such work rule must be reasonable and must be clear and unequivocal.[20]

In our view, the Canadian Model complies with the requirements necessary to implement a work rule pursuant to management rights. Specifically, the implementation of alcohol and drug testing policies, such as the Canadian Model, in safety-sensitive work environments has generally been considered a reasonable use of management rights.[21] Decision-makers have consistently acknowledged that industrial workplaces in Alberta are safety-sensitive and that alcohol and drugs on such sites are safety hazards that detrimentally impact workplace safety. Furthermore, the language used throughout the Canadian Model is clear and unequivocal, including clear language setting out the work rule and the potential consequences for breaching the terms of the Canadian Model. Other elements of *KVP* will need to be implemented by the particular employer adopting the Canadian Model, such as notice requirements and consistent enforcement. As mentioned above, employers considering adopting the Canadian Model will want to obtain independent legal advice in this regard.

Statutory obligations

A number of statutory considerations are engaged by the Canadian Model. Most relevant are human rights legislation, privacy legislation, occupational health and safety legislation and the *Criminal Code*. As will be discussed below, the Canadian Model satisfies the statutory obligations articulated by Alberta legislation and appropriately balances competing interests.[22]

Human rights

The Canadian Model complies with human rights legislation.

Employers cannot discriminate against employees with regards to employment or any term or condition of employment because of a physical or mental disability. Alcohol and drug dependencies can constitute a disability under human rights legislation.[23] However, human rights are not engaged absent an actual addiction or an employer's subjective perception that there is an addiction. Therefore, an alcohol and drug policy must ensure that those with a disability are accommodated to the point of undue hardship. As will be discussed below, the Canadian Model satisfies human rights obligations because there are no automatic consequences for a positive alcohol and drug test. Those who test positive are individually assessed to determine if they have an addiction. Further, those with dependencies are appropriately accommodated.

In *Chiasson*,[24] an Alberta Human Rights Panel (the Panel) upheld the dismissal of an employee who tested positive for marijuana on a pre-employment alcohol and drug test as the employee did not have an addiction. Because there was no actual or perceived disability, the employer was not under a duty to accommodate the complainant. The Court of Appeal upheld the Panel's decision and concluded that human rights legislation prohibits certain, but not all, treatment based on human rights characteristics. In this case, the complainant was not a drug addict and the policy did not perceive the complainant to be an addict. Rather, the policy "perceive[d] that persons who use drugs at all are a safety risk in an already dangerous workplace." The Court of Appeal noted that the purpose of the policy was to reduce workplace incidents by prohibiting workplace alcohol and drug use. There was a clear connection between the purpose of the policy and its application to recreational users. Although the Court determined it did not need to address the issue of whether or not the policy would be a *bona fide* occupational requirement (BFOR), they went to great lengths to acknowledge the importance of safety to employers in safety-sensitive worksites. They noted that "extending human rights protections to situations resulting in placing the lives of others at risk flies in the face of logic." [25]

Similarly, in *Luka*,[26] the employer, Lockerbie & Hole, had a pre-access testing policy in place. The complainant failed a pre-access alcohol and drug test but refused to undergo an assessment so he was terminated. The complainant brought a human rights complaint. The only evidence before the Panel was that the complainant was a recreational drug user. While the Panel agreed that alcoholism and drug addiction were disabilities, those were not applicable to the complainant because he was only a recreational user. Therefore, the disability, or perceived disability, was not established and the complaint was dismissed.

Therefore, absent an actual addiction or an employer's subjective perception that there is an addiction, human rights legislation will not have application.

If an individual can establish that he or she has a disability,[27] the onus will shift to an employer to establish that the alcohol and drug testing policy is a BFOR.[28] The three-step test created by the Supreme Court of Canada in *Meiorin*[29] remains the standard for determining whether a *prima facie* discriminatory standard is a BFOR. Specifically, an employee must establish the following on a balance of probabilities:

(a) that the employer adopted the standard for a purpose rationally connected to the performance of the job

(b) that the employer adopted the particular standard in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose, and

(c) that the standard is reasonably necessary to the accomplishment of that legitimate work-related purpose. To show that the standard is reasonably necessary, it must be demonstrated that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer.

Past human rights decisions have confirmed that alcohol and drug testing will constitute a BFOR in dangerous work environments.[30]

The Canadian Model is a BFOR. The purpose of the Canadian Model is to reduce the risk of incidents where alcohol and drugs may be a contributing factor or cause.[31] The Canadian Model is necessary to accomplish this legitimate purpose of workplace safety. Finally, the Canadian Model is the least intrusive measure available to employers to address this legitimate purpose. In particular, the Canadian Model states that:

> [t]here are no other reasonable alternatives available to the company that impose a smaller burden on any rights an employee may have under the Alberta Human Rights Act and at the same time are equally as effective in promoting the purposes of this alcohol and drug policy.[32]

The Canadian Model appropriately accommodates individuals with alcohol and drug dependencies. The Canadian Model contains the following measures:

- there are no automatic sanctions following a positive test. Rather employees are sent for an individualized assessment by a substance abuse expert to determine whether the employees suffer from any alcohol or drug dependencies, and
- there are individualized treatment and aftercare plans to appropriately accommodate the needs of the particular employee.[33]

Another important feature of the Canadian Model is the self-help provision. Employees can seek employee assistance services or seek help from a substance abuse expert should the employee believe he or she suffers from a substance dependency.[34] Further, the Canadian Model contemplates extensive education and training to ensure that employees understand the hazards associated with alcohol and drugs in the workplace and information regarding how to seek help for substance use or abuse concerns.[35] There is also extensive supervisor training.[36]

All of the above factors ensure that the Canadian Model is consistent with human rights obligations.

Privacy law

The Canadian Model complies with privacy requirements.

Privacy issues related to alcohol and drug policies most commonly involve the method of testing, the use and disclosure of test results and the reasonableness of the testing. PIPA mandates how personal information can be collected, used and disclosed by organizations. Personal information must be collected, used and disclosed for "reasonable purposes" and only to the extent that is reasonable for meeting those purposes.[37] Alcohol and drug tests are personal information.[38]

The Canadian Model complies with privacy legislation. In particular, as it relates to the collection of the personal information through the testing process, the Canadian Model includes the following measures to ensure the protection of personal information:

- the test is conducted in accordance with those parts of the United States Department of Transportation (U.S. DOT) Workplace Drug and Alcohol Testing Programs, which relate to testing procedures in laboratories[39]
- the use of trained personnel in accordance with the U.S. DOT protocols[40]
- collection personnel must comply with standard operating procedures[41]
- the test is only for the enumerated drugs set out in the testing panel[42]
- Medical review officer (MRO) review is conducted following U.S. DOT protocols[43]

- strict chain of custody protocols are followed,[44] and
- a certified lab is utilized.[45]

The issue of whether alcohol and drug testing is reasonably necessary to establish, manage or terminate an employment relationship was considered in *Vancouver Shipyards*.[46] Arbitrator Hope upheld the employer's alcohol and drug testing policy as reasonable under the British Columbia *Personal Information Protection Act* (BC PIPA), which is substantially similar to PIPA. In this case, Arbitrator Hope concluded that the testing requirement was allowed under the exception in BC PIPA that allowed employers to collect and use personal employee information without their consent because it was reasonable for the purposes of establishing, managing or terminating the employment relationship. Arbitrator Hope opined that the test under BC PIPA for determining reasonableness of the collection and use was the same as the test under human rights legislation to determine if there was a BFOR. Therefore, if a policy is a BFOR from a human rights perspective, it will meet the BC PIPA reasonableness test.[47]

Additionally, the Canadian Model sets out strict requirements regarding the use and disclosure of information collected through alcohol and drug testing, including:

- limiting disclosure of test results from an MRO to only the designated company representative in a confidential written report[48]
- limiting the information disclosed to only information regarding whether the test result is positive, negative, if the individual refused to take the test or if the sample has been cancelled and the test cannot be relied upon, and[49]
- limiting the ability of the designated company representative to disclose test results to only those who need to know the test results to discharge an obligation under the Canadian Model.[50]

The extensive privacy protections set out in the Canadian Model ensure compliance with PIPA.

Health and safety

The Canadian Model complies with health and safety obligations. Importantly, the Canadian Model is only one aspect of a comprehensive approach to safety.

An employer has a duty to maintain a safe work environment under occupational health and safety legislation and the *Criminal Code*.[51] Specifically, such legislation requires employers to address workplace hazards, such as alcohol and drugs.

The obligation to maintain a safe work environment and to address workplace hazards is entrenched in the *OHSA*.[52] A hazard is a situation, condition or thing that may be dangerous to the safety or health of workers.[53] In accordance with section 7 of the *OHS Code*, employers "must assess [their] work site and identify existing and potential hazards." If a workplace hazard exists, the hazard must be eliminated or controlled, if elimination is not possible.[54] Failure to identify hazards and take corrective action can result in a conviction under the *OHSA*, including exposure to significant fines and imprisonment. The Canadian Model is aimed at eliminating and controlling workplace hazards relating to alcohol and drugs.

The duty to ensure a safe workplace has been codified in the *Criminal Code*.[55]

Recently, in *Metron*,[56] an employer pled guilty to criminal negligence causing death due to a breach of the duty in section 217.1 of the Criminal Code. The plea in *Metron* included a statement that permitting a person to work under the influence of drugs on a project can be a factor in establishing criminal negligence:

> [t]he Crown emphasized the tragic consequences of this offence which resulted in the death of 4 individuals and the serious injury of another, as well as the inherent dangerous conduct of a senior officer of the corporation in allowing 6 individuals to be on a scaffold with only 2 lifelines, only one of which was used, and not only allowing the consumption of an intoxicant by workers but also consuming an intoxicant himself.[57]

The Court of Appeal in *Metron* noted that the "[t]oxicological analysis determined that three of the four deceased, including the site supervisor Fazilov, had marijuana in their systems at a level consistent with having recently ingested the drug."[58] Metron was sentenced to a fine of $200,000. However, the Ontario Court of Appeal raised the fine to $750,000, finding that the previous fine was disproportionate to the offence and failed to deliver a message on the importance of worker safety. Further, the $200,000 fine ignored the gravity and circumstances of the offence, failed to send any message of deterrence or denunciation to other corporations and undermined the intent and effectiveness of the Bill C-45 Criminal Code

amendments.[59] *Metron* makes it clear that employers who fail to take appropriate steps to ensure a safe work environment in the face of known hazards such as workplace alcohol and drug use will be subject to prosecution under the *Criminal Code*.

The statutory obligations set out in occupational health and safety legislation and the *Criminal Code* offer further support for the need to implement alcohol and drug policies such as the Canadian Model in safety-sensitive workplaces. It is accepted that alcohol and drugs are a workplace hazard, and such legislation obligates employers to address known hazards. The Canadian Model is only one part of a comprehensive safety policy to address such workplace hazards. As a result, the Canadian Model will serve to help employers comply with such legislative obligations.

The new addition of urine based point of collection testing (POCT) in the 2014 Canadian Model also strengthens the Canadian Model from a health and safety perspective.[60] In particular, the use of POCT will assist employers in addressing workplace hazards in accordance with its statutory obligations by immediately removing workers who pose a safety risk in the workplace. POCT allows for immediate test results so that individuals who test negative can be returned to work as quickly as possible. If there is a non-negative drug test, the test will be sent to an accredited lab. The worker will be held out of service pending lab confirmation and MRO review.

Alcohol and drug testing

The Canadian Model contemplates the use of pre-access, reasonable grounds, post-incident and random alcohol and drug testing.[61] Return to work and follow-up testing are also contemplated in some circumstances.[62] For the reasons discussed above, pre-access[63], reasonable cause, post-incident, return to work and follow-up testing have been widely accepted as reasonable forms of testing in safety-sensitive work environments in Alberta.

As set out above, section 4.6 of the Canadian Model also contemplates random alcohol and drug testing. The recent decision of *Irving*[64] was the first Supreme Court of Canada decision to address random testing. When considering the reasonableness of random testing, the Supreme Court of Canada noted:

> [p]rivacy and safety are highly sensitive and significant workplace interests. They are also occasionally in conflict. This is particularly the case when the workplace is a dangerous one.[65]

The Supreme Court of Canada determined that although there was no debate about the safety-sensitive nature of the workplace, the dangerousness of a workplace is only the beginning of the inquiry. "What has been additionally required is evidence of enhanced safety risks, such as evidence of a general problem with substance abuse in the workplace." [66] As a result, *Irving* confirmed that random alcohol and drug testing may be reasonable in a safety-sensitive workplace where there is evidence of a general problem with substance abuse in a workplace.[67] The test articulated by the Supreme Court of Canada is straightforward and clear.

Considering the particular facts before them in *Irving*, the Supreme Court of Canada found that random alcohol testing was not justified in the context of the Irving paper mill. In particular, the Supreme Court of Canada found insufficient evidence of a problem in the context of Irving's work environment given that there were only eight alcohol-related incidents (including five occasions where employees had attended the workplace under the influence) over a 15-year period and no positive random or reasonable cause tests in the prior 22 months.[68]

Following *Irving*, it is apparent that random alcohol and drug testing will be defensible where there is "evidence of enhanced safety risks, such as evidence of a general problem with substance abuse in the workplace." Therefore, random testing, as contemplated in the Canadian Model, will be appropriate in specific cases.

Conclusion

To conclude, we are of the opinion that the Canadian Model is consistent with human rights legislation, privacy legislation, occupational health and safety legislation, the *Criminal Code* and existing jurisprudence. In our view, the Canadian Model reasonably balances safety and privacy interests in order to address safety concerns relating to alcohol and drugs present in safety-sensitive work environments in Alberta. This is consistent with employers' obligations to ensure a safe work environment.

