

DEVELOPING AND IMPLEMENTING WORKPLACE ALCOHOL AND DRUG POLICIES

The impact of alcohol and other drug use in conjunction with work can be significant in terms of employee health, workplace and public safety, and operational productivity. Recognizing this, Canadian companies in all industry sectors are developing comprehensive alcohol and drug policies, or reviewing and upgrading their existing policies. Many recognize the importance of setting up a mechanism to provide counselling, assessment, assistance and ongoing support for recovery for employees who may have a problem. However, they are equally concerned about the liabilities associated with not taking appropriate action to prevent incidents and accidents. Both can be addressed through a balanced workplace policy. Added to this, a number of companies are under pressure to take action from U.S. parent companies, from those they contract with who expect them to meet certain operational safety standards, because of regulatory requirements, and as a result of the actions of competitors.

Putting in place a program to address and resolve workplace problems associated with alcohol and other drugs should be of equal concern to the employees themselves, their elected representatives, and their supervisors and managers. Depending on the nature of the business, others who would be interested in how a particular organization deals with this issue can include clients, the public, the surrounding community and contractors. The policy development process presents a good opportunity for the involvement of many of the key stakeholders so that they can learn more about the issue, and discuss and debate the most appropriate approach - unique to their own organization - when it comes to balancing prevention initiatives and deterrence provisions.

This paper outlines some of the trends in the development of workplace alcohol and drug policies and the key areas these policies should address. It also looks at issues and considerations associated with the introduction of testing programs in the context of a workplace alcohol and drug policy.

INTRODUCTION OF WORKPLACE POLICIES

There are a number of overriding reasons to develop and implement a comprehensive policy.

- **Health and Safety Concerns - Due Diligence:** Drug use and its impact on performance is receiving greater attention as information from scientific research and field studies increases, and employees express concerns about workplace problems. Program managers are confirming the effectiveness of comprehensive policies in triggering a change in attitudes and practices, and reducing the negative effects of alcohol and drug use on performance, health, and safety.

Various studies have credited alcohol and other drug use with contributing to increased turnover, accidents, absenteeism, workers compensation, sick benefits and insurance claims, loss of productivity and human potential, low quality products and services, theft and trafficking, as well as increased corporate liability regarding employee and public safety and the environmental impacts associated with accidents.

Use patterns as reported in the few available Canadian surveys have not changed significantly - employees report alcohol use and its after effects are still responsible for the majority of negative impacts in the workplace. But illicit drugs are readily and increasingly available in high quality throughout Canada, cannabis use is up among Canadian adults, and recent student surveys find use patterns increasing for most drug categories.

Trends Since 1994: Trend data is available for Ontario only, but is useful in examining possible trends in the rest of the country. The Addiction Research Foundation reports in 2001 data for Ontario adults (18+ years) there have been no significant downward trends in substance use:

- overall percent of current alcohol users (past year) has leveled at 79.5% (83.6% males and 75.7% females); while 8.8% of male drinkers drink daily and 25% are heavy drinkers
- 18% of men and 3.5% of women reported driving within an hour of having two drinks;
- 15.4% of men use marijuana and 7.3% of females; and
- use is highest among younger age groups, at 26.8% of those aged 18-29, 15.8% of 30-39 and 7.2% of 40-49.

Trends in drug use for Ontario students are of significant concern as use patterns continue to rise for students in grades 7 to 13. For example, the 2001 results found:

- the percent of current drinkers has risen for both males (57% to 66.3%) and females (56% to 65%); 86% of Grade 13 students are current alcohol users, up slightly from 78%;
- 51.4% of males and 44.6% of females drank in the past month; 41% of current drinkers were heavy drinkers, although less than 1% drank daily;
- 30% of students are current marijuana users; 44% of Grade 13 students, 44% of grade 12 and 46% of grade 11;
- LSD use dropped to 4.5%, use of other hallucinogens rose from 3% to 11.4%;

- cocaine use has more than doubled from 1.5% in 1993 to 4.3%; (7% of grade 11, 3.5% of grade 12 and 2.6% of grade 13 are current cocaine users); and
- use of illicit drug combinations (excluding alcohol, tobacco and medical use) has increased from 14% to 24.4% since 1993.

Overall, in the general population, alcohol drug use patterns remain relatively stable for adult populations, with regular or heavy drinking appearing to be on the increase. Continued upward trends in drug use by public and high school students is a concern.

