



Improving Alberta's Drug and Alcohol Public Policy

Issue

The effects of drug and alcohol use in the workplace can have serious implications for workplace safety and employee health. In the interest of keeping employees from hurting themselves, their co-workers, or members of the public while on the job, legislation that covers random testing, as well as the implementation and administration of comprehensive drug and alcohol policies, need to be further clarified. Though most industry and the province is diligent in working with Occupational Health and Safety and Alberta Health Services there remains challenges for all in the understanding and interpretation of human rights legislation to implement models to provide a safe workplace.

Background

Many leading employers have implemented alcohol and drug policies. One such policy, developed collaboratively by a range of stakeholders and commonly applied in construction and maintenance, is the Canadian Model for Providing a Safe Workplace.¹ For drug and alcohol policy to help enhance health and safety in the workplace, it is imperative to take account of new information, technologies and trends.

The use of drugs and alcohol is widespread and according to recent statistics is growing. More prevalent in drug use is the escalation of the use of prescription opioids (oxycodone and hydromorphone) and fentanyl on rise in Alberta and linked to the rising number of Alberta deaths. Ontario and Alberta have the highest levels of prescription opioid use in the world and it is estimated that 23 people out of every 1,000 have a prescription for opioids.

The Canadian Tobacco, Alcohol and Drugs Survey (CTADS) reported that the prevalence of past-year use of cannabis among the general population was 10.6% in 2013, down from 11.4% reported in the 2008 Canadian Alcohol and Drug Use Monitoring Survey (CADUMS 2008), however also reported was that 8.2% of full-time employees were drug users.² There can be only speculation what the effect of the potential legalization of marijuana may be on the prescribed use of cannabis in future, should the federal government pass such legislation as is current consideration.

Alcohol is by far the most common drug used by Canadians. An estimated 3.2% of the Canadian population age 15 and older - approximately 886,000 individuals - abused or were dependent on alcohol in 2012.³ Canada's Low-Risk Alcohol Drinking Guidelines were developed under the NAS, as was a website to encourage screening, brief interventions and referrals (SBIR) by primary care professionals to

¹ Canadian Model for Providing a Safe Workplace - <http://www.coaa.ab.ca/Safety/CanadianModel.aspx> - released by the Construction Owners Association of Alberta - updated 2014

² CCSA - Canadian-Drug-Summary-Cannabis - www.ccsa.ca - Canadian Centre on Substance Abuse - April 2015

³ CCSA - Canadian-Drug-Summary-Alcohol - www.ccsa.ca - Canadian Centre on Substance Abuse - Autumn 2014

help address alcohol problems early. Nova Scotia and Alberta have alcohol-specific provincial strategies guiding efforts to address the harm and costs of alcohol.

Employee alcohol and drug use can impact the employer's reputation, profitability and productivity. In 2002, alcohol accounted for \$7.1 billion in lost productivity for Canadian workplaces.⁴ Workers who struggle with harmful use, abuse and dependence are also workers that have poorer attendance records, higher turnover frequency and more frequent errors. In 2002, Canadian employers paid out \$61.5 million for worker's compensation claims that were attributed to alcohol.⁵ Having clear and reasonable legislation can prevent a variety of potential legal issues and save litigation costs for both sides.

Irrespective of the size of an employer, the employer and its employees have obligations pursuant to Section 2 of the Occupational Health and Safety Act to ensure the health and safety of every worker. Moreover, Section 217.1 of the Criminal Code states: "...everyone 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".⁶, potentially putting an onerous task on the employer and lessening the responsibility of the employee who may struggle with addiction and/or substance abuse.

Employers have obligations under the Occupational Health and Safety Act to undertake periodic assessments of the workforce for health and safety risks. While drug and alcohol policy has significant benefits for the employer, there continues to be tensions in balancing human rights and privacy against safety concerns. The root of the problem is conflict and confusion among the different pieces of legislation that attempt to address these issues. Recent Alcohol and Drug Workplace Policies are seeing some precedent setting cases as in the example of *Stewart v. Elk Valley Coal Corp.*, where the Alberta Court of Appeal upheld the decision of the Human Rights Tribunal that the termination of a safety sensitive employee involved in a workplace incident while under the influence of cocaine did not constitute discrimination.

Employers are confronted by litigation arising out of privacy and human rights legislation, as they try to take action to identify and manage the risks of alcohol and drugs in the workplace. The government must act to remove the conflicts and tension between its various bodies of legislation. Most employers help employees that have violated their alcohol and drug policies to get assessed, diagnosed and assisted through treatment programs appropriate to their diagnoses. Education and awareness programs are an integral part of any prevention effort. While the programs can vary, the overall objective should be to create a safe and well-informed workplace where the employees can have access to assistance.

Legislation that would give employers in Alberta guidance on drug and alcohol testing would likely involve amendment of the privacy and human rights laws. A balance has to be struck between obligations regarding individual privacy and human rights rules.

The government of Alberta has taken positive steps to crack down on impaired driving, given the recent administrative sanctions imposed as of June 2014 and it is time to do the same for impairment in the workplace. Responsible drug and alcohol free workplaces is a reasonable public expectation, especially when dealing with heavy machinery and other potentially dangerous equipment.

⁴ Alcohol Use and the Alberta Workplace, 2002, page 30-31

⁵ J. Rehm et.al. The costs of substance abuse in Canada (Canadian Centre on Substance Abuse) 2002, page 8

⁶ Occupational Health & Safety Act, 2000 - http://www.qp.alberta.ca/1266.cfm?page=O02.cfm&leg_type=Acts&isbncln=0779749200

The Alberta Chambers of Commerce recommends the Government of Alberta:

1. Align legislation dealing with privacy and individual rights, and ensure the changes do not hinder the need to implement appropriate alcohol and drug policies that ensure worker safety.
2. Protect and provide certainty for employers who address the workplace risks of alcohol and drugs, while providing assessment and treatment options for employees who do not comply with such policies.
3. Provide employee education and employer resources on alcohol and drugs with a focus on harm reduction for the workplace and individuals personal usage of alcohol and drugs.