Dentons Canada LLP
Barbara B. Johnston, Q.C.
and April Kosten
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About the authors:

Barbara B. Johnston, Q.C., is the senior labour and employment partner in Dentons Canada LLP Calgary office. Her practice focuses on management side labour, employment, human rights, constitutional and privacy law, with expertise in the area of alcohol and drug testing matters. Ms. Johnston has appeared before all levels of courts and administrative tribunals, including the Supreme Court of Canada, the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta, the Alberta Labour Relations Board, Human Rights Panels, Boards of Arbitration and Federal Labour Adjudicators. Ms. Johnston has been recognized by Chambers Global; The Best Lawyers in Canada (Labour and Employment Law); The Legal 500 (Labour and Employment); The Canadian Legal Lexpert Directory (Employment Law and Workplace Human Rights); Who's Who Legal: Canada (Management Labour and Employment Lawyer); and The Lexpert Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada – Canadian Litigation Lawyers to Watch. Ms. Johnston holds a Bachelor of Arts (History and Economics) from the University of Alberta, a Bachelor of Laws from Queen's University and a Master of Laws degree from Osgoode Hall Law School.

April Kosten is an associate in the Employment & Labour Group of the Dentons Canada LLP Calgary office. Ms. Kosten's practice focuses on management side labour, employment, human rights, constitutional and privacy law, with expertise in the area of alcohol and drug testing matters. She has appeared before the Supreme Court of Canada, the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta, the Provincial Court of Alberta, the Alberta Labour Relations Board and Boards of Arbitration. Ms. Kosten holds a Bachelor of Arts (Economics) degree from the University of Calgary and a Bachelor of Laws degree (with distinction) from the University of Alberta.

Relevant legislation

Alberta Human Rights Act

- **Discrimination re employment practices**

7(1) No employer shall

(a) refuse to employ or refuse to continue to employ any person, or

(b) discriminate against any person with regard to employment or any term or condition of employment, because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

(3) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

- **Applications and advertisements re employment**

8(1) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry of an applicant

(a) that expresses either directly or indirectly any limitation, specification or preference indicating discrimination on the basis of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person, or

(b) that requires an applicant to furnish any information concerning race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

(2) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

• Reasonable and justifiable contravention

11 A contravention of this Act shall be deemed not to have occurred if the person who is alleged to have contravened the Act shows that the alleged contravention was reasonable and justifiable in the circumstances.

44(1) In this Act,

(h) "mental disability" means any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder;

(l) "physical disability" means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes epilepsy, paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, and physical reliance on a guide dog, service dog, wheelchair or other remedial appliance or device;

Personal Information Protection Act

• Limitations on collection

11(1) An organization may collect personal information only for purposes that are reasonable.

(2) Where an organization collects personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is collected.

• Collection of personal employee information

15(1) An organization may collect personal employee information about an individual without the consent of the individual if

(a) the information is collected solely for the purposes of

(i) establishing, managing or terminating an employment or volunteer-work relationship, or

(ii) managing a post-employment or post-volunteer-work relationship, between the organization and the individual,

(b) it is reasonable to collect the information for the particular purpose for which it is being collected, and

(c) in the case of an individual who is a current employee of the organization, the organization has, before collecting the information, provided the individual with reasonable notification that personal employee information about the individual is going to be collected and of the purposes for which the information is going to be collected.

(2) Nothing in this section is to be construed so as to restrict or otherwise affect an organization's ability to collect personal information under section 14.

• Limitations on use

16(1) An organization may use personal information only for purposes that are reasonable.

(2) Where an organization uses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is used.

• Use of personal employee information

18(1) An organization may use personal employee information about an individual without the consent of the individual if

(a) the information is used solely for the purposes of

(i) establishing, managing or terminating an employment or volunteer-work relationship, or

(ii) managing a post-employment or post-volunteer-work relationship, between the organization and the individual,

(b) it is reasonable to use the information for the particular purpose for which it is being used, and

(c) in the case of an individual who is a current employee of the organization, the organization has, before using the information, provided the individual with reasonable notification that personal employee information about the individual is going to be used and of the purposes for which the information is going to be used.

(2) Nothing in this section is to be construed so as to restrict or otherwise affect an organization's ability to use personal information under section 17.

- **Limitations on disclosure**

19(1) An organization may disclose personal information only for purposes that are reasonable.

(2) Where an organization discloses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is disclosed.

- **Disclosure of personal employee information**

21(1) An organization may disclose personal employee information about an individual without the consent of the individual if

(a) the information is disclosed solely for the purposes of

(i) establishing, managing or terminating an employment or volunteer-work relationship, or

(ii) managing a post-employment or post-volunteer-work relationship, between the organization and the individual,

(b) it is reasonable to disclose the information for the particular purpose for which it is being disclosed, and

(c) in the case of an individual who is a current employee of the organization, the organization has, before disclosing the information, provided the individual with reasonable notification that personal employee information about the individual is going to be disclosed and of the purposes for which the information is going to be disclosed.

(2) An organization may disclose personal information about an individual who is a current or former employee of the organization to a potential or current employer of the individual without the consent of the individual if

(a) the personal information that is being disclosed was collected by the organization as personal employee information, and

(b) the disclosure is reasonable for the purpose of assisting that employer to determine the individual's eligibility or suitability for a position with that employer.

(3) Nothing in this section is to be construed so as to restrict or otherwise affect an organization's ability to disclose personal information under section 20.

Occupational Health & Safety Act

2(1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,

(a) the health and safety of employer, and

(i) workers engaged in the work of that employer, and

(ii) those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and

41(1) A person who contravenes this Act, the regulations or an adopted code or fails to comply with an order made under this Act, the regulation or an adopted code or with an acceptance issued under this Act is guilty of an offence and liable

(a) for a first offence,

(i) to a fine of not more than $500 000 and in the case of a continuing offence, to a further fine of not more than $30 000 for each day during which the offence continues after the first day or part of a day, or

(ii) to imprisonment for a term not exceeding 6 months,

or to both fines and imprisonment, and

(b) for a 2nd or subsequent offence,

(i) to a fine of not more than $1 000 000 and in the case of a continuing offence, to a further fine of not more than $60 000 for each day or part of a day during which the offence continues after the first day, or

(ii) to imprisonment for a term not exceeding 12 months,

or to both fines and imprisonment.

Occupational Health & Safety Code

1 "hazard" means a situation, condition or thing that may be dangerous to the safety or health of workers;

7(1) An employer must assess a work site and identify existing and potential hazards before work begins at the work site or prior to the construction of a new work site.

9(1) If an existing or potential hazard to workers is identified during a hazard assessment, an employer must take measures in accordance with this section to

(a) eliminate the hazards, or

(b) if elimination is not reasonably practicable, control the hazard.

Criminal Code

217.1 Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

219.(1) Every one is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do, shows wanton or reckless disregard for the lives or safety of other persons.

(2) For the purposes of this section, "duty" means a duty imposed by law.

Endnotes

1. Please note that this opinion is based on the current state of the law. Many cases on alcohol and drug testing are currently under appeal. The law in this area continues to evolve and our opinion may change depending on the outcome of any future decisions. This opinion does not address any of the appendices.
2. *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5.
3. *Personal Information Protection Act*, S.A. 2003, c. P-6.5.
4. *Occupational Health and Safety Act,* R.S.A. 2000, c. O-2.
5. *Act to Amend the Criminal Code (criminal liability of organizations)*, S.C. 2003, c. 21, p. 3, amending R.S.C. 1985, c. C-45 (Criminal Code).
6. Please note that this opinion only contemplates the reasonableness of the Canadian Model itself, not the application of the Canadian Model by parties who adopt the Canadian Model for use in their particular workplaces.
7. Canadian Model, at s. 1.1(a).
8. Canadian Model, at s. 1.1(b).
9. Canadian Model, at p. G-1.
10. Canadian Model, at s. 3.1.
11. Canadian Model, at s. 4.1.
12. Canadian Model, at s. 4.2.
13. Canadian Model, at s. 4.4.
14. Canadian Model, at s. 4.5.
15. Canadian Model, at ss. 4.6-4.7.
16. Canadian Model, at s. 2.1.
17. Canadian Model, at s. 5.
18. Canadian Model, at s. 5.1.
19. Canadian Model, at s. 5.2.
20. *Lumber & Sawmill Workers' Union, Local 2537 v KVP Co.* (1965), 16 L.A.C. 73, at para. 34 (KVP). Other requirements set out in KVP which would be applicable relating to the implementation of the Canadian Model are as follows: it must be brought to the attention of the employee affected before the company can act on it; the employee

concerned must have been notified that a breach of such rule could result in discharge if the rule is used as a foundation for discharge; and such rule should have been consistently enforced by the company from the time it was introduced.

21. See for instance: *Re Canadian National Railway Co. and Canadian Auto Workers* (2000), 95 L.A.C. (4th) 341 (Picher); Fording Coal Ltd. v United Steelworkers of America, Local 7884, [2002] B.C.C.A.A.A. No. 9; *Dupont Canada Inc. v Communications, Energy, Paperworkers Union, Local 280*, (2002) 105 L.A.C. (4th) 399 (Picher).

22. Jurisprudence has accepted that alcohol and drugs constitute a workplace hazard (see for instance *U.A. Local 488 v Bantrel Constructors. Co.* (2007), 162 L.A.C. (4th) 122 (Alta Arb) (Smith), aff'd by 2007 ABQB 721, rev'd on other grounds by 2009 ABCA 84 (Bantrel), at para. 31 (as a preliminary matter we need say no more about the importance to all concerned of efforts to improve safety in hazardous workplaces); *Milazzo v Autocar Connaisseur Inc.*, 2003 CHRT 37 (*Milazzo*), at para. 171 (positive alcohol or drug test is an indication that employee presents an elevated risk of accident).

23. See for instance: *Entrop v Imperial Oil Ltd.*, [2000] O.J. No. 2689 and *Alberta (Human Rights & Citizenship Commission) v Elizabeth Metis Settlement*, 2003 ABQB 342, rev'd on other grounds by 2005 ABCA 173 (*Elizabeth Metis*).

24. *Chiasson v Kellogg Brown and Root (Canada) Company*, 2005 AHRC 7 (AB Human Rights Panel, 2005-06-07), rev'd 2006 ABQB 302, aff'd 2007 ABCA 426, leave to appeal to SCC refused, [2008] S.C.C.A. No. 96 (*Chiasson*).

25. *Chiasson*, at para. 36.

26. *Luka v Lockerbie & Hole Inc.*, 2008 AHRC 1 (AB Human Rights Panel, 2008-02-15), rev'd 2009 ABQB 241 (reversed only on the employer issue) aff'd 2011 ABCA 3 (*Luka*). A requirement by a site-owner that all contractors require their workers to submit to site-access testing does not make the site-owner an employer under the *Human Rights Act*.

27. Or a perceived disability.

28. Section 7(3) of the *Human Rights Act* provides that a standard that is based on a BFOR will not contravene section 7(1). Section 11 of the *Human Rights Act* further provides that a contravention will not have occurred if the person who is alleged to have contravened the *Human Rights Act* shows that the alleged contravention was reasonable and justifiable in the circumstances.

29. *British Columbia (Public Service Employees Relations Commission) v British Columbia Government and Public Service Employees Union (Meiorin Grievance)*, [1999] 3 S.C.R. 3 (*Meiorin*).

30. See for instance: *Elizabeth Metis*. See also: *Bish v Elk Valley Coal Corp*, 2012 AHRC 7, rev'd by 2013 ABQB 756 (*Elk Valley*) where the Alberta Human Rights Tribunal and the Court of Queen's Bench confirmed that there must be a causal link between a disability and the alleged discriminatory conduct. Further, as confirmed in prior jurisprudence, the Court of Queen's Bench in *Elk Valley* confirmed that where there is a disability, a duty to accommodate does arise.

31. Canadian Model, at p. G-3.

32. Canadian Model, at s. 2.3.

33. Canadian Model, at s. 5.2.1, Appendix B. Further, requiring a worker to get treatment prior to allowing the worker on site is consistent with the jurisprudence *(PCL Industrial Constructors Inc. and BBF Local Lodge No 146* (2007), 91 CLAS 378 (Jones) (PCL)).

34. Canadian Model, at s. 4.2.

35. Canadian Model, at s. 4.1.

36. Canadian Model, at p. G-3.

37. PIPA, at ss. 11, 16, 19.

38. A subset of personal information is personal employee information. Employers may collect, use or disclose employees' personal information without consent if it is reasonably necessary to establish, maintain or terminate an employment relationship (PIPA, at ss. 15, 18, 21).

39. Canadian Model, at s. 4.8.1.

40. Canadian Model, at ss. 4.8.1, 4.8.5.

41. Canadian Model, at s. 4.8.5.

42. Canadian Model, at s. 3.1(b).

43. Canadian Model, at s. 4.8.3, Appendix A.

44. Canadian Model, at ss. 4.8.3, 4.8.5, Appendix A.

45. Canadian Model, at ss. 4.8.1, 4.8.2, 4.8.3, Appendix A.

46. *Vancouver Shipyards Co. v U.A., Local 170* (2006), 156 L.A.C. (4th) 229 (Hope) (Vancouver Shipyards).

47. *Vancouver Shipyards*, at para. 17.

48. Canadian Model, at s. 4.9.1, Appendix A.

49. Canadian Model, at ss. 4.9.2-4.9.5, Appendix A.

50. Canadian Model, at s. 4.9.7.

51. Past decisions have acknowledged the need to keep these statutory obligations in mind when assessing the proper use of management rights or the necessary accommodations required of an employer *(Oak Bay Marina Ltd. v British Columbia (Human Rights Commission)*, 2002 BCCA 495, at para. 34; *Bantrel*, at para. 93).

52. OHSA, at s. 2.

53. *Occupational Health and Safety Code*, 2009 (the OHS Code), at s. 1.

54. *OHS Code*, at ss. 1, 7, 9(1).

55. *Criminal Code,* at s. 217.1.

56. *R. v Metron Construction Corp.*, 2012 ONCJ 506, at para. 7 (*Metron* QB) rev'd by 2013 ONCA 541 (*Metron* CA).

57. *Metron* QB, at para. 10.

58. *Metron* CA, at para. 13.

59. *Metron* CA, at paras. 115 and 120; Criminal Code, at s. 217.

