

“Fit for Duty” Impairment in the Workplace *Policies and Pitfalls*

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Impairment in the Workplace



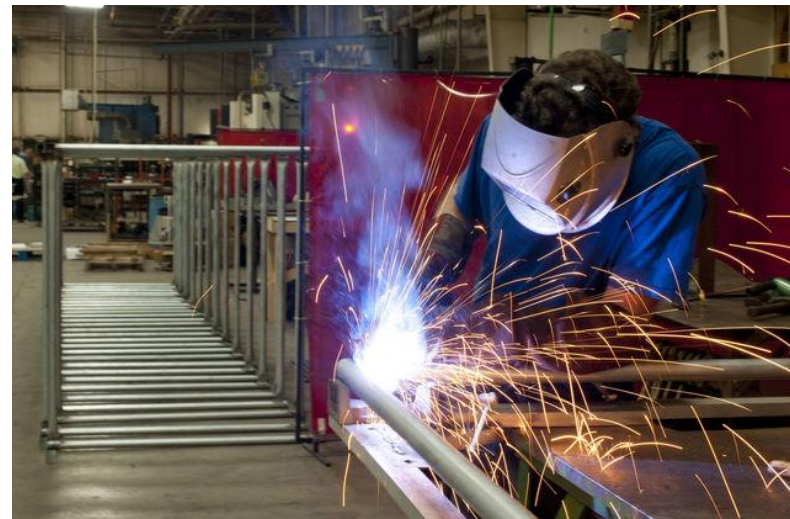
Impairment in the Workplace



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Impairment in the Workplace

Impair

“to cause or become less in quality, power or value; make worse”

. . . Funk and Wagnalls Standard College Dictionary

Impairment

Term used in Canada to describe the criminal offence of operating or having care or control of a motor vehicle while the person's ability to operate the motor vehicle is impaired by alcohol or a drug.

Impairment in the Workplace

Impairment can be categorized in three areas:

1. Motor/Functional Impairment (physical aspect, acute intoxication)
2. Cognitive Impairment (thought process, decision making)
3. A combination of both

Impairment in the Workplace

- Alcohol & Drugs (illicit and prescribed)
- Impulse Control Disorders (gambling, internet, sex)
- “Untreated” Mental Health problems
- Medical Problems
- Fatigue (sleep apnea, burnout)

Impairment in the Workplace

- In 2002, the cost of alcohol-related harm totaled \$14.6 billion, or \$463 for every living Canadian.

This included \$7.1 billion for lost productivity due to illness and premature death, \$3.3 billion in direct health care costs, \$3.1 billion in direct law enforcement costs

CCSA (2007)

- Alcoholism now costs Canadians \$15 billion a year

CCSA (2018)

- A new report from has found that not enough companies and organizations have comprehensive, well-developed workplace substance use policies

A Review of Workplace Substance Use Policies in Canada: Strengths, Gaps and Key Considerations
(CCSA 2018)



Impairment in the Workplace

- Each workplace might be unique, but the addiction doesn't care
- Addiction goes beyond substances to addictive behaviours best treated as an addiction (pathological gambling, internet disorders, sex and other impulse control disorders)
- The size of your workplace will matter when it comes to resources (EFAP provider, Occupational Health and Safety Unit, etc.)
- Management relations with Unions/Associations are significant factors

Impairment in the Workplace

- Safety Sensitive Occupations (Broad based Definition)

The degree of safety and responsibilities required for a particular occupation, will dictate the level of requirements that a workers physical and mental health is at a level that is fit enough for the particular job

e.g. cashier at a variety store vs. an airline pilot with passengers

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Concurrent Disorder

- An addiction with a mental health diagnosis
- Once a person achieves sobriety, they need to live on life's terms without their substance of choice
- A mental health diagnosis left untreated is a significant factor in a person relapsing