- **Legal Liabilities and Responsibilities¹:** A variety of potential legal issues may be best addressed through consistent implementation of a clear and reasonable policy; this can include addressing the liabilities associated with the actions of impaired employees at work, due diligence responsibility around workplace safety, actions in response to possession or trafficking of illicit drugs, and the duty to accommodate those with a chemical dependency in accordance with human rights provisions.
 - Occupational Health and Safety Legislation places the onus on employers to ensure the health, safety and welfare of employees; employers must prove diligence in minimizing or eliminating all potential safety risks, including those associated with independent contractors. Organizations can be liable for any negligent or wrongful acts committed by an employee acting within the scope of, or course of employment, which could include negligence in allowing an alcohol or drug impaired employee on the worksite or on a public highway once declared unfit to work, and negligence when returning someone to a risk-sensitive job after treatment or a policy violation where sufficient monitoring mechanisms are not in place and a substance-related incident results.
 - Driver Liability makes the owner of a vehicle accountable for any injuries or damages caused by a person driving the vehicle with the owner's consent. This is why the policy standards must apply when operating a company vehicle and/or operating a vehicle on behalf of the company. This is also why policies should address reporting, and consequences of, receiving an impaired driving charge in these situations.
 - Hosting Liabilities associated with the provision of alcohol to others or hosting alcohol-related events can include the provider of the alcohol, the occupier of the premises where the problem occurred, and the sponsor of the event. Responsibilities can extend to injuries the person who drank may receive, and to any third party they may injure. This is why companies should have clear rules around both social and business hosting where alcohol may be involved, and

procedures in place to minimize the possibility that someone may leave in a state that could result in injury to themselves or a third party.

- Federal and Provincial Human Rights Legislation prohibits discrimination on the basis of a disability. Current or former dependence on drugs or alcohol is considered a disability under the federal Act, and may be interpreted in the same manner at the provincial level. Issues around reasonable accommodation, and establishing a *bona fide* occupational requirement for treating someone differently need to be addressed. Prevention initiatives including access to assessment, assistance, treatment, and follow-up services, as well as modifying hours or duties in certain circumstances would all contribute to accommodation. Setting standards that respond to an assessment of need specific to the company's requirements and ensuring there is justification for treating individuals differently under certain circumstances would contribute to meeting the *bona fide* standard.
- Employers can perform searches of company property, including those that lead to the identification of a banned substance in the workplace, but they should be conducted with caution. There is no absolute right of an employer to search personal effects, and the ability to do so will vary with each case. Generally companies need to give adequate notice that they intend on conducting searches (through their policy statement), and the circumstances under which they will be conducted.
- **Government Regulation:** The Canadian government has confirmed there are no plans to regulate alcohol and drug policies and testing programs at this time, however U.S. government regulations have specific implications for Canadian companies with truck and bus services operating cross-border. As a result, many companies now have comprehensive programs in place in Canada not just for those crossing the border, but for all employees. These policies include alcohol and drug testing in a number of circumstances.
- **Extension of Existing Programs:** Many companies with employee assistance programs are recognizing the EAP does not set policy standards around drug and alcohol use, nor does it deal with deterrence measures, investigative procedures, discipline, contractor provisions, hosting guidelines etc. Therefore, many companies are extending existing prevention programs through a comprehensive policy that better addresses all of these important components.
- **Contractor Compliance:** The courts have clarified that occupational health and safety responsibilities can extend to contracted workers and sub-contractors. Therefore, a number of

¹ The information in this document is not a legal opinion; it is provided for information only and should not be relied on as legal advice.

larger Canadian companies with strong policies are expecting the same level of diligence around drug and alcohol use as a condition of contract.

DEVELOPING THE ALCOHOL AND DRUG POLICY

Policy Development Process There are a number of key areas that policies must address, and several difficult decisions that need to be tackled. The first group of issues establish a background to the specific policy decisions that follow. There are some valid reasons for taking this “two step” process. The courts/arbitrators/human rights tribunals have found the reasons for establishing the policy - the thought patterns that go behind it - are just as important as the policy components themselves (see #2 below). In two recent decisions, the Supreme Court of Canada eliminated any distinction between direct and indirect discrimination (which had different remedies in decisions up to this point), and confirmed that to make what may be considered a discriminatory work standard acceptable (e.g. no alcohol use during the day, or individuals are subject to testing under certain circumstances, etc.), companies must meet the following tests:

1. The employer must show the standard was adopted for a purpose rationally connected to performance of the job.
2. The employer must establish that the standard was adopted in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose.
3. The employer must establish that the standard is reasonably necessary to the accomplishment of that legitimate work-related purpose; it must demonstrate it is impossible to accommodate individual employees without imposing undue hardship on the employer.