60. Canadian Model, at s. 4.8.5.

61. Canadian Model, at ss. 4.4-4.7.

62. Canadian Model, at Appendices A and B.

63. *Chiasson; Luka; Stilwell v Edmonton Exchanger & Manufacturing Ltd.*, 2010 AHRC 5 (CanLII) (AB Human Rights Panel, 2010-07-21); *McNamara v Lockerbie & Hole Inc.*, 2010 AHRC 7 (CanLII) (AB Human Rights Panel, 2010-07-22); *Bley v Syncrude Canada*, 2010 AHRC 6 (CanLII) (AB Human Rights Panel, 2010-07-21); *PCL; Mechanical Contractors Association Sarnia v United Association of Journeymen and Apprentices of the Plumbing & Pipefitting Industry of the United States and Canada, Local 663*, 2013 CanLII 54951 (ON LA), an Ontario arbitration decision found pre-access testing unreasonable in the context of that workplace. This decision is contrary to settled law in Alberta confirming the reasonableness of pre-access testing. The decision is currently under judicial review.

64. *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Limited*, 2013 SCC 34, rev'g 2011 NBCA 58, rev'g 2010 NBQB 294, aff'g (2009), 189 L.A.C. (4th) 218 (NB Arb) (Veniot) (*Irving*).

65. *Irving*, at para. 1.

66. *Irving*, at paras. 31, 37, 41, 45, 51, 52.

67. Random testing will also be reasonable where it has been bargained.

68. See also *Communication Energy and Paperworkers Union, Local 777 v Imperial Oil Limited*, (27 May 2000) (Alta Arb) (Christian), unreported and *Greater Toronto Airports Authority v PSAC, Local 0004*, [2007] LVI 3734-2 (Ont Arb) (Devlin) where random testing was accepted as reasonable based on the evidence. These decisions were cited with approval by the Majority and Minority in *Irving*. Most recently, *Suncor Energy Inc. and Unifor, Local 707A (Random Alcohol and Drug Testing Policy)*, Re, 2014 CarswellAlta 457, 118 C.L.A.S. 138 (Suncor) considered the reasonableness of random alcohol and drug testing at the Suncor operations in the Regional Municipality of Wood Buffalo. *Suncor* is the first decision considering the reasonableness of random alcohol and drug testing following Irving wherein the Majority of the arbitration board determined that random testing was not reasonable in the context of Suncor's work environment. The *Suncor* decision is currently under judicial review.

Independent Medical Opinion

INDEPENDENT MEDICAL OPINION

Canadian Model for Providing a Safe Workplace

Introduction

The purpose of this opinion is twofold. The first is to provide a survey of the current medical understanding of workplace safety risks arising from the use of alcohol and drugs, the detection practices used to assess site-specific risks, and the workplace policies that provide the overall context for mitigating those risks. The second is to comment on alignment of Version 5.0 of the Canadian Model with the current medical understanding.

Background

Alcohol and drug use is not new to our society. Nearly every civilization throughout history has used alcohol and plant-derived drugs for thousands of years, with alcohol use and psychoactive plant use dating as far back as 10,000 BC (Moss & Albery, 2009; Hart & Ksir, 2012; Müller & Schumann, 2011). Historically, alcohol and drug use disorders have not been considered a global and public health priority (Whiteford et al., 2013). From 1990 to 2010, global deaths attributable to alcohol and drug use disorders increased by 48.9 per cent and 191.7 per cent, respectively (Lozano et al., 2012). With recent headlines warning "Alcohol and drug use is on the rise!", employers, researchers and practitioners have been called to task. The real question is why we as a society need to engage in such an increasingly high consumption of alcohol and drugs? What is missing from our lives?

Alcohol and drug use in North America serves as a widespread component of society. Alcohol use has a long-standing reputation as a social lubricant, source of revenue and pervasive part of our culture, something to relax with after a long day at the office and to celebrate with on special occasions, and drug use has the reputation of helping an individual calm down, socialize, change mental state, ease pain or get high (Moss & Albery, 2009; Müller & Schumann, 2011). Psychoactive drugs, such as alcohol, cocaine and anti-depressants, cause changes to subjective experience and/or behaviour by altering the central nervous system functioning (Müller & Schumann, 2011). These changes can be responsible for lowering inhibitions and feeling ease in social situations, reinforcing positive expectations and experiences and perpetuating use of the drug. However, they can also be maladaptive and lead to reduced psychomotor and cognitive functioning that causes sensation-seeking, unintentional and intentional injury, and fatality.

While prescription drugs are prescribed by a physician and intended for use only by the prescribed individual in the prescribed dosage, non-prescription drugs include over-the-counter drugs that do not necessitate a physician prescription. The U.S. Food and Drug Administration (FDA) mandates that a drug requires a prescription if it is not safe to use without the supervision of a practitioner who can legally administer drugs because of its toxicity, potential harmful effects, method of use or other measures necessary for its use, such as Dilaudid and Percocet (FDA, 2012). However, this is not to imply that non-prescription drugs are all safe for use as the over-consumption of both prescription and non-prescription drugs can have destructive effects in safety-sensitive job sites and the misuse of all drugs should be taken seriously (Brass, Lofstedt, & Renn, 2011). For example, Dextromethorphan, an active ingredient in over-the-counter cough suppressants such as Robitussin and Nyquil, is being used in high doses to induce intoxicating effects such as disrupted coordination, dizziness, blurred vision and hallucinations, and its excessive consumption leads to fatality (Logan et al., 2009). Moreover, recent research has shown that false and misleading television advertising is predominant in consumer-targeted prescription and non-prescription drug advertising, often down-playing the negative effects of these drugs (Faerber & Kreling, 2013).

In addition to risks posed on single occasions of drug and alcohol use, the problematic use of drugs and alcohol can lead to physical dependency and addiction. Although most people who use psychoactive drugs may not become addicted, there is a group of people who do become addicted (Müller & Schumann, 2011). Drug addiction is a broad term ranging on a spectrum of severity and occurs when an individual is unable to stop or control use, resulting in compulsive use despite negative consequences, including health, employment, social, personal, financial and family dysfunction (American Psychological Association (APA), 2013; O'Brien, 2011). In contrast, physical dependency is the use of a drug such that the individual experiences tolerance (requiring larger quantities to experience an effect) and withdrawal (adverse symptoms that occur upon cessation of drug use). Physical dependency is distinct from addiction; for example, research correlating alcohol consumption characteristics with physical dependency and alcoholism (or alcohol addiction) have found the two to be at opposite ends of the alcohol disorder continuum (Saha, Stinson, & Grant, 2006). Dependency can be a normal aspect of prescription drug use and does not necessitate or imply addiction (O'Brien, 2011). For example, patients on opiates for long-

term chronic pain management start the regime on a low dose of opiates and increase dosage when tolerance is reached and if the drug were to be ceased without weaning off of the drug, patients would experience withdrawal symptoms (Manchikanti & Singh, 2008). This perpetual use of the prescribed drug for pain management does not necessitate addiction, as these patients may still be able to control the time, place and quantity of drug consumed and maintain the ability to stop consuming the drug at any time; it is not the repetitive nature that constitutes a problem. A patient may be diagnosed as addicted if they exhibit problematic opioid-seeking behaviours during treatment that cause behavioural problems, taking the drug in a manner or dose different than what was prescribed (Ballantyne & LaForge, 2007). Unfortunately, there is no one "cure-all" for addiction or dependency. Treatment options range from medicinal to behavioural therapies and are largely dependent on the individuals' circumstances.

Medicinal marijuana presents a unique challenge as it is hotly debated by medical, legal and regulatory officials. Medicinal marijuana is most commonly prescribed for pain, insomnia and anxiety and can relieve nausea, muscle spasms and appetite loss in cancer patients (Hall, Christie, & Currow, 2005; Reinarman et al., 2011). Where traditional prescription medications attained from local pharmacies cannot be prescribed unless they have been subjected to extensive research and controlled trials, physicians in Canada are given the discretion to make their own decision on whether or not to authorize marijuana despite a lack of efficacy and safety research and patients must purchase it from a licensed producer. Although Bostwick (2012) argues that the goal of medicinal marijuana use for symptom relief does not match the recreational goal to get high, and is thus a distinct behaviour from consuming illicit marijuana, research has found that people more fond of medicinal marijuana tend to be past recreational or chronic marijuana users and that patients having a difficulty tolerating the drug tend to lack recreational experience with it (O'Connell & Bou-Matar, 2007; Kalant, 2008). Moreover, despite the public opinion that marijuana is non-addicting, research has demonstrated symptoms of marijuana withdrawal and the DSM-V (Diagnostic and Statistical Manual of Mental Disorders, Version 5) now includes a classification for marijuana withdrawal syndrome (APA, 2013). Like other medications, it has implications for health and workplace safety, including aerodigestive tract and lung cancers, stunted development in adolescents, and reduced psychomotor and cognitive functioning (Budney, Novy, & Hughes, 1999; Hall, Christie, & Currow, 2005; Raphael et al., 2005). Despite an abundance of claims and anecdotal evidence of the benefits of medicinal marijuana, large-scale rigorous and controlled scientific research is lacking to claim with certainty that medicinal marijuana is safe and beneficial (Kleber & DuPont, 2012). For example, researchers have found that medicinal marijuana prescribed at therapeutic doses poses a risk to driving (Bosker et al., 2012). The challenge for practitioners is how to interpret medical, legal and regulatory opinions when diagnosing marijuana dependence/addiction and determining workplace safety risks.

Drugs and the human body

Drugs have a range of effects on the body, each of which is dependent on many factors including amount consumed, method of consumption, time since last consumption, personal predisposition, expectation, genetic vulnerability, context, prior use, tolerance level, etc. Moreover, studies assessing the impacts of drugs are often done at low and controlled doses that vary from the large, and varying, doses in which drugs are consumed outside of the controlled laboratory setting. Table 1 summarizes the key effects, duration of effects and withdrawal symptoms of the drugs included in the policy. Alcohol is a depressant. Cocaine, amphetamine/methamphetamine and ecstasy, including 3,4-methylenedioxymethamphetamine (MDMA), 3,4-methylenedioxyamphetamine (MDA), and 3,4-methylenedioxyethylamphetamine (MDEA), are stimulant drugs. Opiates, including codeine, morphine and 6-acetylmorphine (heroin), are opioid drugs. Phencyclidine, known as PCP, is a hallucinogen drug. Marijuana does not fit nicely into one class of drugs and has been described as a depressant, relaxant and hallucinogen.

It is worth noting that Table 1 represents the scope of possible effects and that each individual is unique. Extending past acute intoxication, it is also important to highlight that the cycle of use involving intoxication to hangover effects and the prolonged adverse effects after binge consumption have relevant implications for workplace. Such health and performance consequences can include fatigue, falling asleep at work, reduced alertness, increased human errors, and decreased cognitive and psychomotor functioning (Ames, Grube, & Moore, 1997; Hunter & Francescutti, 2013). For example, heavy marijuana users have more cognitive deficits than former or never/light users at zero, one, seven and 28 days post-abstinence, and marijuana users who used for more than five consecutive years but have been abstinent for an average of two years still experience persistent attention deficits (Bolla et al., 2002; Raphael et al., 2005). As another

example, driving performance deficits among amphetamine users have been linked to the sleep deprivation that results from amphetamine bingeing and other post-drug effects (Musshoff & Madea, 2012). The effect of each drug also varies if taken in combination with other drugs. For example, the synergistic effect of alcohol and cocaine results in elevation of the heart rate that is greater than the additive effect of each drug individually and raises the tendency toward violent thoughts, threats and behaviours past that presented by cocaine use alone (Pennings, Leccese, & de Wolff, 2002).

It is well established that an individual who has an addiction must be afforded the respect that they have a disease. They are in need of being properly identified and offered treatment and some degree of accommodation if required. Individuals with such an addiction may lack the insight to be aware of their disease. If they are initially identified on a drug screening, they will need further investigation by well-trained addiction specialists in a timely fashion. The addicted worker needs help, whether they are willing to acknowledge and accept that help depends on them.

Not everyone who uses drugs will become addicted. In fact, people dependent on alcohol, marijuana or cocaine will cease consumption, though not necessarily permanently, at some point in their lifetime (Lopez-Quintero et al., 2011). However, there are factors that lead to the escalation from use to abuse. Biologically, researchers have found allostatic changes in the reward system that leads people to excessive intake whereby neurochemical mechanisms in the stress and reward circuits become dysregulated (Koob et al., 2004). In other words, addiction is not solely a matter of building tolerance and needing more of a drug more often to experience the same effects (Zernig et al., 2007). It is a combination of becoming sensitized to the positive and reinforcing effects of the drug, the body's inability to return to homeostasis following drug consumption, increase in the incentive of drug-associated stimuli, increase in reinforcing effects of the drug as compared to alternative positive reinforcers in life, and habit formation (Zernig et al., 2007).

In addition to biological dysregulation, the effects of genetic vulnerability, childhood maltreatment, chronic stress and early life stress that also predispose individuals to drug abuse cannot be ignored (Compton et al., 2013; Koob et al., 2004; Sinha, 2008). Research assessing the escalation from non-use to problematic use of alcohol over a three-year period found that of those who started using alcohol during the assessment period, more than half reported problematic drinking and that this was associated with family history of substance abuse, poverty, childhood abuse and early drug use (Compton et al., 2013). Age of drug initiation also plays a role and researchers have found marijuana use before age 17 is associated with other drug use, alcohol dependence and drug abuse as an adult (Lynskey et al., 2003).

