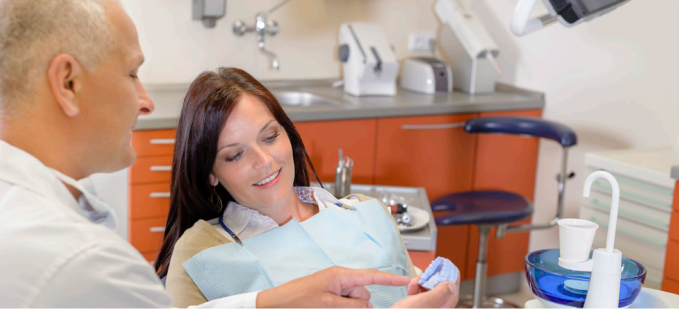


American Dental Association
Council on Dental Practice

The ADA Dentist Well-Being Programs Handbook



Appendix L Drug-Free Workplace

(This text can also be found in the 2011 edition of the Employee Office Manual, published by the ADA and used with permission.)

Alcohol abuse and the illegal use of drugs are national problems that affect all of us in one way or another. Drug and alcohol abuse affect individual users and their families, but also can affect the workplace. Impairment in the dental office has a particular set of risks and costs to the practice. Consider these points:

- An impaired worker can jeopardize the safety of the other workers.
- Depending on job responsibilities, patient safety can be compromised.
- Substance abuse can result in tardiness and unplanned absences, either if which is very disruptive to a dental office schedule.
- The practice is potentially at risk from damage to its reputation, litigation, or criminal activity.
- Your professional and DEA (Drug Enforcement Administration) licenses may be at risk if there is mishandling of controlled substances in your office, or prescription fraud in your name.

A majority of Americans use alcohol, most with no problems. According to the National Institute on Alcohol Abuse and Alcoholism (NIAAA), “moderate drinking” is defined as no more than 2 drinks/day (1 beer, 5 oz. Wine, 1.5 oz. Alcohol) or 14 drinks/week for men or 1 drink/day (7 drinks/week) for women. “Binge drinking” is defined as consumption of 5 or more drinks in one occasion. Many Americans use other substances (marijuana, cocaine, stimulants, etc.) even though they are illegal. Normal alcohol or drug use *should not* impair an individual’s ability to work.

About 7.7 percent of the population will meet the criteria for a diagnosis of alcohol dependence (NIAAA); about 9–53 percent of drug users could be diagnosed as drug dependent, depending on the substance (DHHS/SAMHSA).

- Alcoholism and drug addiction can be diagnostically categorized together as “Substance Dependence Disorder” (Diagnostic and Statistical Manual of the American Psychiatric Association, 4th Edition). This is a *medical* disorder with *behavioral* symptoms in addition to physiological findings.
- Substance use disorders are treatable.
- In the general population, treatment for substance use disorders has about the same efficacy as for other chronic disorders such as diabetes and asthma; in health professionals, rates of recovery are much higher.

It is not unusual for people under stress (such as a divorce or major loss) to drink or use in an attempt to ease the uncomfortable symptoms that come with such situations. This is not an appropriate excuse for use on the job or impairment at work, and you should not make exceptions to your policy or allow yourself to be manipulated into overlooking a policy violation.

Any dentist is well advised to incorporate a Drug-Free Workplace Policy into standard office policies. Such a policy makes your expectations clear. It defines the protocol for crisis management. It provides documentation that you are in compliance with state Drug-Free Workplace laws if those apply — and some states (Alabama, for example) may provide tangible benefits in a discount on state Workers Compensation fees. The Department of

Labor offers a Small Business Workplace Kit, “Building Blocks for a Drug-Free Workplace” (<http://www.workplace-dynamics.com/Drug-Free%20Toolkit.pdf>). There are five components to a comprehensive Drug-Free Workplace Program:

- a Drug-Free Workplace Policy;
- supervisor (i.e., dentist) training;
- employee education;
- employee assistance; and
- drug testing.

A **Drug-Free Workplace Policy** should clearly state why the policy is being implemented (for example, the practice is committed to the safety of its employees and its patients). It should include a clear description of prohibited behaviors, and a thorough explanation of the consequences of violating the policy.

