

# Ohio's Opioid Epidemic

## - Taking Action in the Workplace



### FACTSHEET

Ohio businesses play an important role in helping to combat the opioid crisis that is impacting every corner of our state. And while 75% of businesses say they've been impacted by the opioid epidemic, only 17% feel prepared to deal with it. Below are answers to frequently asked questions posed by small business owners.

#### How can I educate my employees on the opioid crisis and ways they can be part of the solution?

Educating your employees about the crisis is a critical first step to becoming part of the solution. Consider sharing a [short video](#) with your employees that addresses the science behind addiction. And educate your employees on the facts. More than 5,000 Ohioans died from an overdose in 2017, with opioids accounting for 83% of those deaths. You can obtain more information on the opioid crisis at the [National Institute on Drug Abuse](#). Encourage your employees to talk to the kids in their lives. Talking to your kids about opioids and promoting safe use, storage and disposal are meaningful ways to become part of the solution. For tips on how to talk to your kids and finding safe drop locations, visit [dontliveindenial.org](#).

#### How can I save lives while also saving money for my business?

Prescription opioids cost employers almost \$42 billion in lost productivity every year. Preventing opioid abuse saves lives and money. Here are some steps you can take to save lives and prevent addiction: limit coverage of opioids to a network of pharmacies or providers; expand coverage of alternatives for pain management; provide workplace training to increase awareness of signs of opioid abuse, institute a substance abuse policy. To calculate the costs of the opioid epidemic and cost savings of recovery on your business, check out the [Substance Use Cost Calculator for Employers](#).

#### If an employee or customer overdoses at work, what should I do in the moment and in the immediate time following?

Signs of an opioid overdose may include shallow breathing, unconsciousness, small pupils, pale skin, and a blue tint to lips and fingertips. If someone has overdosed at your facility, call 911. Consider having naloxone on-hand and train employees on how to use it in the event that someone overdoses. Naloxone has saved thousands of lives by counteracting the effects of an overdose. You can contact the Ohio Department of Health's [Project DAWN](#) to receive free Naloxone training and kits.

#### What resources can I offer an employee who has a loved one dealing with addiction?

If you know of someone who is dealing with an addiction or mental health crisis, help is available to them 24/7. Adults living in Franklin County can call [Netcare Access](#) at (614) 276-CARE (2273), youth and adolescents can call [Nationwide Children's](#) at (614) 722-1800. [Substance Abuse and Mental Health Services Administration \(SAMHSA\)](#) offers a national hotline in English and Spanish at (800) 662-HELP (4357). Encourage your employees to use their health insurance and/or Employee Assistance Program (EAP) for their needs.

#### We are a small business that would like to offer resources to employees. How do I start an employee assistance program (EAP)?

EAPs offer confidential support to employees coping with personal problems that adversely impact their lives. Happy and healthy workers yield increased productivity, and an improved bottom-line for employers. Setting up an EAP starts with finding an [EAP company](#) to provide services. Things to consider when evaluating a provider may include: your budget, types of issues covered by the EAP, credentials of the health professionals, wait times, number of free sessions, etc. Once you've chosen an EAP, be sure to notify your employees of their new benefits.

#### How can I help my employees safely dispose of their unused or expired medications?

Encourage your employees to stop throwing their prescription drugs in the trash or flushing them down the toilet. Instead, take medicines to a local [drug drop-off location](#) or participate in a drug take-back day. Consider buying drug deactivation bags such as [Deterra](#) for your employees to dispose of their unused medications.



#### **How do I know if someone is impaired on the job, and what actions can I take to prevent drug and alcohol use in the workplace?**

Drug-free workplace policies that are supported by a positive workplace culture are important to preventing abuse in the workplace. If you believe an employee is impaired on the job, you may start to notice atypical behaviors such as mood swings, difficulty concentrating, chronic absenteeism, concerns of theft, accidents on the job and decreased productivity. When approaching an employee with a concern, it is important to be supportive and tell the employee that you have noticed changes in their demeanor.

#### **Should my employee handbook include a prescription drug disclosure policy and how do I educate employees of the risks?**

While a drug-free workplace doesn't guarantee immunity from abuse, a robust substance abuse policy helps employers promote a safe workplace while protecting themselves from liability. A prescription drug disclosure policy should be limited to medications with impairing effects and should include an exclusion for individuals who have legally obtained prescription medication. The policy should also outline an ADA-compliant procedure for conducting assessments of employees enrolled in a drug substance rehabilitation program.

#### **How can I implement a successful second chance hiring policy, while also protecting my business against liability and my employees against safety hazards?**

An employer may be held liable for its employees' conduct that results in injury to a customer or fellow employee. However, a Plaintiff must prove that the employee was incompetent, and the employer knew of the employee's incompetence. Further, it must be determined that the injury to the Plaintiff would not have occurred but for the employer's hiring or retention of the incompetent employee.

The primary concern in a negligent hiring or retention claim is the foreseeability of injury from an employee. Foreseeability will generally be measured by the extent of the employer's knowledge of the employee's disposition to engage in illicit activities. This knowledge can be through expressed information or inferred information. Background checks and disclosures on applications will give rise to express knowledge, while actions observed or known by the employer may give rise to an inference of the employee's incompetence or engagement in illegal activities. Some courts have also noted that the scope of the foreseeability of incompetence that can be placed upon the employer is limited to the type of incompetence displayed in the past. For example, an employer is likely not expected to foresee violent actions by an employee who has only been convicted of possession of illegal drugs.

Further, employers may be relieved of liability for negligent hiring claims so long as the employee presented a [Certificate of Qualification for Employment](#) before the alleged negligence occurred. An ex-offender may file a petition with the Ohio Department of Rehabilitation and Correction to receive the employment certificate.

Employers should still investigate the ex-offender's criminal history. As other laws apply to criminal history checks, it's best to contact an attorney if you wish to implement a second chance hiring policy. Any employee, regardless of their criminal history, has the potential to become addicted to opioids, and recognizing the signs of abuse is an essential step to mitigating potential safety hazards in the workplace.

#### **How do I implement a second chance policy while maintaining compliance with zero tolerance rules required by the Ohio Bureau of Workers Compensation?**

Implementing a zero-tolerance policy or drug-free workplace rules is an excellent start when implementing a second chance employment policy. Effective drug-enforcement policies may diminish the potential liability of an employer to third-party tort claims as it decreases the foreseeability of negligent acts by an employee based on their history of drug use. However, internal drug enforcement policies must be considered alongside state and federal requirements. For instance, the Ohio Bureau of Worker's Compensation (BWC) may restrict claims when an injured employee's use of drugs is a factor.

To encourage employers to establish drug-free policies, the BWC has established incentive programs like the Drug-Free Safety Program. This program not only acts as an excellent guide when creating and maintaining effective policies but also provides eligible employers rebates to their worker's compensation premiums. However, compliance with anti-discrimination and employment laws is no simple task, so please consult an attorney while building your workplace policies.

*\* The contents of this document are for informational purposes only and not for the purpose of providing legal advice.*

*You should contact your attorney to obtain advice with respect to any particular issue or problem.*