Table 1
Effects, duration of effects and withdrawal symptoms of policy drugs (©Hunter, 2014)

	EFFECTS	DURATION	WITHDRAWAL
Alcohol	Disinhibition, relaxation, talkativeness, depressed neural functions including reaction time, uncoordinated movement and unconsciousness	Depends on weight, gender, age, time and other factors. Generally, excretion is one standard drink per hour	Restlessness, shakiness, hallucinations, convulsions
Marijuana	Distorted sense of time, paranoia, magical thinking, short-term memory loss, anxiety, depression, rapid heart rate, increased blood pressure and breath rate, red eyes, dry mouth, increased appetite, slow reaction time	**Oral**: Five+ hours, delayed onset peaking at one to three hours **Inhalation**: 1/2 life 20 to 30 hours, peaks in blood within 10 minutes, effects peak at 30 to 60 minutes	Starts one to three days after cessation, lasts four to 14 days up to one month. Symptoms include irritability, anxiety, depression, anger, reduced appetite, insomnia
Cocaine	Energy, alertness, elevated mood, superiority, irritability, paranoia, restlessness, anxiety, decreased coordination, violent behaviour, dilated pupils, seizures, exuberant speech, increased heart rate and blood pressure	**1/2 life**: 0.5 to 1.5 hours **Snorting**: 15 to 30 minutes **Smoking**: Five to 10 minutes	Sleep disturbance, fatigue, psychomotor agitation or retardation, increased appetite, vivid and unpleasant dreams, depression
Opiates (including codeine and morphine)	Relaxed dreamlike state, sleepiness, clouding of consciousness, decreased coordination, slurred speech	**1/2 life**: Two hours, 90 per cent excreted in 24 hours. Single use performance deficits have been noted up to four to six hours	Diarrhea, cramps, chills, profuse sweating
6-Acetylmorphine (heroin metabolite)	Initial rush of pleasurable sensation and euphoria followed by hours of sleepiness, dry mouth, heaviness in extremities, drowsiness, confusion, nausea, vomiting, itchiness, reduced cognitive functioning, heart and breath rate slowing	**1/2 life**: 0.6 hours (6-AM metabolite is used for detection and is in the body for several hours after single use) **Euphoria**: 45 seconds to several minutes **Overall**: Five hours	Begins five to 12 hours after last dose. Flu-like symptoms, anxiety, sleep, gastrointestinal distress, goose bumps, aggression, paranoia, increased heart rate and high blood pressure. Symptoms peak after 36 to 72 hours and fade after five to 10 days
Phencyclidine (also known as PCP)	Altered perceptions of reality including visual and bodily perceptions	**Oral**: Five to eight hours **Smoked or injected**: Three to five hours	Decreased reflexes, weight loss, memory loss, confusion, anxiety, speech difficulties, depression, lack of impulse control, coma, suicide, death
Amphetamine/ methamphetamine	Euphoria, risk-taking, heightened self-esteem, "tunnel vision," paranoia, hallucinations, headaches, increased breathing rate, shortness of breath, reduced appetite, increased sweating, irregular heartbeat, chest pain	**1/2 life**: Seven to 34 hours depending on urine pH **Smoking or injecting**: Immediately **Snorted or swallowed**: Within 30 minutes	Sleep disturbance, fatigue, psychomotor agitation or retardation, increased appetite, vivid and unpleasant dreams
Ecstasy (including MDMA, MDA and MDEA)	Derealization, depersonalization, energy, empathy, impulsivity, euphoria, hallucinations, altered perception of space and time, hyperthermia, increased heart rate and blood pressure, nausea, blurred vision, chills / sweating, faintness	Three to six hours. Deficits from light use can last after 20 to 40 days of abstinence	Depression, insomnia, agitation, disturbances to concentration and memory

Consequences of alcohol and drug use in the workplace

According to the World Health Organization (2014), alcohol misuse is the leading risk factor for death among males 15 to 59 years old, an age group encompassing a large portion of the workforce. In 2006, 12.7 million of the 20.6 million American adults with substance dependence or abuse were employed full time (Substance Abuse and Mental Health Services Administration, 2007). In that same year, another study also found that illicit drug use in the workforce involved approximately 14.1 per cent of employed adults and that 3.1 per cent of adults used illicit drugs in the workplace specifically, with some workplaces reporting up to 28 per cent of employees involved in illicit drug use (Frone, 2006). Alcohol and drug use in the workplace is correlated with workplaces exhibiting poor safety conditions that cause stress and alcohol-related problems, high number of work hours and unhealthy working conditions (Frone, 2008; Butler, Dodge, & Faurote, 2010; Peretti-Watel et al., 2009). The consequences of this are broad and serious and, at the extreme, include death.

Alcohol consumption causes performance deficits and safety risks through its physiological effects on the body whereby it depresses the action of the central nervous system, causing a lowering of inhibitions and reduced psychomotor and cognitive functioning, feeding into human errors that cause performance deficits that enhance safety-related risks. The implications of this in the workplace are great. Even in experienced merchant ship pilots, low doses of alcohol significantly decrease the pilots' ability to navigate a fully loaded container vessel through a passage with commercial traffic on a simulator (Howland et al., 2001). Even past index event of consumption, hangover effects can also affect workplace dynamics. Of full-time employees aged 18 to 49 years, it is estimated that 13.1 per cent of heavy alcohol users and 15.9 per cent of illicit drug users have skipped work in the past month and that 10.2 per cent of heavy alcohol users and 12 per cent of illicit drug users will miss work two or more days per month due to illness or injury (Substance Abuse and Mental Health Services Administration, 1996). At the extreme of the consequences of substance use in the workplace, Australian estimates suggest that alcohol and cannabis or amphetamines account for approximately seven per cent and six per cent of work-related deaths, respectively (McNeilly et al., 2010).

Alcohol use encourages risk-taking behaviours and leads to aggression in the workplace. This may manifest in victimization, perpetration, witnessing violence, co-worker criticism, ignoring supervisor instructions, incompletion of tasks and intentionally doing jobs incorrectly (Bennett & Lehman, 1999; McFarlin et al., 2001). Moreover, alcohol use on-site places the consumer and others at greater risk of injury, especially in work environments involving heavy machinery where alcohol and drug use can lead to human errors in equipment functioning that can have devastating results for machine operators and bystanders (Frone, 2006; Frone, 2009). Research in farm work has found higher rates of employee alcohol consumption to increase the individual and co-workers risk of injury (Stallones & Xiang, 2003). Research estimates that the cost of harm done by alcohol to others is equivalent to the cost of harm done by alcohol to the individual consuming it, highlighting the need for workplace policies to protect both the consumer and innocent bystanders (Laslett et al., 2010).

Occupational drivers are among the most high-risk groups for alcohol and drug-related workplace injury. From 2000 to 2010 in Canada, 56.7 per cent of fatally injured drivers tested positive for alcohol, drugs or both, with males accounting for over 85 per cent of cases (Bierness, Beasley, & Boase, 2013). Alcohol and driving has received a great deal of media and research attention, but drug-related traffic collisions are also a major safety concern. Amphetamine and methamphetamine use at both low and high doses results in traffic-related skill deficits and binge use results in extensive periods of fatigue and prolonged daytime or nighttime sleep that together culminate in safety risks, and 73 per cent of drivers with any level of blood amphetamine and methamphetamine concentration are judged as having performance deficits that pose a significant safety risk (Gustavsen, Morland, & Bamness, 2006). However, the mere presence of a drug does not denote performance deficits and each drug represents a unique case. In a study on the effects of opioid addiction treatment, researchers reported that individuals stabilized on methadone, levacetylmethadol (LAAM) and buprenorphine treatment exhibited no difference in driving skills when compared to non-drug users (Lenné et al., 2004).

Despite myths that marijuana does not affect driving ability, there is an association between marijuana use and work-related road traffic collisions (Smith et al., 2004). Not only is marijuana use increasing, but it is being developed with greater potency and work-related injuries are becoming an even greater concern (Canfield et al., 2010). For example, although drug use regulations are rarely reported in aviation workplaces with random drug testing policies, the number of

persons in fatal aviation crashes that tested positive for marijuana increased 2.7 times from 1997 to 2006 (Canfield et al., 2010; Li et al., 2011). Moreover, chronic marijuana-users are reported to have a decreased ability to respond to negative consequences because of poor decision-making and decreased functional responsiveness (Wesley, Hanlon, & Porrino, 2011). Coupled with research noting that marijuana users exhibiting significant performance deficits within 24 hours of smoking rarely have an awareness of the drug's effects, marijuana use in the workplace marks a significant risk to safety (Leirer, Yesavage, & Morrow, 1991).

Detection practices

Drug testing is the process of detecting drugs or drug metabolites of alcohol and illicit or prescription drugs in the human body. In the workplace, there are numerous reasons for testing, including pre-employment, pre-access, reasonable cause, post-incident, unannounced follow-up, return-to-duty and random testing. Although reasonable cause testing has been found to be an effective method to detect drug and alcohol violations, particularly in aviation employees, it has been criticized for reducing morale and trust in employer-employee relationships and for its lack of scientific rigour as it depends on behavioural observations (Li et al., 2010). As such, research has turned to a variety of other detection practices.

Although pre-access screening determines sobriety before allowing workers to enter a job site, ongoing testing is needed to assess and prevent risk on-site given the prevalence of injuries resulting from workplace drug and alcohol use. Random drug and alcohol testing entails the testing of random employees at random times without forewarning. Proper implementation of random testing where employees are made aware of the policy and all employees are subject to the policy regardless of their job title has been found to be an effective deterrent to alcohol and drug use in the workplace and reduces injury and productivity and absenteeism losses. Although workers may be given the option to voluntarily disclose alcohol or drug consumption, research suggests that disclosure does not accurately correlate with amounts consumed.

Rather than discuss impairment, it is important to emphasize well-established research regarding workplace safety risks and performance deficits arising from alcohol and drug use. Urinalysis has been among the most common forms of drug testing and allows for on-site testing and immediate results. Urinalysis provides information on past exposure to a drug, which varies by drug as different metabolites are eliminated from the body at different rates. From this information and past literature correlating known drug concentrations to risks and performance deficits, we extrapolate the most likely time since consumption and the degree of safety risks posed by this level of consumption.

As science and technology advances, the ability to detect drug and alcohol consumption from oral fluid (i.e. saliva) samples has been receiving increasing attention (Holmes & Richer, 2008). Oral fluid testing has been embraced because it can be administered easily and immediately on-site and can indicate recent use (Holmes & Richer, 2008; Kadehjian, 2005). For example, oral testing was found to be of benefit for testing drugs of abuse in drivers under the influence and reduced incidence of cases incorrectly determined to not exhibit driving ability deficits (Toennes et al., 2005). Oral fluid testing is an emerging indicator of potential perfomance deficits (i.e. safety risks), plus it can complement other drug testing and be used to triangulate evidence (Bush, 2008).

The United States Department of Transportation (U.S. DOT) cut-off concentrations are used as the gold standard for drug testing, which match research findings pertaining to safety risk and performance deficits and reflect a comprehensive view of employees' human and legal rights and reasons for the presence of small amounts of alcohol and drugs to be in one's system. In other words, the cut-off is the level at which there are no performance deficits but above which is a "red flag" for safety risks. For example, the minimum U.S. DOT cut-off quantity of alcohol has been found to significantly increase performance deficits and safety risks among merchant ship pilots and the level at which research has determined safety concerns and performance deficits for amphetamine, methamphetamine and marijuana use are also equivalent to the U.S. DOT (Bosker & Huestis, 2009; Howland et al., 2001; Ramaekers et al., 2006).

Workplace policies

There are numerous workplace policies that are effective in reducing risk of injury and fatality and enhancing workplace safety. Policies may involve risk-based approaches, treatment programs and policies surrounding re-entry into the workplace. Whatever the approach, it is important that employees perceive their superiors as likely and able to deal with substance use problems and that social norms reflect that alcohol and drug use on-site is unacceptable, as social norms and perceptions of employers play a strong role in policy adherence (Biron, Bamberger, & Noyman, 2011; Frone & Brown, 2010). When workplace policies are sensitive and respectful of employees, they can extend past safety concerns and boost morale. A recent study assessing employee efficacy among human resource organizations using drug testing programs found that human resource professionals reported a perceived increase of 19 per cent in employee productivity after the initiation of drug-testing programs (Fortner et al., 2011).

Workplace characteristics may dictate the effectiveness of certain types of policies. In a study comparing 20,500 construction, manufacturing and service work companies that did not have an alcohol or drug workplace policy to 261 companies using a drug-free workplace program where employers were responsible for ensuring all workers received substance education and had a comprehensive policy outlining prohibitions and sanctions for drug and alcohol abuse and testing procedures, availability of employee assistance for treatment and referrals, and confidentiality found the program decreased overall injury rates as well as serious injuries resulting in four or more days absence (Wickizer et al., 2004). The researchers posited that part of the success of the program may be attributed to the cooperation between employers and employees that was essential for maintaining the program in these specific industries. For example, crew supervisors having regular check-ins and meetings that are in groups, one-on-one and/or face-to-face and ensure employees are educated about the policy and available resources. It is possible that involving employees in substance abuse education and clearly and concisely relaying the drug-free policy may have even increased staff morale and self-efficacy, and strengthened the relationship between employers and employees.

Policies for occupational drivers have also been effective in reducing injury. Following implementation of a mandatory alcohol testing program that involved pre-employment, random, suspicion and post-incident testing, the rate of positive blood alcohol concentrations (BAC) in fatal multi-vehicle crashes decreased for motor and non-motor carrier drivers, with a 23 per cent reduction in the risk of positive BAC in fatal collisions by motor carrier drivers (Brady et al., 2009). Snowden et al. (2007) reported that passenger car drivers were 4.7 per cent less likely to abuse alcohol in the workplace following the implementation of random drug and alcohol testing and that random alcohol testing was associated with a 14.5 per cent reduction in alcohol involvement among drivers of large trucks (Snowden et al., 2007). Programs that do not see immediate decreases with occupational driver policies are encouraged to wait, as long-term benefits may be more prominent (Cashman et al., 2009).

Workplace policies involving treatment programs for those testing positive for alcohol and drugs are also effective in reducing workplace injury (Wood et al., 2012). Researchers have found that workers testing positive on drug tests had a significant decrease in injuries following substance use treatment compared to those with self-referred issues (Elliott & Shelley, 2006). Workers undergoing compulsory inpatient treatments tend to fair better than those in compulsory attendance at Alcoholics Anonymous who end up requiring a significant amount of additional hospital treatment (Walsh et al., 1991). Employee assistance programs (EAPs) can include preventive services and screening, early identification, short-term counseling, referral to specialty treatment and other behavioural health interventions and are effective in addressing substance use problems (Merrick et al., 2007). Moreover, EAPs relieve supervisors of having to diagnose workers' conditions and instead direct them to someone who understands their needs (Ensuring Solutions, 2003).