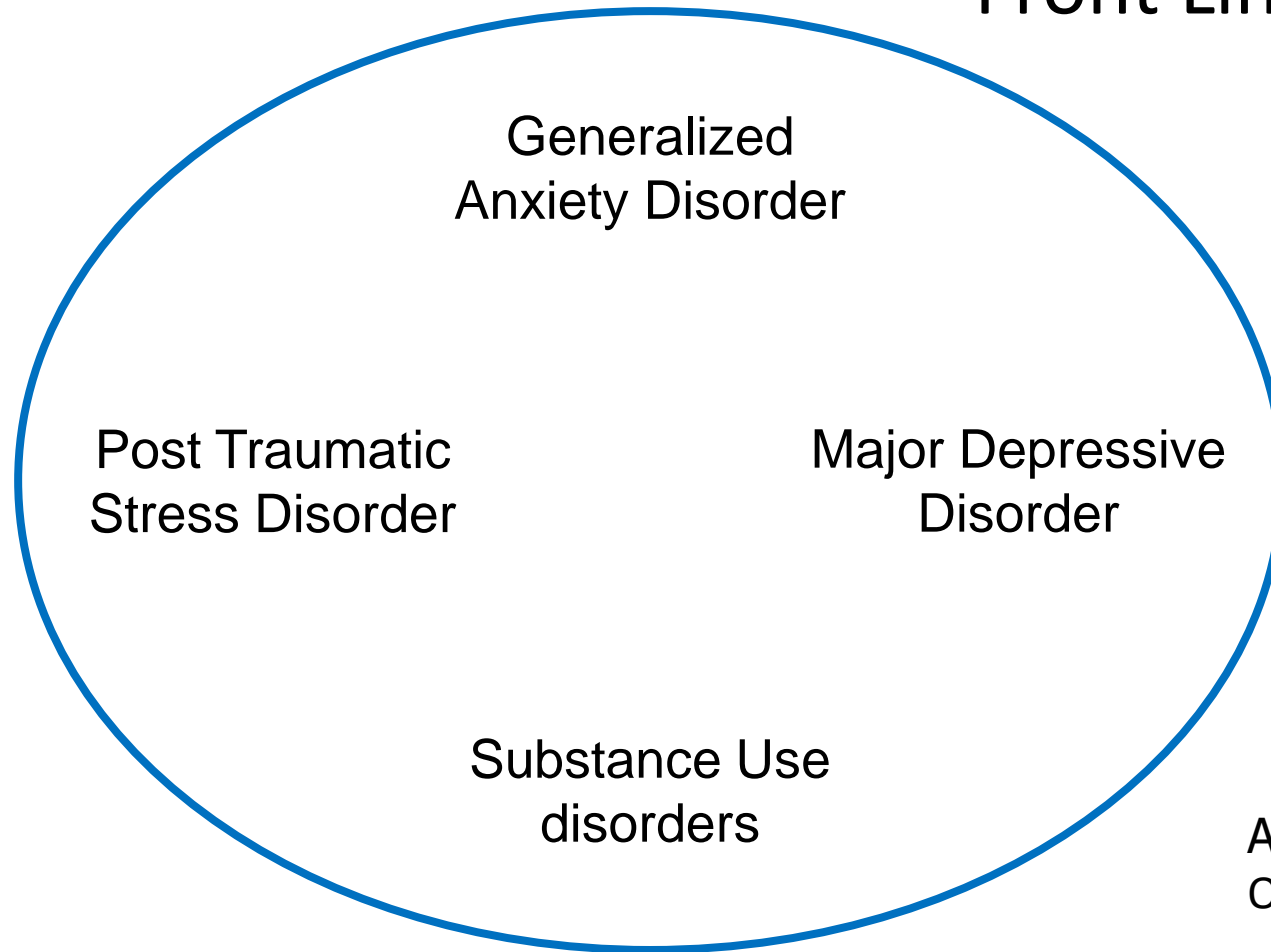
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- Occupational Stress Injuries in the workplace are now a factor as they often involve WSIB Claims (WCB in Saskatchewan)
- WCB claims are complicated enough for psychological issues* and even more complicated when an addiction is involved
- In Ontario, the new presumptive legislation for PTSD (for Front Line Responders) does not apply to all occupations

*Gouws (2013), *Hot Topics in Ethics for Workers Compensation, Understanding the Client's Psychological Status*, Hamilton, ON: Dr. Jacques J. Gouws, C. Psych.

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Front Line Responders



Ash Bender MD, FRCPC
Occupational Psychiatrist

Impairment in the Workplace

- In Canada, Health and Safety issues are governed by and subject to contracts and/or collective agreements, labour law, civil law and in some cases criminal law (Bill C-45 criminal liability of organizations)
- Employers must take steps to make sure their workplaces are safe for their employees. Employers who fail to do so may be held criminally liable for negligence
(217.1 of the *Criminal Code*, RSC, 1985, c C-46 subsection 22.1)
- Alcohol and Drug abuse are now referred to as “disability” and entitled to protection under the *Ontario Human Rights Code*.
Ontario Court of Appeal *Entrop v Imperial Oil* 50 OR (3d) 18 at para 89, 2000 CanLII 16800 (CA) [“*Entrop*”]

Impairment in the Workplace

- Common in the Workplace
Alcohol, opioids (medications), benzodiazepines, nicotine
- Cannabis (recreational/medicinal)
- Stimulants are more often used in high demand or shift work environments
Caffeine, energy drinks, cocaine, amphetamines
- Hidden “addictions” – impulse control disorders (internet, sex, gambling)
- The last place a person wants their addiction to be noticed is usually the workplace

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Fatigue

- Burnout (workplaces where workload is high and/or timelines exist)
- Shiftwork (shiftwork is not good for humans)
- The solution to solve fatigue is to “get more sleep”
- Judicious use of caffeine with protein can help shift workers if used properly

Dr. Charles Samuels MD., CCFP, DABSM

Medical Director of the Centre for Sleep & Human Performance in Calgary, Alberta

Impairment in the Workplace

Fatigue

Police who use sleep-promoting and wake promoting drugs, especially when working night shifts, are most vulnerable to adverse health, performance and safety outcomes.