You will want to draw up your own list of prohibited behaviors, but here are some suggestions:

- Staff are not to drink or use drugs on the job or in the office
- Staff are not to take controlled substances from office stock for their own use.
- No criminal activity will be tolerated in the office. This may include phoning in fraudulent prescriptions in the dentist’s name, participating in scams with drug-seeking patients, ordering controlled substances from pharmaceutical companies without the dentist’s knowledge, etc.
- Nitrous oxide is never to be used by staff.
- Staff are not to ask the dentist for a prescription for personal use.
- The dentist should not write a prescription for staff or their family members unless it is for a dental procedure or treatment, the individual is a patient of record, and there is appropriate documentation in the patient record.
- Staff should not engage any patients in discussions about illegal drug activity, such as where to obtain drugs, how to sell pharmaceuticals on the street, etc.
- Other components of the policy may include these provisions:
- Off-duty use of drugs, alcohol or any other substances which results in impaired work performance (such as absenteeism, tardiness, poor work performance, damage to the employer’s reputation, or inferior quality of work), is prohibited and is cause for discipline (up to and including termination).
- Any employee with patient care responsibilities who is taking a prescribed or over-the-counter narcotic or drug with the potential to cause practice impairment must advise the dentist. The dentist will determine whether the employee can continue to work and may, in some instances, need to consult with the employee’s physician regarding the potential for impairment.
- Employees are required to notify you if they are convicted of a drug offense.
- You may require drug testing of job applicants after an employment offer has been made. The employment offer may be contingent on passing the drug test. Test results must remain confidential.
- Subsequent drug testing may be done on either a regular basis (in which case several or all staff may be tested) or when there is ‘reasonable suspicion’ that an employee is in violation of the policy (only that individual is tested).

- “Reasonable suspicion” includes an employee admitting to drug use, the odor of alcohol or other substances (such as marijuana or solvents) on the person, drowsiness, excitability, belligerence, paranoia, hallucinations, staggering, inattentiveness, witnessed use of drugs, etc.
- An employee who is reasonably suspected of being under the influence of alcohol or other drugs should be suspended without pay pending drug-testing or other investigation. *You should remember that if an employee is not safe to work, he/she is probably not safe to be driving and alternate transportation should be arranged.*
- Employees who refuse to submit to testing should be disciplined.
 - Random drug testing is a standard component of a monitoring contract when an employee returns to work following treatment for substance dependence. The employer is not responsible for this testing, but, under the contract, should be informed of any positive results.

Violation of the policy will result in discipline. This may include referring the employee for drug-testing through an authorized laboratory and evaluation by a substance abuse professional, making continued employment conditional upon compliance with any recommendations made by the professional. In some cases, you may decide to make a report to the employee’s licensing board (for licensed employees) and, potentially, to terminate the employee.

Because the issue of employee substance is legally complex, you should review your Drug-Free Workplace Policy with your attorney prior to implementing it.

Dentist/Supervisor Training may be available through dental society continuing education programs, your local Small Business Administration, or a local hospital. The well-being program of your state dental society or the staff of your state’s professionals health program should be able to provide some assistance in setting up a program; many hospitals have some sort of Employee Assistance Program, whether in-house or contracted, and have experience with Drug-Free Workplace Programs. Online resources may be found at www.dol.gov.

- Areas in which you may need some training have to do with state and federal law, how to recognize and deal with employees who have job performance problems that may be related to alcohol and other drugs, crisis management, setting up an agreement with a laboratory, and how to evaluate potential referral resources.
- It is not your responsibility to diagnose a drug or alcohol problem, only to refer an affected staff member to the appropriate addiction medicine professionals.

Employee Education should be done systematically, on at least an annual basis, and all employees should be required to attend. Content should include:

- A review of your office’s Drug-Free Workplace Policies, including the penalties for violation;
- the signs and symptoms of substance abuse or dependence, especially as they are manifested in the work environment;
- areas of vulnerability for healthcare workers, such as familiarity with drugs and their actions, access to controlled substances, the temptation to self-diagnose and self-prescribe, etc.; and
- resources for assistance.

Providing Employee Assistance is the fourth component of a Drug-Free Workplace Program. You will need to decide what you would be willing to do for an employee with a substance abuse problem, in terms of offering the opportunity to participate in a treatment program and returning to work with some kind of monitoring contract.

- It is not unusual for an employee with a substance abuse problem to have been viewed as an exemplary employee prior to the development of the problem.
- Rates of recovery from active addictive illness for healthcare professionals are very high, provided they receive appropriate treatment and comply with all continuing care recommendations.
- The kind of assistance extended to a troubled employee should depend as well on the kind of workplace impairment — for example, you may wish to treat an employee who is tardy to work because of a hangover differently than an employee who engages in criminal behavior in the office.

It is a good idea to seek some outside assistance if you discover an employee has a problem with drugs. Dentists and their staff members often develop close working relationships and know personal information about each other. This can impede your ability to be objective. Denial, deception and manipulation are among the hallmark behavioral symptoms of addictive illness, making it crucial that you have someone available who can provide a ‘reality check’ for you.