Beyond the workplace

Workplace policies can also remedy misconceptions about the harms of alcohol and drug use. While many people can list numerous health consequences of smoking, many people cannot list the consequences of alcohol consumption (Huang, Hunter, & Francescutti, 2013). The media has a great influence on perceptions about alcohol and drug use and media exposure to alcohol product advertisement is greater than exposure to alcohol company-sponsored responsibility advertisements, especially those targeting youth (Center on Alcohol Marketing and Youth, 2007). Even in the responsibility campaigns, ambiguous messaging leads to an overall sense of mistrust and confusion over the company's true intent (Atkin, McCardle, & Newell, 2008).

Many adults' roles in their family and community lives depend on their ability to maintain income. Workplace policies not only prevent disability and unemployment by enhancing safety, but their deterring effect on problematic alcohol and drug use has very broad implications (Roman & Blum, 2002). Using the Department of Defense's Worldwide Survey of Health Related Behaviors and the National Survey of Drug Use and Health, researchers found that the implementation of a zero-tolerance drug policy among military personnel lowered their rate of illicit drug use from above the rest of the population's average use rate to below the population average (Mehay & Pacula, 1999). The implications of this deterrence effect extend into family and personal relationships, which are known to suffer when an individual has problematic substance use behaviours, dependence or addiction (Huang, Hunter, & Francescutti, 2013)

Conclusion

The inappropriate consumption of alcohol and drugs is a problem on a societal scale; for safety-sensitive positions on inherently risky heavy industrial construction sites, that general problem translates to tangible and immediate risks to workers and their co-workers. Proper implementation and understanding of the Canadian Model provides a holistic framework to proactively address and mitigate those risks:

- Delineation of a clear safety culture with respect to alcohol and drug use and fitness to work
- Provision of model policies and procedures that can be adopted by companies and that are transparent for both employers and employees
- Based on scientifically sound and credible best practices (e.g. drug cut-off concentrations established by the U.S. DOT)
- Detailed protocols that are scientifically sound in terms of sample integrity and are also respectful of employee privacy in terms of disclosure of medical information
- Diagnosis of, compassionate treatment of, and hopefully re-integration of workers afflicted with addiction
- Establishment of an industry standard that facilitates both efficient inter-site mobility of construction workers and efficient administration by individual companies, testing labs and medical practitioners.

Inappropriate consumption of alcohol and drugs is a significant problem for inherently risky work sites. Even if the incidence probability is small – and general population statistics suggest it may not be small – the potential consequences are profound in human terms: injury, disability or death. A small probability times a large consequence yields a significant risk. Based on the survey of current medical understanding and our professional experiences in the practice of public health in wellness and injury prevention, we are of the view that Version 5.0 of the Canadian Model provides a holistic, balanced, medically sound approach to mitigating the workplace risks of inappropriate alcohol and drug use. Hopefully, this independent medical opinion adds to the spirit of open and frank discussion of the issues with the ultimate collective and concerted goal of reducing unnecessary injuries and creating a safer work environment and society. But the question remains: Why do we as a society need to engage in such use of mind-altering substances? Until we can answer that question, we will need to have these discussions as difficult as they are.

Louis Hugo Francescutti and Zoë Hunter
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About the authors:

Louis Hugo Francescutti is a professor at the University of Alberta – School of Public Health. He is also a practicing emergency medicine physician at the Royal Alexandra Hospital in Edmonton, Alberta, Canada. He has a PhD in Immunology from the University of Alberta and a Master of Public Health – Health Policy and Management degree from the Johns Hopkins University, Baltimore, Maryland, U.S. Dr. Francescutti is a Fellow of the Royal College of Physicians and Surgeons of Canada in Public Health and Preventive Medicine, a Fellow of the American College of Preventive Medicine, and consults worldwide on wellness and injury control. He served as the President of the Canadian Medical Association in 2013/14 and as the President of the Royal College of Physicians and Surgeons of Canada from 2010 to 2013.

Zoë Hunter is a medical student at the University of Ottawa. She holds a Bachelor of Science with Honours in Psychology from Acadia University and a Master of Science degree in Health Promotion with a focus in HIV/AIDS from Queen's University. She has a special interest in substance abuse, addiction medicine and mental health.

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Frequently Asked Questions

FREQUENTLY ASKED QUESTIONS

Canadian Model for Providing a Safe Workplace

Why do we need alcohol and drug guidelines?

As individuals, we may hold varying opinions about the use and the personal or societal impact of alcohol and drugs and make our own lifestyle choices accordingly. Regardless of a person's opinion, the fact is that alcohol and drugs can adversely affect an individual's mental and physical abilities. That fact presents an obvious and real concern for companies that are committed to providing employees with a safe workplace.

In addition, there may be certain requirements, either through regulations or owner/industry standards, which require guidelines and policies.

What determines whether an incident or accident is significant to warrant testing?

All potentially dangerous incidents or accidents provide cause for testing. If there is objective evidence to believe that the use of alcohol or drugs was not a factor in the occurrence, then the requirement for testing may be waived.

Can I get help if I think I have an alcohol or drug problem?

Yes. You can access the employee assistance services program made available by the company or union or labour provider for personal counselling.

What is a recognized rehabilitation program?

A recognized rehabilitation program would be any substance abuse treatment program recommended by a substance abuse expert. In general, a physician, a social worker, an employee assistance services plan, a company occupational health department, or company human resources department can direct individuals to a recognized rehabilitation program.

Is follow-up testing required for rehabilitation?

Normally, the substance abuse expert will make the determination of follow-up testing as part of the recommended treatment program.

What happens to self-referrals to employee assistance services?

Self-referrals are confidential between the employee and the provider of the employee assistance service as long as the employee complies with the terms and conditions of the treatment program and the employee presents no safety risk to the employee or others at the workplace.

Will I get fired if I have an alcohol or drug problem?

The Canadian Model for Providing a Safe Workplace states that self-referrals will not compromise employment. If you have a problem and are found to test positive after being tested for cause, you will be subject to the company's discipline and/or discharge policies.

What if someone I know at work has an alcohol or drug problem?

Every individual at a workplace has a personal responsibility to ensure the safety of themselves and others. Part of that responsibility would be to encourage and help that individual seek assistance through an employee assistance service or a supervisor. If that individual is putting him or herself or others in danger, you have a responsibility to report that individual to your supervisor or leader.

Why are there various levels or standards for testing for alcohol? For example, if the level for impaired driving is 0.08 grams of alcohol in 210 litres of breath, why does this model use 0.04 grams of alcohol in 210 litres of breath?

The police use a level of 0.08 grams of alcohol in 210 litres of breath as the legal limit for alcohol when operating a motor vehicle. It is recognized that impairment can occur at much lower levels. Because the operation of vehicles and equipment in a commercial setting can be more demanding than the operation of a motor vehicle, in general, the acceptable level has been set lower. It is interesting to note that the United States Department of Transportation (U.S. DOT) uses a level of 0.02 grams of alcohol in 210 litres of breath as cause to suspend a driver from driving at the time without further disciplinary action and a level of 0.04 grams of alcohol in 210 litres of breath as cause for suspension and disciplinary action.

Why are we using the United States Department of Transportation (U.S. DOT) standards for testing of Canadian workers?

The U.S. DOT standards are a rigorous set of procedures and protocols for employment-related drug testing. They were developed to ensure fair and reliable testing of workers covered by the United States mandatory drug testing legislation. Canada, of course, has no mandatory drug testing. The U.S. DOT standards have been mandated for the COAA Best Practice (Canadian Model for Providing a Safe Workplace) to ensure quality testing and legal defensibility of results.

Where can a copy of the U.S. DOT standards be obtained?

Copies of the standards may be obtained from laboratories that are certified to perform testing under the U.S. DOT standards. Alternatively, the standards can be found on the Internet.

Can the company test me for other drugs besides those listed, or test for other medical purposes?

A company may choose to test for other drugs but these should be stated in the company's specific policy. The employee should be made aware of the drugs to be included in the testing. No testing for other medical purposes, such as pregnancy, AIDS, diabetes, etc., should ever be performed pursuant to this policy.

Can I challenge a positive test?

A donor may challenge a positive test by providing a legitimate reason for the positive test when contacted by the medical review officer (MRO). The donor may also request that the MRO arrange for a retest on the split portion of the original urine specimen or a retest of the oral fluid specimen, at the donor's expense, at an alternative certified laboratory. This request must be made within 72 hours of the employee being notified by the MRO that the first test was found to be positive.

What are "reasonable grounds"?

In a case where an employee is caught distributing, possessing, consuming or using alcohol or drugs at work, an alcohol and drug test is not required to establish a breach of the standards. The act itself constitutes a breach of the standards set by the guidelines.

Appreciating that there may not always be direct evidence of a breach, and recognizing that early detection of safety concerns before the occurrence of an accident or incident is the hallmark of effective safety and loss management, testing is encouraged in cases where there are "reasonable grounds" for a supervisor or leader to believe that an employee may have consumed or used alcohol or drugs at work or may be under the influence of alcohol or drugs.

"Reasonable grounds" for believing that an employee may be in breach of the standards concerning detectable levels of alcohol or drugs can arise in two general situations.

Firstly, a situation where the supervisor or leader observes, overhears or otherwise discovers something which would cause any reasonable person in that situation to believe the employee is in breach of the guidelines, including, for example:

- where the smell of alcohol is detected on an employee's breath, or
- where the supervisor or leader overhears a conversation at work in which an employee admits to just having consumed or used alcohol or drugs.

A supervisor or leader in such a case can, but is not required to, question the employee about the observation or discovery to determine whether or not the belief is reasonable. Alternatively, the supervisor or leader can simply request the employee to submit to an alcohol and drug test.

Secondly, "reasonable grounds" can also exist in a situation where the leader has a reasonable suspicion that an employee may be in breach of the guidelines and policy based on observations or discoveries, which are less conclusive and which seem more consistent with a breach of the guidelines than with any other reasonable explanation, for example:

- where an empty liquor bottle or drugs are found in a vehicle used by the employee
- where the employee's appearance and behavior strongly suggests that the employee is under the influence of alcohol or drugs, or
- where the employee's failure to correct a chronic performance problem strongly suggests that the employee may be using or is under the influence of alcohol or drugs at work.

A supervisor or leader in such a case should not request the employee to submit to an alcohol and drug test unless the leader has discussed the observations or concerns in question with the employee and has given the employee an opportunity to provide an explanation. If the explanation provides additional information that causes the supervisor or leader to conclude that the employee has not breached the guidelines, then the employee should not be required to submit to an alcohol and drug test. However, if the employee's explanation does not dispel or contradict the supervisor or leader's suspicion then the employee should be tested.

Do I have to report any non-prescription medication I take – like cold, flu, allergy or headache medications?

Any medication, prescription or non-prescription, which may affect a worker's ability to perform his or her job safely, must be reported. Other medications, which do not affect a worker's ability to perform his or her job safely, need not be reported. Any medications or medical information reported will be treated as confidential.

How can I find out about the effects and side effects of medications prescribed for me?

The effects and side effects of prescription medications are usually provided by pharmacies. Effects and side effects of non-prescription medications are also provided with the medication. More information can be obtained from your pharmacist or physician. Workers are advised to make their physicians or pharmacists aware of their safety-sensitive occupation and any other medications they may be taking.

What are the issues for companies and employees regarding providing alcohol at social functions?

There are both corporate and legal issues to this question.

The corporate issue: Companies that have alcohol and drug policies should be aware that offering alcohol at company events may be perceived by employees as inconsistent with the policy. Therefore, a company with an alcohol and drug policy may want to be more selective about when it will provide alcohol at company functions.

The legal issue: An employer who provides alcohol to employees has the same duty at law as a tavern-owner, namely to ensure that no employee is too impaired to drive and, if impaired, does not have access to a vehicle.

How soon after an incident or near miss should a request for alcohol and drug testing be made?

The request should be made as soon as practically possible, after taking such steps to ensure the safety of the workplace and all people in the vicinity. Reasons for any delay should be documented. If the testing does not occur within eight hours for alcohol testing or within 32 hours for drug testing, the relevance of the test results will be diminished.

I have a small company. How do I arrange for assistance in implementing an alcohol and drug policy and guidelines for my workers?

To assist companies in implementing the Canadian Model and to maximize its effectiveness, mentoring relationships are being established between larger and smaller companies. If you want information about becoming part of a mentoring relationship with a larger company, please contact the Construction Owners Association of Alberta (COAA) or the Alberta Construction Safety Association (ACSA) at the telephone numbers listed below.

COAA (780) 420-1145

ACSA 1-800-661-2272 (Edmonton),
1-800-661-6090 (Calgary)

Where can I get more information on this topic?

There is a list of resources in the Canadian Model, alcohol and drug guidelines (Section 4.0), which provides contact numbers for specific areas.

Alcohol and Drug Awareness for Employers

EMPLOYERS' GUIDE

EMPLOYERS' GUIDE: ALCOHOL AND DRUG AWARENESS FOR EMPLOYERS

Canadian Model for Providing a Safe Workplace

Introduction

This employers' guide has been included with the Canadian Model for Providing a Safe Workplace (the Canadian Model) as a tool for companies to adopt. As an employer, you are encouraged to implement the policy and guidelines for your employees and your entire operations.

Endorsement

Successful implementation of this policy throughout your company will only happen if it has the support, endorsement and active participation of the highest level of management. That commitment must be communicated to everyone in your company and reinforced with the message that it is **corporate policy.**

Successful implementation also requires committing sufficient funds for effectively rolling out the policy and assigning the necessary people to make it happen.

Communications plan

An effective policy requires communicating with every person at every level that a policy is in place. Every member of the management team must be committed to its implementation. To reinforce the importance, it is recommended that a policy statement, signed by the chief executive officer, is prominently displayed throughout the company and at various operations points.

The chances of successful implementation and acceptance requires:

- a written policy that is readily accessible to each individual
- communicating to and cooperating with the organized labour provider (if applicable)
- communicating expectations and enforcement guidelines to each employee.

