



What employers should do when an employee tests positive for opioid painkillers

If a company includes prescription opioid painkillers in its drug testing program and an employee tests positive, the employer needs a very clear policy that defines the next steps. All employer policies should be reviewed to ensure both the testing process and employer actions are in compliance with local, state and/or federal laws and regulations. For example, some states and jurisdictions require an employer to offer rehabilitation after a first-time test violation. Also, if an employer is conducting drug testing under Federal authority, such as the U.S. Department of Transportation, the testing process must comply with that applicable federal regulation.

The actions an employer takes following a positive drug test will vary based on the company's written policy. Generally, employer policies fall into three broad categories:

- Continuing employment of the employee violator
- Termination of the employee violator with the possibility of rehire
- Termination of employee violator with no future possibility of rehire

Regardless of whether the employer permits the continued employment of the violating employee, the company should immediately remove the employee from his or her duties pending medical review. This safeguards the employee, other co-workers and customers from workplace injuries and accidents. If notification of the violation occurs while the employee is on the job, the employer should arrange for the employee's safe transportation home.

Continuing employment or rehire

An offer of continuing employment or rehire following a drug test violation is generally contingent upon the employee obtaining a substance abuse evaluation from a recognized expert and successfully completing all of the evaluator's recommendations. Employees in federally-regulated safety-sensitive positions must be evaluated by professionals called "SAPs" (Substance Abuse Professionals) who have specialized training as guardians of public safety. Evaluation recommendations may include:

- Substance abuse education and treatment
- On-going professional recovery services following return to work
- On-going participation in 12-step recovery support meetings
- Return-to-work monitoring through unannounced workplace testing to ensure employee's continued abstinence

Employee Assistance Programs (EAPs) have the capability of conducting substance abuse evaluations or linking employees to a qualified SAP. EAPs and SAPs also can monitor employee's participation in and compliance with treatment as well as return-to-work recommendations. They will also keep the employer updated on the employee's progress and will provide an estimated timeframe for when the employee may be available to return to work. Typically, readiness to return to work can take anywhere from 4 to 12 weeks. Prescription drug abuse treatment is frequently as effective as treatment for other chronic diseases. Research has demonstrated that treatment that is supported and monitored by the employer has resulted in better sustained recovery rates than treatment initiated at the request of friends and family members.

Termination without rehire

An employer may decide to permanently terminate an employee who is using unauthorized prescription medications. If the employer decides to do this, it is advisable to stipulate in the employer's written drug-free workplace policy that unauthorized use of a prescription drug will result in termination without offer of rehire. The definition of what is unauthorized should be clear. The company Medical Review Officer (MRO) can assist in developing this definition. A written policy supports enforceability of a termination action and may help deter use that has not yet crossed into dependency.

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Substance Abuse and Mental Health Services Administration final notice of revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs, Federal Register 73:228 (25 November 2008) pp. 71858-71907.

U.S. Department of Transportation. (August 2009) Substance Abuse Professional Guidelines. Retrieved from <http://www.dot.gov/sites/dot.gov/files/docs/ODAPC%20SAP%20Guide%20Aug09.pdf>

U.S. Department of Labor. eLaws Drug-Free Workplace Advisor: Developing a Policy Statement. Retrieved from <http://www.dol.gov/elaws/asp/drugfree/drugs/screen16.asp>.