Ogeil RP, Barger LK, Lockley SW, et al (2018) *Cross-sectional analysis of sleep promoting and wake-promoting drug use on health, fatigue related error, and near-crashes in police officers. BMJ Open*2018;8:e022041. doi:10.1136/bmjopen-2018-022041

Impairment in the Workplace

Fatigue

Sleep Apnea

- A Public Health Canada (Statistics Canada) and University of Saskatchewan study found that sleep apnea was diagnosed in 858,913 adults (3.4% of the population) in adults 18 years or older

Van der Spuy, Ina & Zhao, Gaungming & Karunanayake, Chandima & Pahwa, Punam. (2018). *Predictors of Sleep Apnea in the Canadian Population. Canadian Respiratory Journal. 2018. 1-11. 10.1155/2018/6349790.*

Statistics Canada, PHAC (2009). *What is the Impact of Sleep Apnea on Canadians? Fast Facts from the 2009 Canadian Community Health Survey - Sleep Apnea Rapid Response Ottawa, ON: Public Agency of Health Canada:*

Impairment in the Workplace

Fatigue

Sleep Apnea

- “There’s probably about a million adults in Canada who have obstructive sleep apnea. Even worse, about 80 per cent of those adults have not been diagnosed”

Dr. Najib Ayas - Vancouver Coastal Health Research Institute

Impairment in the Workplace

Fatigue

Sleep Apnea

- Symptoms include interrupted sleep accompanied with loud snoring with periods abated breathing (apnea) and gasping for air
- Aspiration can occur during episodes of apnea especially after consuming alcohol or other depressant drugs
- Sleep Apnea untreated can lead to, obesity, Cardio Vascular Disease
- Excessive Daytime Sleepiness (EDS) in the workplace

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Seizure Disorders and Concussions

- Epilepsy (gran mal, petit mal, temporal lobe)
- Seizures
single or multiple events without diagnosis
- Concussions (long term post concussion issues)

Impairment in the Workplace

Emerging Trends – Cannabis, Friend, Foe or Snake Oil

- Cannabis
 - Medical - $\Delta 8$ & $\Delta 9$ (THC) or CBDs or combination of both
 - Recreational use - the THC content in street cannabis of 2% we knew in the 1970 to 1980s is now 20 to 30% and as high as %80 (e.g. “shatter” “skunk”)
 - Although there is promising emerging medical uses, it is not the new snake oil
 - A recent independent large scale study highlights the need for more studies*

*National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research*. Washington, DC: The National Academies Press. doi: 10.17226/24625.

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Emerging Trends – Cannabis

- Cannabis
 - Three (3) pharmacodynamic properties: analgesic, sedative, hallucinogenic
 - Cannabis “is” an addictive substance
 - Mixed results for PTSD (some people get worse)
 - Marijuana almost triples the chance of developing psychotic symptoms*
 - Marijuana is no more effective in controlling pain than codeine*
 - If you want to recover from addiction, you also have to stop using marijuana*

* Steven Melemis MD, PhD

<https://www.iwanttochangemylife.org/addiction-recovery/marijuana.htm>

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Emerging Trends – Cannabis – CBD's

- CBDs
 - There have been over 100 CBD compounds identified in cannabis*
 - No case reports of abuse or dependence relating to the use of “pure” CBD. There are also no published statistics on non-medical use of pure CBD**
 - Unsanctioned medical use of CBD based products - epilepsy, cancer, AIDS/HIV, anxiety, arthritis, pain, and posttraumatic stress disorder (PTSD)**

*Ash Bender MD, FRCPC (CAMH)

**World Health Organization (2018) *Cannabidiol (CBD) Critical Review Report*, Expert Committee on Drug Dependence, Fortieth Meeting: Geneva, 4-7 June 2018

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Emerging Trends

- Opioids
 - Oxycodone, hydromorphone, Percocet, Tylenol 3
 - Fentanyl & carfentanyl (usually at the street level)
 - Methadone & Suboxone
- Employees being treated for medical (surgeries, injuries etc.), are returning to the workforce with legally prescribed opioid medication