Commitment

Once the policy is endorsed, it will still require ongoing commitment and attention. Regular meetings with personnel assigned to implement the policy shows your ongoing interest and the importance you place on the implementation of the policy and its success. Your interest, as the employer, creates accountability that is transparent and effective.

It is important to note that commitment on the corporation's part includes the need to apply the policy universally to all employees, at every level.

Education

To achieve true progress with this Canadian Model, attitudes among all workers relating to alcohol and drug use affecting workplace performance must shift such that no one accepts any workplace safety risks associated with alcohol and drug use. The proven tool for changing attitude is education. Employers will find that an investment in effective education will have a significant payback for reducing safety incidents. The following topics should be covered through various educational vehicles.

For all workers, include the following subjects:

- safety concerns and safety focus of the policy
- key elements of the policy, particularly the work rule standards, the alcohol and drug testing procedures and the circumstances where the policy requires alcohol and drug testing
- effects on workers that result from alcohol and drug use
- behaviours that a person demonstrates when under the influence of alcohol and/or drugs
- role of employee assistance services programs and how to access these services
- second chance principles of the policy that focus on rehabilitation and re-employment.

For company supervisors, include the following subjects:

- intervention techniques and styles with people who are suspected of being at work under the influence of alcohol and/or drugs
- proper investigation and inquiry procedures when interviewing employees and investigating incidents pursuant to the policy requirements

- effective decision-making procedures in applying the alcohol and drug testing requirements of the policy
- return to work and relapse issues
- proper management of policy information obtained pursuant to policy application
- managing and structuring conditional return to work agreements
- appropriate communication with crew members about the content of the policy
- referral procedures to employee assistance services programs and the full capability and potential of these services.

Excellent and well-established education programs about the policy are available through labour providers, employer associations, and community programs offered by organizations such as AADAC (Alberta Alcohol and Drug Abuse Commission). Utilizing them, along with customized communication and education packages for your company's circumstances, will go a long way toward achieving the policy goal – to ensure workplaces are free from the safety risks associated with alcohol and drug use.

Implementing the Canadian Model

It is recognized that the use of illicit drugs and the inappropriate use of alcohol and prescription and non-prescription drugs can have serious adverse effects on a person's health, safety and job performance. Implementing a solid industry-wide model, including both a policy and guidelines, will help to enhance the level of health and safety at the workplace. In implementing the Canadian Model, it is critical to think through the structure prior to implementation. Here are some points to consider.

- Make arrangements for access to substance abuse expert (SAE) services.
- Identify your employee assistance services program (EAP) service provider, and ensure employees know how to access those EAP services.
- Establish the testing and notification criteria you will use.
- Identify who your testing provider and medical review officer will be.
- Set up an account with your testing provider and receive your client code number.
- Identify who your designated employer representative will be and communicate that to the testing provider. Your designated employer representative is the person who will receive all confidential records and invoices.
- Identify who will be authorized to make appointments and receive results. This person(s) may or may not be the same person as the designated employer representative.
- Establish clear and concise guidelines and procedures for booking appointments so you ensure consistency with all people being identified as potential employees.

Alcohol and Drug Awareness for Supervisors

SUPERVISORS' GUIDE

SUPERVISORS' GUIDE: ALCOHOL AND DRUG AWARENESS FOR SUPERVISORS

Canadian Model for Providing a Safe Workplace

Introduction

Background

As individuals, we hold varying opinions about the use and the personal or societal impact of alcohol and drugs, and we make our lifestyle choices accordingly. Regardless of our opinions, the fact is that an individual's mental and physical abilities are adversely affected by alcohol and drugs. That fact presents an obvious and real concern for companies in the construction industry regarding the safe operation of their enterprise. Companies are committed to providing a safe workplace for all their workers, at all times and in all situations.

As part of the construction industry's commitment to safety, new and revised standard alcohol and drug guidelines have been introduced, called the Canadian Model for Providing a Safe Workplace (the Canadian Model). Construction companies across Canada are implementing these standard guidelines for all their workers and operations.

Roles and responsibilities of supervisors and leaders

The successful implementation of the Canadian Model is the shared responsibility of owner companies, contractors, workers and labour providers. As part of this shared responsibility, supervisors and leaders must:

- communicate and give leadership in the implementation of the Canadian Model
- be knowledgeable about and communicate the company's alcohol and drug work rule and procedures to all workers
- be knowledgeable about and be able to recognize the symptoms of the use of alcohol and drugs
- understand the company's performance management policy and how the Canadian Model is integral to that policy
- take action on performance deviations
- take action on reported or suspected alcohol or drug use by workers.

Importance of education

Worker awareness of the actual and potential risks, both on and off the job, related to the consumption or use of alcohol or drugs is very important. Education and communication are the vehicles through which we can bring this awareness to all people engaged on our work sites. In fact, awareness and education are the principal methods that our industry is utilizing to ensure compliance with the Canadian Model by all workers. With everyone complying with the standards defined in this policy, we can achieve our goal of eliminating workplace health and safety concerns associated with non-compliance.

As a supervisor, you have a very key role and responsibility in bringing this education alive in the work site with your work crews. By investing in the education of the people you are responsible for in the workplace, and ensuring they understand the standards contained in the Canadian Model as well as the risks and dangers associated with alcohol and drug use, you will have gone a long way to achieving the necessary policy compliance. In the long run, this makes your job as a supervisor easier and meaningfully contributes to the success of ensuring a safe workplace.

Many opportunities exist that can help to ensure effective education and learning occurs in the workplace. While education can take place formally, such as in a classroom or a structured meeting, it will also very frequently happen through less formal means. For example, excellent opportunities arise when orienting new employees to their work areas. Other examples include tool box meetings and safety meetings. Leading by personal example is also a powerful means of education. Good supervisors are respected and looked at as a model of behaviour, especially by apprentices. Supervisors must demonstrate behaviours that are consistent with the standards defined in the Canadian Model.

As a first principle, it is important to realize that the policy applies to all employees, regardless of whether or not a worker has problems relating to the use of alcohol or drugs. This understanding will avoid exclusively targeting workers who have substance abuse problems. Additionally, in communicating the intent of the policy to workers, it is helpful to emphasize that, in the first instance, the policy is designed to correct – not punish – unacceptable actions and behaviours because of the safety risks associated with alcohol and drug use. Employee assistance services programs will help assess and facilitate any corrections that are necessary to ensure ongoing compliance with the Canadian Model.

This supervisors' guide has been designed to provide supervisors with the skills and knowledge required to facilitate education within their work crews about alcohol and drug issues, as well as to effectively manage alcohol and drug related performance issues. To this end, the guide addresses matters beyond the alcohol and drug guidelines such as:

- understanding terminology associated with alcohol and drug use
- providing awareness of the needs of workers who are returning to work from counselling or a rehabilitation program
- recognizing that support systems are available that are designed to assist supervisors, leaders and other workers in addressing alcohol or drug related issues.

Desired outcomes

After reviewing this supervisors' guide, you should:

- understand the fundamental purpose of the guidelines and know the standards and requirements established by those guidelines
- know the meaning of some common alcohol and drug related terms
- understand the concept of "enabling" and the importance of avoiding behaviours that allow problems related to alcohol or drug use to continue unaddressed
- have information about alcohol and drug issues related to the Canadian Model to help you in communicating policy issues to your work crews
- know your role and responsibilities in addressing performance problems related to alcohol and drug use
- have a greater ability to recognize the behaviours or conduct that may indicate performance problems related to alcohol and drug use
- know and clearly understand the process and steps to manage and address performance issues in general, as well as performance problems related to alcohol or drugs specifically
- know the support systems designed to assist supervisors and team members in addressing performance issues.

Alcohol and Drug Guidelines

Guiding principles

The guidelines are based on a number of key fundamental principles.

- **Shared responsibility for safety**
  As a matter of law and as a practical fact, both individuals and companies in the construction industry have a shared responsibility for safety in the workplace. The Occupational Health and Safety Act of Alberta imposes a legal obligation on all workers to protect the health and safety of themselves and other workers.

- **Behaviour on and off the job**
  The commitment of workers to safety cannot be measured only by their conduct and performance on the job. By necessity, given the nature of operations in the construction industry, workers must have regard to conduct or behaviour on and off the job that may adversely affect their ability to safely perform their duties at work. This specifically extends to the consumption or use of alcohol and drugs as addressed by the alcohol and drug guidelines and policy.

- **Balancing safety and privacy interests**
  Society's view with respect to alcohol and drug use in Canada has been rapidly evolving in recent years, especially in regards to how this use potentially affects the safety and well-being of others. Well-recognized examples, such as those relating to the dangers of drinking and driving or the promotion of the use of seat belts, are becoming more prominent and common.

  Initiatives to manage and eliminate safety risks in the workplace benefit all stakeholders including workers (and their families) as well as business organizations. At the same time, it is also important that the rights of workers be respected, particularly regarding protection against unnecessary intrusion into their personal privacy, as we work towards achieving zero workplace incidents. When the Canadian Model's work rule, guidelines and procedures are followed, a balance can be attained between ensuring safety in the workplace and respecting the privacy of all workers.

- **Privacy of information**
  In 2004, privacy legislation was enacted that provides for protection surrounding the collection, use and disclosure of personal information about individuals. The Canadian Model also stresses the importance of ensuring confidentiality of information and that in all circumstances workers be treated with dignity and respect in the application of the policy. Efforts have been taken to ensure that the Canadian Model complies with Alberta privacy legislation (Personal Information Protection Act) as well as federal privacy legislation PIPEDA (Personal Information Protection and Electronic Documentation Act).

- **Encourage worker self-referral**
  Workers who feel they may be experiencing problems associated with alcohol or drug use should voluntarily seek help under an employee assistance services program that has been identified by the company, labour provider, employer organization or worker association.

A closer look at the alcohol and drug guidelines

- **Work standards**
  The guidelines set out, very definitively, the standards that must be met by all workers to ensure their safety and the safety of others.

  - No worker shall distribute, possess, consume or use alcohol or illegal drugs on any company workplace.
  - No worker shall report to work or be at work under the influence of alcohol or drugs that may or will affect their ability to work safely.
  - No worker shall test positive for any alcohol or drugs at concentrations as specified in Section 3.1 of the alcohol and drug work rule.
  - No worker shall misuse prescription or non-prescription drugs while at work. If a worker is taking a prescription or non-prescription drug for which there is a potential unsafe side effect, he or she has an obligation to report it to the supervisor.

- **Alcohol and drug testing circumstances**
  Alcohol and drug testing may be conducted in the following circumstances:

  - prior to accessing the owner's property
  - where the employer has reasonable grounds to believe an employee may be unable to work in a safe manner because of the use of alcohol or drugs
  - as part of an investigation into an incident or near miss to determine if alcohol or drugs could have played a role
  - where employees are covered by employee assistance services programs, the employer may conduct lawful computer-generated random alcohol and drug testing of the workforce.

- **Consequences for non-negative test results**

  - The employer may discipline or terminate for cause an employee who fails to comply with the alcohol and drug work rule.
  - Prior to the employer making a decision with regard to discipline or termination, the employee shall meet with a substance abuse expert who shall make an assessment of the employee and make appropriate recommendations.
  - The employee must demonstrate compliance with the recommendations of the substance abuse expert or licensed physician with knowledge of substance abuse disorders as well as sign an agreement specifying return to work conditions imposed as part of a rehabilitation program and other reasonable conditions set by the employer.

- **Education**
  The industry recognizes the importance of making workers aware through education of the actual and potential risks, both on and off the job, related to the consumption or use of alcohol or drugs. As with other safety programs, the industry will use worker education and awareness as the principal method of ensuring compliance with the guidelines and reducing workplace health and safety concerns associated with non-compliance.

- **Self-referral to employee assistance services**
  The industry encourages workers to seek professional assistance if they know or suspect they have a problem with drugs or alcohol, and supports self-referral to existing employee assistance services programs for that purpose.

  Any worker who is receiving assistance from an employee assistance services program for an alcohol or drug problem must comply with the terms and conditions of the program and must comply with the standards set by the guidelines.

Common definitions

To assist you, following are definitions of some terms commonly used in the context of alcohol and drug use.

Addiction

Traditionally, this term has been synonymous with physical dependence and full-fledged withdrawal symptoms. Addiction is characterized by:

- **change in tolerance** – initially increases (more amount of the drug needed to produce the desired effect) and in later stages tolerance decreases (less amount of the drug needed to produce the same effect)
- **loss of control** – the amount of substance consumed, and the timing or place of consumption
- **blackouts** (if the drug of choice is alcohol) – no recall of events (alcohol-induced amnesia)
- **physical complications** – e.g. malnutrition, hypertension, liver damage
- **psychological symptoms** – defense mechanisms designed to minimize feelings of anxiety and despair. These defense mechanisms are a coping strategy as the person's self-esteem is diminished and his or her sense of powerlessness is increased. Examples include:
    - denial (the most common defense mechanism) – denying that the person is experiencing negative consequences and that the person has lost control over the use and amount of drug of choice
    - projection – blaming others and events that cause the person to use the drug of choice
    - rationalization – using excuses to support the use of the drug of choice
- **social or family complications** – the drug of choice may replace people (family, friends, work) as the chief source of comfort, nurture and object of loyalty leading to social isolation, increased secrecy, inconsistent moods and loss of people who were important in the person's life.

Dependency

- **physical** – the user's body has become so accustomed to the presence of the drug that when it is no longer used, withdrawal symptoms occur. These may be mild, such as sneezing and a runny nose, to very severe, such as potentially fatal convulsions. The severity of withdrawal increases with the level of the drug taken and the duration of its use
- **psychological** – users, though not experiencing withdrawal symptoms upon cessation of use, nonetheless believe that they cannot function without the drug and crave it.

Drugs

Any drug, substance, chemical or agent the use or possession of which is unlawful in Canada or requires a personal prescription from a licensed treating physician, any non-prescription medication lawfully sold in Canada and any drug paraphernalia.