Although the ultimate decision on the policy and its implementation is normally Senior Management, the owners, or the Board of Directors depending on how the company is structured, they can not make a decision in this very complex field without solid input from company representatives who have had a chance to understand and debate the issues before making their recommendations. This is why most companies use a consultative process to arrive at their ultimate decision. For example:

- some companies appoint a core group of employees to develop a draft, and then review and modify it as a result of discussions with key stakeholders, including the union(s);

- others may set up a larger committee with broader representation including, for example, human resources, occupational health, the union(s), field and office supervisors, field and head office employees, public affairs, safety, and/or any other appropriate interested group.

In both situations, though, it must be clear that the task at hand is to recommend an appropriate course of action for the organization based on a better understanding of the issues, assessment of need, and identification of overall objectives. Again, senior management would normally make the final decisions: setting an alcohol and drug policy is a process of consultation but not one of collective bargaining. The provisions of the collective agreement must be taken into account, and the policy that results must not be contrary to the collective agreement. But, saving any unique features of the agreement which might direct policy-making in a particular organization, an alcohol and drug policy is normally considered a management health and safety policy. It can and will become more effective if there is consultation, common understanding of the goals and expectations, and to the degree possible 'buy-in' or acceptance on the part of employees and their elected representatives.

Consistent with the Supreme Court's direction, it is strongly recommended that in establishing company policy, careful thought be put to the following matters.

- 1. Current Practices, Policies and Services:** These should be reviewed in advance, and the corporate-wide policy should build from this assessment.
- 2. Problems to Resolve:** It is very important that the company look at program requirements in order to catalogue specific concerns, identify what could be improved, and ensure that the policy addresses them. This includes an assessment of risk in the operations, identification past problems or incidents, whether employees and supervisors are knowledgeable about current rules, their responsibilities, and the consequences, whether the assistance vehicles are adequate etc.
- 3. External Considerations:** Recent legal decisions on the matter, trends and practices of others in your industry, and general information on use patterns, impacts and effective solutions should all be noted as considerations in the decision making process, and any program components required by regulation or contract should be identified.
- 4. Identification of Key Stakeholders:** Which groups have a direct interest in how this issue is handled; what will their expectations be; how will different or conflicting expectations be handled?

- 5. Policy Objectives:** The purpose of the policy will result from the stated objectives, will form the basis for all provisions that follow, and will be a foundation for all communication with employees. What are the underlying principles and objectives to be achieved? Are they consistent with corporate values?

Key Policy Components There is no 'typical' policy or program; each program reflects the unique corporate culture and values of the company, the fundamental aspects of the business it is in, the regulatory environment within which it must operate, and most important, the specific program needs. However, there are a number of key areas that policies must address, and several difficult decisions that need to be tackled. There are four cornerstones that underlie the various policy details: awareness and education programs, access to assistance, supervisor training on their role under the policy, and methods to identify those employees with a problem, or those that are in violation of the policy. Each of these components should be included in any company program. It is only in the latter situation that testing may have a role. At their core, company policies need to:

- be written down and broadly communicated to all employees;
- provide clear direction on the objective and application (people and circumstances);
- outline the applicable rules and responsibilities;
- clarify avenues to access assistance and conditions for return to duty;
- set out the procedures which will be followed to investigate a possible policy violation, including any provisions for alcohol and drug testing; and
- set out consequences for a policy violation.

To guide decisions towards a complete and understandable policy, the company alcohol and drug policy statement should address the following areas:

- 1. Scope and Application of the Policy:** The company needs to clarify who the policy will apply to, and the circumstances under which it applies. This includes a detailed assessment of whether there are positions presenting significantly higher risk if performed in an unfit state, and whether there is justification for higher standards or stricter consequences for those holding these positions. It also includes a determination of whether the policy applies to contractors workers. (see section 7 below)
- 2. Key Definitions:** In support of the scope and application, and so that everything is perfectly clear for those covered by the policy, it should provide some key definitions as required; this could include employee and contractor, company business and premises, what is meant by risk- or safety-sensitive positions, drugs (including alcohol, illicit drugs and medications) and fitness

for duty. The term 'supervisor' should also be defined so that everyone knows what level in the organization is responsible for hands-on implementation.