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Treatment options for those suffering from Addiction

- Professional Assessment
(physician, addiction counsellor, treatment facility)
- Residential, out patient, one on one counselling
- Abstinence based programs vs harm reduction
- Aftercare, relapse prevention programs, 12 Step Meetings
- Substance testing

Impairment in the Workplace

Treatment options for those suffering from other Impairments

- Professional Assessment
(physician, psychologist, therapist)
- Residential Treatment Programs (PTSD and other mental health issues)
- Workers Compensation Issues and adherence
- Fitness for Duty assessment (Independent Medical Examinations)
- Medical Accommodations (non-WSIB/WCB matters)

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Back to work issues

- Back to Work meeting should be arranged in advance of the employees first day back at work to discuss a Return to Work (RTW) plan
- Wellness/Occupational Health Unit should also be part of the RTW plan
- Graduated return to work schedule may be required
- Follow-up appointments with physician/Occupation Health Unit

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Back to work issues

- Stigma / Rumours:
One of the most difficult times is the actual moment the employee arrives at work after an extended absence
- Try not to treat the employee any differently
(it's up to the recovered person to manage themselves).
- An adjustment or change in job assignment can be viewed as punishment

Impairment in the Workplace

So we know about the problems,
what's the Solution???

What works??

Impairment in the Workplace

POLICIES

POLICIES

POLICES

Rick Csiernik PhD, RSW, CCAC

Kings College, University of Western Ontario

Addiction Studies Forum Inc. - Board of Directors

Impairment in the Workplace

Companies looking to update substance-use policies face tricky task

Brenda Bouw

Published Tuesday, Feb. 07, 2017

Niki Lundquist, a lawyer with Unifor, Canada's largest private-sector union, says employers need to be strict with their policies, but also compassionate when dealing with employees, which includes accommodating any medical issues or addictions.

Impairment in the Workplace

- Although most workplaces have broad based exiting policies to deal with health and safety issues, it is surprising that some workplaces have no policy at all.
- Policies are often forgotten, ignored, vague, not communicated or badly written for the simple purpose of having a policy.
- Every workplace no matter how big or small, should have a well established harassment, wellness, medical, mental health and Substance Abuse/Addiction Policy

Impairment in the Workplace

- Well established policies provide:
 - legal protection to companies and organizations
 - Provide a concise plan of action
 - Provide a level of prevention as employees will know it's okay to address problems before they turn into a crisis
- Policies must be communicated well at all levels to be effective
 - management, supervisors, front line workers (unions if applicable)
 - a policy statement signed by the stakeholders posted in workplace locations (Health & Safety, Wellness, EFAP or a General Statement)
 - Policies should be reviewed annually

Impairment in the Workplace

- Management with Union / non-union environment

A workplace where management and union agree upon health and policies, usually provide a better outcome for the suffering employee

The grievance/arbitration to provide a resolution, generally takes months (if not years to resolve) and during that time the employee suffers

In non-union environments, disputes are governed by labour laws and Human Rights Tribunals. These proceeding are expensive and often take years to resolve

Impairment in the Workplace

- Employers should focus on job performance and the employees fitness for duty for the job they are assigned to
- If the employee is unfit for duty or if an impairment issue is identified or suspected, refer the matter to a qualified professional
- Do not diagnose or make an unprofessional opinion
- Report any findings to the qualified professional to determine the employees level of fitness (workplace restrictions, accommodations, absenteeism)

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Substance Testing (considerations)

- Random vs. Non-random
- Drug Testing as a requirement/prevention
- Drug testing subsequent to circumstance (persons identified with an addiction)
- Safety sensitive workplaces vs. non sensitive workplaces

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Professional Resources

- Regulated Professional
Medical Doctor, Psychiatrist, Psychologist, Social Worker, Nurses
- Addiction Counsellors who are properly credentialed/certified
 - Canadian Addiction Counsellors Certification Federation (CACCF)
 - Addiction Professionals Association of Saskatchewan (APASK)
 - Substance Abuse Professional (USA-DOT SAP)
- Current Information
 - Saskatchewan Addiction Foundation Inc. (SAFI)
 - Canadian Centre of Substance Use and Addiction (CCSA)

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Assisting Employees and Prevention

- Peer Support Volunteers (12 step members)
- EFAP programs
- Extended Health Care Benefits
(EAP, Psychological, semi-private coverage)
- Occupational Health Unit (Wellness) or External Services

Impairment in the Workplace

Education and Training

- Management, supervisors and employees
- Conferences, lectures, in-house workshops, tele-conferencing
- Brochures, postings, company intranet
- Team building activities

Impairment in the Workplace

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