Employee assistance services

Services that are designed to help employees and their families who are experiencing personal problems such as the use of alcohol and drugs. These are also organizations that have the ability to put a rehabilitation program in place. Examples include employee assistance programs (EAP) and employee and family assistance programs (EFAP).

Rehabilitation program

A program tailored to the needs of an individual that may include education, counselling and residential care offered to assist a person to comply with the alcohol and drug work rule.

Tolerance

An adaptation of the body to the presence of a drug. When tolerance occurs, the body requires greater amounts of the drug to produce the desired effect.

What is enabling?

While we may genuinely want to help a worker with a performance problem that is related to alcohol or drug use, often by our actions or inaction we allow the problem to continue unaddressed.

There are many reasons that may prevent or deter us from addressing alcohol or drug related performance problems. One of the most common reasons is that we want to protect the worker from the potential consequences of his or her actions, such as loss of employment or

damage to the worker's reputation and self-esteem. This is called "enabling." Enabling is a natural reaction that many of us experience when we see someone who is in trouble or pain.

Ironically, by failing to deal directly with the issue, we may be exposing the worker, other team members and ourselves to even greater consequences (namely injury or death) when the performance issue becomes or may become a safety issue, which is inevitably the case in a work environment such as ours.

Enabling is an easy trap to fall into, particularly when it involves performance issues in a team. First, there is comfort in numbers, which causes us to wait for someone else in the team to raise or address the issue. Second, as social beings we naturally avoid conflict. Ignoring the situation is a common avoidance method. Another is to defer dealing with it by making adjustments and compromises, hoping that it will somehow resolve itself without conflict or our involvement.

In either case, we end up protecting the worker with the performance problem and exposing ourselves and the team to unnecessary anxiety and risk. Furthermore, we prevent the worker from taking the steps necessary to resolve the problem and from experiencing the associated learning and development to help reduce the risk of reoccurrence.

Breaking the cycle of enabling

When performance issues arise in a team, and in particular the issues relate to a team member's use of alcohol or drugs, it is important for the employer, team supervisor and other team members to avoid enabling behaviors by:

- recognizing that enabling behaviors do not solve performance issues, they allow them to continue and often result in them worsening
- realizing that the sooner performance issues are addressed (particularly sensitive ones) the easier they are to resolve
- remembering that everyone on the team, including the worker with the performance problem, shares a common objective – to create a healthy and safe team environment
- implementing a policy that leads by example and is consistent for all workers regardless of what title they may have
- ensuring that the company also leads by example
- making sure that all instances requiring an alcohol and drug test are assessed based on their individual circumstances.

Addressing performance issues

Supervisors' roles and responsibilities

Every supervisor's prime responsibility on a team is to help manage the performance of the other team members, by ensuring that:

- **job understanding** – each team member has a clear understanding of the expected level of performance required for his or her job
- **job skills** – each team member has the base competencies and skills required to achieve the expected level of performance
- **job performance** – performance that consistently exceeds the expected level of performance is promptly recognized and rewarded, and performance that consistently or sporadically falls below the expected level is promptly addressed and resolved.

In their leadership role, supervisors need to be sensitive to changes in behaviour or performance of a fellow team member that may be related to alcohol or drug use off the workplace, and to be familiar with the support systems within the company designed to assist both the supervisor and that team member in dealing with the issue in a constructive and effective manner. The process to be followed in addressing and resolving alcohol and drug related performance issues is discussed in the next section.

Where a supervisor believes that a worker's performance or behaviour problem is related to alcohol or drug use off the workplace, it is not the supervisor's role or responsibility to make any further assessment or diagnosis or to provide counselling to the worker. In such cases, the supervisor should seek the assistance of his or her human resources representative, manager or both.

It is also inappropriate and counterproductive for a supervisor to judge or evaluate whether a worker's behaviour is morally or socially acceptable. Supervisors must remain objective by focusing on the facts of each case and not let their personal views on alcohol and drugs affect their judgment and actions.

Whenever a supervisor believes that alcohol or drug use by a worker may be impacting work performance, then the basis or focus for the intervention or discussion with the employee should be specific work performance indicators. The following sections look at basic fundamentals of how to manage work performance issues.

Managing performance issues

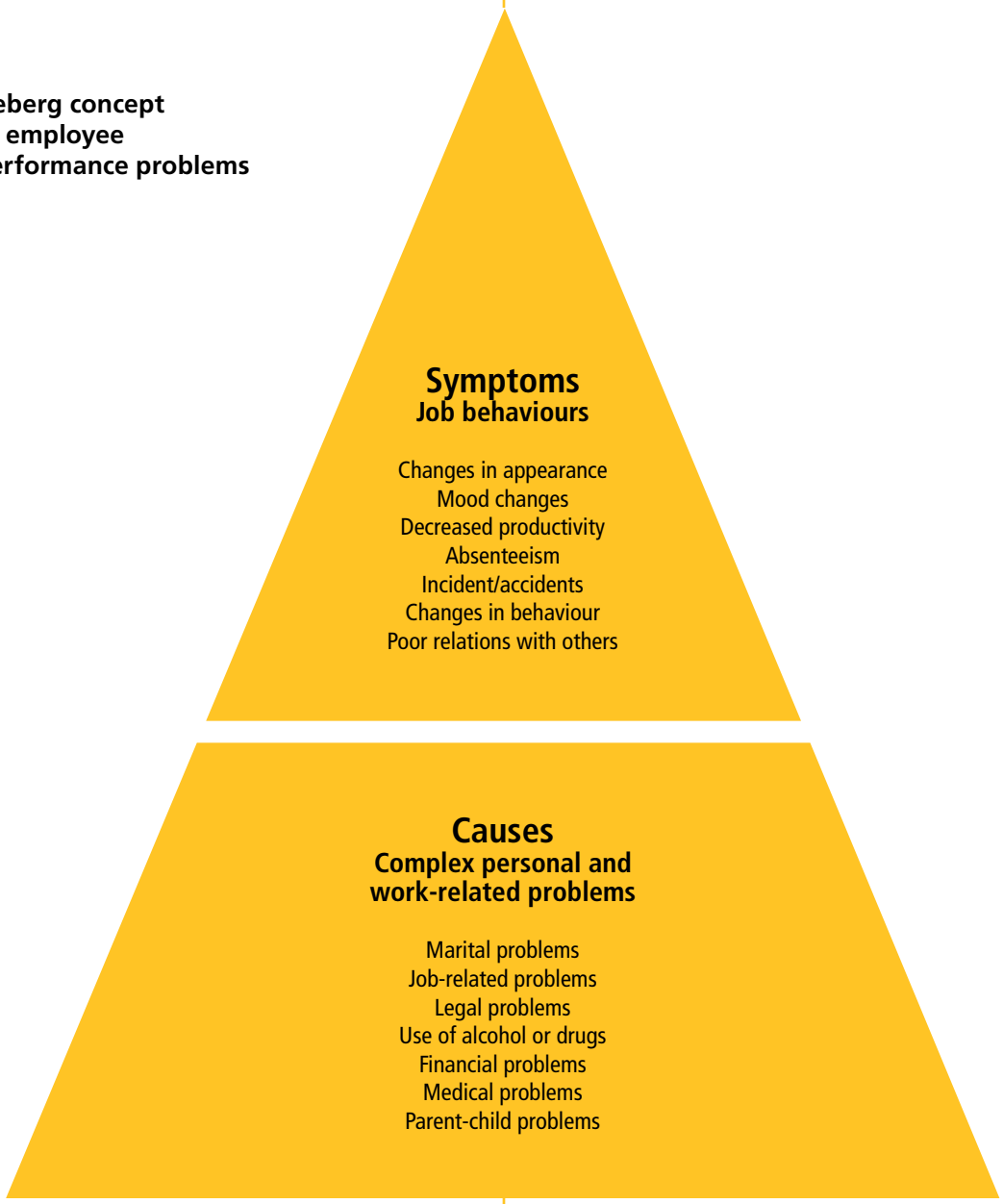
Addressing alcohol or drug related performance issues is simply another component of performance management. It does not require any new skills other than an understanding of the application of the alcohol and drug guidelines and policy. The following discussion is a good opportunity for supervisors to refresh their memories and skills in the area of performance management. This discussion will also explain how addressing such issues falls within the usual performance management process.

Performance and behaviour issues that are or may be related to alcohol or drug use off the workplace should be identified, documented, addressed and resolved using essentially the same process as any other performance concern.

- **Step one – Identify substandard performance**
  Supervisors are responsible for monitoring worker performance and addressing situations where performance consistently or sporadically falls below the expected level of performance.

  Performance issues can arise in a worker's career for a variety of reasons. Deteriorating work performance can be caused by a work related problem (such as a conflict with a team member or uncertainty about job responsibilities or employment security) or by personal problems (such as marital or financial stress or the use of alcohol or drugs).

Iceberg concept of employee performance problems



Noticeable and prolonged deviation in a worker's standard of performance or usual behaviour can sometimes be the result of use of alcohol or drugs. Behaviours that may be symptomatic of alcohol or drug use can appear singularly or in combination, as shown in the figure below.

However, it is important for supervisors to understand that a decline in work performance does not necessarily mean a worker has a problem associated with the use of alcohol or drugs. For example, some of the behaviours identified in this supervisors' guide may indicate problems not related to alcohol or drug use, such as diabetes, high blood pressure, etc.

As mentioned previously, it is not the responsibility of the supervisor to determine whether or not a worker's performance problem is a consequence of the use of alcohol or drugs off the workplace. The supervisor's responsibility is limited to monitoring work performance and identifying, documenting and addressing performance problems in accordance with the company's existing discipline policy.

Instead of looking for behaviours that may indicate a problem related to alcohol and drug use, supervisors should concentrate on identifying and documenting changes in a worker's job performance without making moral judgments or assuming the role of counsellor.

- **Step two – Document performance and behaviour concerns**
  Once a potential performance problem has been identified, the supervisor must continue to monitor the worker's behaviour and document what is observed.

  All workers experience bad days or temporary periods where their performance may slip for a variety of reasons associated with the normal challenges of life. What distinguishes performance problems, which may be related to alcohol or drug use or to some other serious cause, from these normal and regular occurrences is the formation of a pattern, either continuous or repeating. Documentation allows a supervisor to properly record and identify trends that may indicate a performance problem requiring special attention. This documentation is critical because a supervisor cannot request an alcohol and drug test for a worker without showing to the manager the proper support for that request.

  When documenting performance, supervisors should:

  1. **Keep a daily journal of the worker's behaviour.** Record not only negative behaviours or substandard job performance but also cases where the worker has met or exceeded expectations. By keeping a daily log, a supervisor can more easily see changes or patterns in a worker's behaviour over an extended period of time.
  2. **Keep all information strictly confidential.** Records of performance should be kept out of sight of other workers and should be safely stored and locked when not in use.
  3. **Follow the five w's (who, what, where, when and why).** Record specific details of observed behaviour, and ensure that such observations are objective and free of personal bias or judgment. Think of yourself as a newspaper reporter – document only what you see.
  4. **Relate all observations to job performance.** Explain in measurable terms how a worker is performing in relation to agreed upon expectations such as job descriptions, goals or objectives.
  5. **Keep track of issues and communication.** Maintain a chronological account of performance issues and problems as well as meetings and coaching sessions with the worker and related interactions and improvements.

     It is important that the supervisor keep in mind that his or her job is to monitor job performance and record relevant facts. By identifying and addressing substandard performance, the supervisor is taking the first steps in assisting the worker to improve his or her performance.

- **Step three – Meet with the worker to discuss observations and concerns**
  Discussing a performance problem with a worker is often the most difficult and uncomfortable step in the performance management process. A supervisor must overcome that discomfort and meet with the worker once sufficient information has been gathered to adequately discuss the performance issue. This means establishing clear goals and expectations for the interview.

  It should be noted that, in keeping with the alcohol and drug policy, a representative of a union or employee organization of which a worker is a member and with whom the employer has a bargaining relationship, may attend any meeting or discussion if the worker wishes the representative to attend.

  Supervisors must also be prepared for a worker's anger and denial. It is common for a person who is confronted with a problem to deny it either because they do not recognize that their behaviour is inappropriate or because they fear reprisal or disciplinary action. At that point, the supervisor must be very careful not to enter into a debate or argument with the worker.

  It usually helps to review the goals of the interview with the worker at the start of the meeting to ensure that the worker understands that the purpose of the interview is to discuss a deterioration in job performance that the supervisor has observed and documented. By focusing on the facts in an objective, professional and concerned manner, the supervisor should be able to diffuse any anger so that the problem can be discussed in a calm and constructive manner.

Tips for good interviews

1. Have clear goals for the interview.
2. Review documentation and information prior to interview.
3. Conduct the interview in private and without interruption.
4. Direct the course of the interview. Do not allow the worker to direct the discussion away from his or her performance.
5. Discuss positive aspects of the worker's performance, as well as reviewing documented concerns.
6. Explain the consequences of not addressing and resolving substandard performance.
7. Conclude the interview with a positive outlook. Communicate your confidence that the worker can improve his or her performance.

- **Step four – Develop an action plan**
  Developing an action plan to correct a performance problem is an essential step in managing serious or potentially serious issues, particularly those that may be related to alcohol and drug use off the workplace. However, simple action plans can also be used in addressing relatively minor performance issues.

  Ideally, the action plan should be developed and signed jointly by the supervisor and the worker. It should also be identified as one of the goals of the interview and completed at the end of the initial meeting whenever possible. Alternatively, it should be done as soon after the initial meeting as is reasonably practicable.

  The action plan should address very clearly the following matters:

  1. A description of the performance problem to be addressed by the action plan.
  2. A description of the level of performance expected of the worker having regard to the worker's training and experience, years of service, level and past performance.
  3. The course of action and schedule to bring the worker's performance to the expected level including, where applicable, targets and associated dates.
  4. Special requirements or support, such as internal or external training courses or the involvement of an employee assistance services provider.
  5. The role of the supervisor and the role of the worker in the successful completion of the action plan.

