


# Developing an Alcohol & Drug Program

One experience in a unionized environment

**Vaughan Bowser**  
Vice-President, Human Resources  
WorkSafeBC



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# What I will be talking about

- WorkSafeBC Drug & Alcohol Policy
- Why it was developed
- How it was developed
- Differences in a unionized context
- Issues & Challenges



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# Why have a policy?

- Responsible thing to do, esp. given our safety & health mandate
- Greater awareness, therefore early intervention, like all illnesses
- Employees know how it will be handled, i.e., confidentially, as an illness, treatment will be supported
- Managers know what to look for, what to do, what their role is (and isn't!)
  - Behaviour, performance, safety, attendance
- Structures are in place to deal with it



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### More reasons for a policy

- Should be a positive engagement factor, i.e., my employer cares about me and about people/employees in general
- Part of your reputation, i.e., employer of choice
- The right thing to do, and often the last chance for rehabilitation
- Liability – if an accident occurs
- Reduces union/management disputes




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### The WorkSafeBC policy

1. Jointly developed, signed by VP of Human Resources and President of Compensation Employees' Union
2. Voluntary/self-identification process
  - An involuntary route exists
  - Referral to professionals & treatment
3. Treated like an illness
  - Almost always (dual diagnosis)
  - Sick leave/LTD is provided
  - Early identification critical




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### WorkSafeBC Policy (cont'd)

4. Employees have a responsibility to ensure their work is not impaired by alcohol or drugs
5. WorkSafeBC will assist employees to obtain professional help for assessment, treatment & recovery




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## WorkSafeBC Policy (cont'd)

6. Early Identification
  - Issues of stigma and privacy assurance
  - Referral by manager, shop steward, HR manager, EFAP, RTW coordinator, or peer counselor
7. Monetary Assistance
  - Assessment costs
  - Treatment costs (up to \$5,000) for voluntary disclosure
  - Interest free loans
8. Peer counselor network
  - Trained, confidential, joint appointments
  - Experts in policy & program, not counselors, not advocates, not experts in treatment




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## WorkSafeBC Policy (cont'd)

9. Return to Work program
  - Includes modified duties and/or schedules
10. Non-culpable or culpable process up to and including termination of employment




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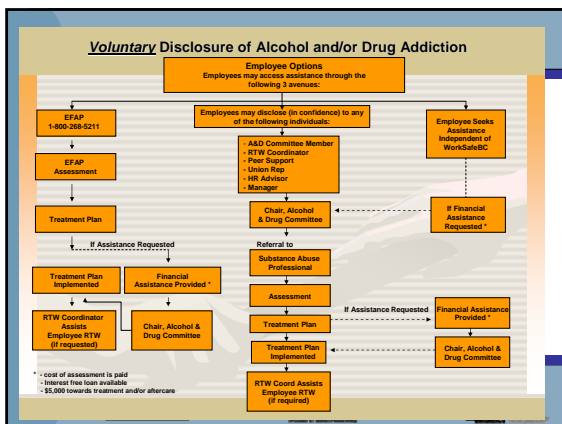
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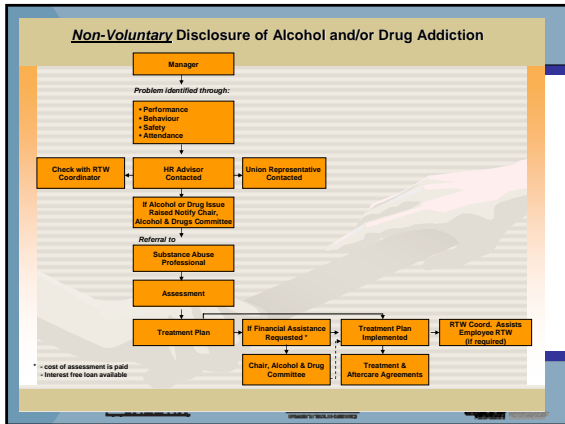
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## Challenges

- Denial common
- Relapse the norm
- Infringement on perceived management rights and obligations
- Union has duty of representation

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## Drug & Alcohol Testing

- Major issue for both management & union
- Testing typically allowed:
  - In safety sensitive positions
  - After a serious accident
  - As part of a last chance agreement
  - As part of a monitor agreement
- Our testing only in last two categories

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## After the Policy – Only just begun

- Publicize it! Employees must be made aware.
- Union steward training w/ HR Advisors/Managers
- Joint management/HR training
- Cultural change
  - Reducing the stigma
  - Training managers & local "experts"
  - Oriented towards Health & Safety
- Managers accepting loss of control
  - Train to be aware of biases
  - Culture change includes that this is a "safe place" to disclose
  - Managers want proof of treatment



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## In a unionized context

- Union has an obligation to protect its members & ensure due process
- Finding a mutually acceptable program means negotiation
- Negotiation means compromises & concessions for both sides
- Outcome, if successful, is better for both sides, for individuals and for the organization – buy in and disputes focused on situations, not the policy itself



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## The Arbitral & Legal Landscape

- One arbitration – if a physiological state is involuntary, Human Rights treatment appropriate
- Second arbitration – where an addiction significantly impairs ability to choose whether to engage in conduct, non-culpable appropriate
- Review by higher level tribunal
  - substance dependency does not absolve employee from culpability
  - Finding misconduct somewhat blameworthy does not absolve the employer from human rights obligations



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### What is the Employer's Human Rights Duty?

- As with all human rights, every measure short of undue hardship should be taken
- Duty to accommodate is multi-party, including the employer, union and employee
- Human rights considerations important, but are not in a vacuum, have to coincide with other legal & ethical obligations



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### Other issues

- Positive drug test not confirmation of impairment
- Post accident testing only mandatory where accident serious
- Relapse the norm, so one relapse often does not justify termination
- Many “too little too late” cases (last minute “confessions”)



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### Management Issues

- Some managers don't accept the “disability” approach
- Relapse considered sufficient for termination
- Accept there may be a hidden illness
- What if manager is the abuser? Do they get the same rights?
- Enabling behaviour
- Patience!



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## Union Issues

- Mandatory assessment, mandatory treatment
- Agreeing up front that discipline/termination may be a result
- Agreeing to a last chance agreement
- Role of peer counselors
- Sick leave as indicator of abuse
- Employee who cannot comply, i.e., is so used to lying/cheating he/she doesn't recognize the difference



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## Sticky Issues

- When and with whom is employee treatment NOT confidential?
- When is there a requirement for disclosure by others (e.g., safety, abuse of children)
- When (if at all) is testing mandatory?
- Last chance agreements
  - Major arbitral issue
  - “One more chance” the common plea
- Enabling behaviour



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## Expert/Therapy Issues

- Paying for treatment
- Allowing several relapses
- Enabling behaviour by both management and union
  - Catch 22 of enablement & “humane” treatment
- Abuse vs dependency issues – very different for employers



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## Beyond Drugs & Alcohol

- Mental health
  - Where we were 5 years ago with alcohol & drugs
    - Employee is unsure, fearful & stigmatized
    - Co-workers don't know or understand
    - Managers concerned but uneducated
- Align with corporate HR strategy
  - Respectful, safe, healthy workplace
  - Leader in occupational health & safety
  - Employer of choice



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# THANK YOU



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