Most state dental societies have a dentist well-being program or knowledge of other resources that could provide you with this outside assistance.

- The staff and volunteers of these programs have experience with the issues of staff substance abuse, knowledge of applicable state and federal laws, and familiarity with local treatment resources.
- Information is also available through the Dentist Well-Being Programs at the ADA. See ADA.org for more information or call ext. 2662 or 2622.

Employee Assistance Programs (EAPs) are agencies that offer formal programs of short-term counseling and referrals to help employees address workplace performance problems that result from personal issues, including alcohol and drug abuse.

- Some EAPs work with consortia of small businesses.
- If the state dental society has a contract with an EAP for its own employees, it may be possible for member-dentists to buy into those services as well.
- If you are a member of a hospital staff, you should have access to assistance from the physician health committee.

Under the Americans with Disabilities Act, current use of illegal drugs is not a disability, but an individual will be treated as disabled under the Act if the individual: 1) Has successfully completed a drug rehabilitation program or has otherwise rehabilitated and is no longer using illegal drugs; 2) is participating in a drug rehabilitation program and is no longer using illegal drugs; or 3) is erroneously perceived as using illegal drugs, but is not engaged in such use. Of course, this portion of the Act will not apply to most private dental offices, so check on your state/local requirements.

Alcohol and Drug Testing is the last component of a Drug-Free Workplace policy as defined by the Department of Labor. Since laws on drug testing differ from state to state, you and your attorney should consider those. Information on each state’s laws is available at <http://www.testcountry.com/StateLaws/>.

Pre-employment drug testing has become a standard and expected practice in many industries and workplaces. Testing for five drugs is required by many federal agencies — marijuana, opiates, amphetamines, cocaine and PCP. The panels for healthcare professionals are more comprehensive.

Employment related drug testing should be done only by labs that are able to (1) insure the integrity of the collection process, (2) document chain-of-custody for samples and (3) have all positive results review by a medical review officer. A medical review officer (MRO) is a specially trained and certified physician who decides whether an employee has passed the drug screen.

If you decide to utilize employee drug testing, you should first make yourself aware of your community's resources for such testing. Your local hospital will be able to assist you with this, or you can get information from your state's dentist well-being committee or physician health program. You will need to enter into an agreement with the laboratory you select so that, should a crisis arise where you need to send an employee for for-cause testing, the mechanisms to do so are already in place.

Prior to pre-employment drug testing, the prospective employee must sign a "Pre-employment Drug Testing Agreement" (see [sample](#) in Appendix). A sample of a more generic "[Consent for Release of Confidential Information](#)" is also included in the Appendix.

Sample Policy Description

(On Dental Office Letterhead)

This practice is committed to providing a drug-free workplace for our patients and employees. All employees are prohibited from being under the influence of alcohol or illegal drugs during working hours. The unlawful sale, possession or use of a controlled substance is strictly prohibited, and violators may be subject to immediate termination. All employees must notify the dentist of any drug conviction within five days after the conviction.

This practice recognizes drug dependency and alcoholism as health problems. As members of the health care team, we are committed to providing help to any chemically dependent employee who seeks it. We will assist the employee in meeting his or her responsibility to recover from substance abuse by treating him or her as any other employee with a health problem. The employee would be covered by health, sick leave, disability and other benefits according to office policy for medical problems. If any employee refuses or does not attempt to correct a substance abuse problem, the employee will be subject to disciplinary action up to and including dismissal, even for a first offense.

Pre-Employment Drug Testing Agreement

(On Dental Office Letterhead)

I hereby consent to submit to a urinalysis and/or other tests as shall be determined by *(Dental office name)* in the selection process of applicants for employment for the purpose of determining substance use.

I agree that *(Dental office name)* may refer me for collection of these specimens for the tests and forward the results to *(the designated Medical Review Officer)*, and from the Medical Review Officer to the employer. Positive results may be reported to the employer by the Medical Review Officer.

I understand that the current use of drugs shall prohibit me from being employed by *(Dental office name)*.

I further agree to hold harmless the laboratory and the Medical Review Officer from any liability arising in whole or in part from the collection of specimens, testing, and the use of the results from said tests in connection with *(Dental office name)* consideration of my application for employment.

I further agree that a reproduced copy of this pre-employment consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced by anyone to sign this document.

.....
Applicant's Printed Name

.....
Applicant's Social Security Number

.....
Applicant's Signature

.....
Date

.....
Witness' Printed Name

.....
Witness' Signature

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Date