- **Step five – Continue to document performance and conduct follow-up interviews**
  Once the action plan has been completed, the supervisor must continue to monitor the worker's performance to ensure that the goals and schedule of the action plan are being met. Using the techniques described earlier in this section, the supervisor needs to objectively and thoroughly document relevant behaviour and monitor the progress or status of the worker's performance against the agreed upon expectations.

  The supervisor should conduct regular follow-up meetings to review the worker's performance and to discuss progress. It is important that the worker be supported and encouraged during this time. Follow-up meetings provide an opportunity to reinforce positive behaviours as well as offering assistance in areas where progress is lacking.

  The frequency of follow-up meetings can be expressly addressed in the action plan.

- **Step six – Assessing the outcome and need for further action**

  - **When the plan objectives are met**
    If the worker's performance improves to the expected level in accordance with the action plan, then the supervisor's responsibilities revert to normal monitoring and coaching with performance feedback occurring during regular performance review sessions.

  - **When the plan objectives are not met**
    If the worker fails or later refuses to meet the requirements of the action plan and bring his or her performance to the expected level, or if the worker meets the requirements of the action plan but is unable to sustain the expected level of performance, then the supervisor should proceed with a formal "corrective action process" if the supervisor has not already adopted that process.

- **When the failure may be related to alcohol or drug use**
  If the supervisor suspects that the worker's failure, refusal or inability to achieve or maintain the expected level of performance may be related to alcohol or drug use off the workplace, then the supervisor should meet with the worker to discuss that concern. At that meeting, the supervisor should refer to the documented behaviours that he or she feels may be symptomatic of alcohol or drug use. The supervisor should then suggest that the worker seek assistance of an employee assistance services program by self-referral and allow the worker reasonable time to do so. Self-referral to an employee assistance services program usually involves a worker or family member attending the program without the knowledge or assistance of anyone else. Depending on the circumstances, the supervisor may also offer to help the worker in seeking that assistance.

  Alternatively, if the supervisor would prefer to have confirmation that the worker is under the care of an employee assistance services program, then the supervisor can initiate an "informal referral" to the program. An informal referral means a referral of a worker to the program by another person such as the worker's leader, health and wellness advisor or human resources representative. An informal referral is made on the express understanding that the program's personnel will only confirm to the leader or other person requesting the referral whether or not the worker has attended the program as requested.

  If the worker's performance does not improve, the supervisor can also initiate a formal referral to an employee assistance services program where the program's counsellor provides the supervisor with reports on the progress of the worker.

  As noted in this supervisors' guide, if a supervisor has a reasonable suspicion at any time that a worker's failure to correct a chronic performance problem is due to the worker using alcohol or drugs at work or being under the influence of alcohol or drugs at work, then the supervisor should so advise the worker and allow the worker an opportunity to provide an explanation. However, if the worker's explanation does not dispel or contradict the supervisor's suspicion, then the worker should be required to submit to an alcohol and drug test.

Questions and answers (to be completed by supervisors)

- What communications do you undertake to inform your team about the alcohol and drug guidelines?
- What do you currently do to monitor behaviour and performance within your team?
- What signs or indications in a worker's performance or behaviour would alert you to the possibility that such performance or behaviour may be related to alcohol or drug use?

Supervisor and team support

Returning to work – What can you do to help?

In the cases where a worker has admitted to being under the care of an employee assistance services program or where a worker was in a rehabilitation program as part of an offer of conditional rehire, there are things we can do as supervisors to make the return to work process successful in the long term.

The manner in which a supervisor manages a worker who has returned to work should not be different than management of other staff.

Good leadership involves establishing clear job performance expectations, open communication and mutual respect. Supervisors must be aware of the confidential nature of the situation and should not disclose or discuss the nature of the worker's problem or the details of his or her absence with other staff members. The returning worker needs to make his or her own decisions about sharing this personal information with other members of the team.

The return to work interview

When a worker returns to work following rehabilitation for an alcohol or drug problem, an interview between the supervisor or designated team members and the returning worker should take place immediately. This interview should include:

- a discussion of the worker's job description noting any changes stemming from the personal action plan (i.e. limited duties, arrangements for continued counselling)
- a clear description of expectations and specific areas that require improvement

- development of a follow-up process, so that both the supervisor and worker know when regular follow-up sessions are to occur and what will be discussed
- a provision of time if the worker wishes to comment on his or her experience in counselling or the rehabilitation program. This discussion time may involve the worker proposing changes in how he or she intends to handle work-related stress
- an offer of support – this interview provides an opportunity to establish a new, positive working relationship based on a solid understanding of realistic and clear job performance expectations.

It is important to remember that the first several weeks of a worker's return to work are crucial in setting a tone and atmosphere of cooperation and support.

Understanding what has changed

People who have experienced negative effects from their use of alcohol or drugs may develop problems in many areas. For some, social and family relationships have suffered, while others have experienced financial, legal or physical health problems. Such an individual may be in the process of making a number of major lifestyle changes.

These changes will not occur overnight – new health-related skills must be learned. Family, social and work expectations and relationships need to be re-negotiated and re-defined.

What is a relapse?

Seventy-six per cent of relapses occur when individuals are trying to cope with negative emotional states such as loneliness, anger and boredom (many of these problems may have been contributing factors in the individual's initial use). Most people who have experienced problems from their alcohol or drug use may return to drinking or drug use not because they want to, but because they perceive themselves as having no other acceptable choices. Relapse indicates that the individual has not yet developed alternatives for dealing with day-to-day stresses.

Signs of a potential relapse may include:

- emotional outbursts, the person over-reacts to common situations and appears to be stressed
- physical and social isolation
- irritation with friends and co-workers, relationships with other workers become strained
- interruption of daily routines – the individual may change their normal eating and sleeping patterns leading to listlessness and fatigue
- development of an "I don't care" attitude
- open rejection of help
- premature cessation of counselling and/or attendance of self-help groups.

Access to help or support

It is important to recognize that supervisors do not have all the answers and may require help or support from other resources within the company. There are a number of resources and/or support systems that can assist us in addressing alcohol or drug related concerns.

- **Employee assistance services programs**
  The aim of employee assistance services is to assist the worker and family members to obtain diagnosis, counsel and treatment for problems that can affect a worker's or family member's ability to cope. The program places emphasis on prevention and early detection of potential problems before they become a threat to the worker and the job.

  Workers are encouraged to seek help under the designated employee assistance services program for any alcohol or drug related problem. Workers can contact employee assistance services on their own, or with the assistance of their manager, supervisor or human resources representative.

  In addition to providing counselling and referral services to workers and family members who are experiencing problems, employee assistance services can also provide assistance to co-workers and/or supervisors who may be concerned about an individual's behaviour and/or actions but are unsure as to what to do.

  Helpful literature on a wide variety of health, behavioral and life style concerns is available through the employee assistance services program. Information will be mailed on a "personal and private" basis as requested by workers or family members.

Alcohol and Drug Awareness for Workers

WORKERS' GUIDE

WORKERS' GUIDE: ALCOHOL AND DRUG AWARENESS FOR WORKERS

Canadian Model for Providing a Safe Workplace

Background

The construction industry is committed to ensuring a safe work environment for all workers, free from alcohol and drugs. To maintain this commitment, a group of stakeholders from the construction industry came together in 1998 to develop the Canadian Model for Providing a Safe Workplace.

Since it was first issued in 1999, the Canadian Model has been revised and further enhanced numerous times based on experience, new information and the emerging law and public policy in this area. The Canadian Model establishes standardized alcohol and drug guidelines and a policy that will ensure fairness and consistency throughout the industry. It also helps to standardize the approach, testing, application and rehabilitation of workers.

The intent of this awareness package is to help workers understand the alcohol and drug guidelines and work rule and their role in ensuring its success.

Roles and responsibilities of workers

The successful implementation of the Canadian Model is the shared responsibility of owner companies, contractors, workers and labour providers. As part of this shared responsibility, workers must:

- have an understanding of the alcohol and drug work rule
- take responsibility to ensure their own safety and the safety of others
- ensure they comply with the work standards as part of their obligation to perform work activities in a safe manner
- comply with the work rule and follow appropriate treatment if deemed necessary
- use medications responsibly, be aware of potential side effects and notify their supervisor of any potential unsafe side effects where applicable
- encourage their peers or co-workers to seek help when there is a potential breach or breach of policy.

Alcohol and drug guidelines

The alcohol and drug guidelines are based on four fundamental principles:

- **Shared responsibility for safety**
  Both individuals and companies in the construction industry have a shared responsibility for safety in the workplace. The Occupational Health and Safety Act of Alberta imposes a legal obligation on all workers to protect the health and safety of themselves and other workers.
- **Behaviour on and off the job**
  By necessity, given the nature of operations in the construction industry, workers must have regard to conduct or behaviour on and off the job that may adversely affect their ability to safely perform their duties at work. This specifically extends to the consumption or use of alcohol and drugs as addressed by the Canadian Model.
- **Balancing the needs of safety and individual rights**
  The interests of ensuring safety in the workplace and respecting the rights of all workers are given equal consideration. For example, the Canadian Model balances human rights protecting individuals with disabilities (including alcohol and drug addiction) by providing for assessment, rehabilitation and return to work processes. The Canadian Model also balances privacy concerns by ensuring any information collected is used solely for the reasonable purpose for which it was collected.
- **Encourage worker self-referral**
  Workers who feel they may be experiencing problems associated with alcohol or drug use should voluntarily seek help under an employee assistance services program which has been identified or put in place by the company, labour provider, employer organization or worker association.

Common definitions and important concepts

Drugs

Any drug, substance, chemical or agent the use or possession of which is unlawful in Canada or requires a personal prescription from a licensed treating physician, any non-prescription medication lawfully sold in Canada and any drug paraphernalia.

Addiction

Traditionally, this term has been synonymous with physical dependence and full-fledged withdrawal symptoms. Addiction may be characterized by one or more of the following: change in tolerance, loss of control, blackouts, physical complications, psychological symptoms and social or family complications.

Dependency

There are two components involved with the concept of drug dependency:

- **physical** – The user's body has become so accustomed to the presence of the drug that when it is no longer used, withdrawal symptoms occur
- **psychological** – Users upon cessation of use believe that they cannot function without the drug and crave it.

Employee assistance services

Services that are designed to help employees and their families who are experiencing personal problems such as alcohol and drug abuse. These are also organizations that have the ability to put a rehabilitation program in place. Examples include employee assistance programs (EAP) and employee and family assistance programs (EFAP).

Rehabilitation program

A program tailored to the needs of an individual which may include education, counselling and residential care offered to assist a person to comply with the alcohol and drug work rule.

Tolerance

An adaptation of the body to the presence of a drug. When tolerance occurs, the body requires greater amounts of the drug to produce the same effect.

What is enabling?

While we may genuinely want to help a worker with an alcohol or drug problem, often by our actions or inaction we allow the problem to continue unaddressed. Many motives may prevent or deter us from addressing alcohol or drug related performance problems. One of the most common is protecting the worker from potential consequences of his or her actions, like loss of employment or damage to the worker's reputation and self-esteem. This is called "enabling."

Enabling is an easy trap to fall into, particularly when it involves performance issues in a team. First, there is comfort in numbers which causes us to wait for someone else in the team to raise or address the issue. Second, as social beings we naturally avoid conflict. Ignoring the situation is a common avoidance method. Another is to defer dealing with it by making adjustments and compromises, hoping it will somehow resolve itself without conflict or our involvement.

Ironically, by not dealing directly with the issue, we may be exposing the worker, other team members and ourselves to even greater consequences (namely injury or death) when a performance issue becomes a safety issue, which is inevitable in a work environment like ours. Also, we prevent the worker from taking the steps necessary to resolve the problem and from experiencing the associated learning and development to help reduce the risk of reoccurrence.

Breaking the cycle of enabling

When performance issues arise in a team, and in particular when those performance issues relate to a team member's use of alcohol or drugs, it is important for the team members to avoid enabling behaviours by:

- recognizing that enabling behaviours do not solve performance issues, instead enabling behaviours allow performance issues to continue and often result in them worsening
- realizing that the sooner performance issues are addressed (particularly sensitive ones) the easier they are to resolve
- remembering that everyone on the team, including the worker with the performance problem, shares a common objective – creating a healthy and safe team environment.

Returning to work

People who have experienced negative effects from their use of alcohol or drugs may develop problems in many areas. For some, social and family relationships have suffered, while others have experienced financial, legal or physical health problems. Such individuals may be in the process of making a number of major lifestyle changes to overcome these effects. These changes will not occur overnight and family, social and work expectations and relationships need to be re-negotiated and re-defined. The first several weeks of a worker's return to work are crucial in setting a tone and atmosphere of cooperation and support.

What is a relapse?

Most people who have experienced problems from their alcohol or drug use may return to drinking or drug use, not because they want to but because they perceive themselves as having no other acceptable choices. Relapse indicates that the individual has not yet developed alternatives to the harmful behaviour for dealing with day-to-day stresses. Seventy-six per cent of relapses occur when individuals are trying to cope with negative emotional states such as loneliness, anger and boredom, many of which may have been contributing factors in the individual's initial use of alcohol or drugs.

Signs of a potential relapse may include emotional outbursts, physical and social isolation, irritation with friends and co-workers, interruption of daily routines, open rejection of help, and premature quitting of counselling or attendance at self-help groups.

Access to help or support

It is important to recognize that team members do not have all the answers and may require help or support from other resources. Regardless of whether you are a worker experiencing a problem or a concerned co-worker or supervisor, there are a number of resources and/or support systems that can assist you in addressing alcohol or drug related concerns.

- **Employee assistance services**
  Workers are encouraged to seek help for any alcohol or drug related problem from an employee assistance services program that has been identified by the company. Workers can contact employee assistance services on their own, or with the assistance of their manager, supervisor, leader, human resources representative, or the occupational health centre if one is established. In addition to providing counselling and referral services to workers and family members who are experiencing problems, employee assistance services can also provide assistance to co-workers who may be concerned about a worker's behaviour but are unsure about what to do.

  Helpful literature on a wide variety of health, behavioral and life style concerns is available through employee assistance services programs. See Section 4.0 of the Canadian Model for a list of available resources. Information will be mailed on a "personal and private" basis as requested by workers or family members.

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