- 3. The Standards to be Met:** The company's position on alcohol and drug use should be consistent with its overall goals. Clear expectations should be set around illicit drug use and possession, alcohol use and possession, medication use and reporting any need for modified work, and fitness for duty including scheduled and unscheduled call. Any higher standards for certain positions (e.g. risk- or safety-sensitive) should also be made clear.
- 4. Responsibilities:** A core set of responsibilities will need to be set out for employees, supervisors, contractors and management; these supplement the policy standards and are the "how to" part or "what this means to you".
- 5. Prevention, Assessment/Rehabilitation and Aftercare:** It is very important that companies make decisions around what programs and services will be available to prevent potential problems, to assist those employees that may have a current or emerging problem, and to monitor and support the recovery (while minimizing corporate risk) of employees returning from a treatment program. Things to consider would be performance management training for supervisors, education and awareness sessions for employees, providing access to a contracted Employee Assistance Program, or community-based assistance services, and providing for a Substance Abuse Professional assessment after a policy violation.
- 6. Investigative Procedures:** These procedures do not necessarily form the core of the policy, but decisions are needed to ensure they are in some way covered off either through this policy, or other company policies or practices.
 - Investigation and Escort Procedures: Negligence issues can result from an alcohol or drug impaired employee on the worksite or in a company vehicle, or from letting an impaired employee or other individual drive themselves away from company property. This is why procedures should be established to investigate those situations where an employee or contract worker appears unfit for work, or otherwise in violation of the policy while in the workplace, and to ensure they leave the premises safely.
 - Alcohol and Drug Testing Programs: If the policy allows for testing under certain circumstances, it must be clear which groups of employees are subject to testing and under what circumstances. Employees should also be advised which drugs are covered, the technology which will be used, and the consequences for testing positive or for failure to participate in the testing process. (see #10 below)

- Impaired Driving Charge/Conviction: If the policy says no use of alcohol or drugs in conjunction with company business or premises, and driving a company vehicle is included in that situation, than an impaired charge may be an indication of a violation of the policy, and appropriate follow-up steps should be outlined in the policy. Companies should also have procedures in place to investigate whether a driver has lost their license for any reason on or off the job, if driving is one of their job responsibilities, and ensure they know the employment consequences of failing to report the loss.
 - Searches: If possession of banned substances is prohibited under the policy, the company needs to establish the principle of conducting a search where there are reasonable grounds to believe the banned substance is present, and the procedures on how that will be done.
- 7. Social and Business Hosting:** As noted above, companies may be liable for damages if they are found negligent in serving/hosting others in a social setting or in the course of doing business. Companies should have guidelines or procedures to minimize risk of an incident and associated liabilities if alcohol is to be provided under any circumstance.
- 8. Standards for Contractors:** Should be set out and clearly communicated, normally through a separate statement of expectations for contractors. Requirements generally mirror those set out for employees, however, the method of implementation may vary. For example:
- there may be a simply statement setting out the rules, the requirement that the contractor must investigate any potential violations to the company satisfaction, and the consequences for a confirmed violation;
 - there may be a requirement that contractors have their own policy in place as a condition of contract which must meet the company's minimum expectations and also recognize the consequences for a confirmed violation; and
 - employers with testing programs for their own employees may place sole proprietors or small contractor companies under their own program for implementation purposes, and/or may require contractors to implement their own testing program which meets the company's standards.
- 9. Consequences of a Policy Violation:** If an employee/ contract worker violates the provisions of the policy, or does not meet satisfactory standards of work performance as a result of alcohol or other drug use, appropriate disciplinary action should take place. This includes clarifying circumstances of immediate termination, progressive discipline, or reapplication, as well as conditions of continued employment. Standard practice has been to establish a written

agreement with the individual which sets out these conditions as well as the consequences for failure to meet them.

10. Alcohol and Drug Testing: Companies need to make a careful assessment of whether alcohol and drug testing should or should not be included in their overall policy. The introduction of testing in any workplace is a controversial decision, and should be made with full understanding of the role of testing in a comprehensive policy, and consideration of whether it is justified for certain employee groups. Decisions are needed on who to test, under what circumstances, for what substances, using what technology, and what will be the consequence for failing a test, or refusing to be tested. Circumstances for testing can include:

- pre-employment or pre-assignment (e.g. to a higher risk position);
- after a significant accident or incident as part of a full investigation;
- with reasonable cause (to believe someone is unfit due to alcohol or drug use);
- on a random basis at a specified rate per year;
- as a condition of continued employment after a policy violation; and/or
- as part of a monitoring agreement after treatment.

Some companies may conclude testing will not play a role in the implementation of their policy. Others may conclude testing should be triggered for all employees under certain circumstances, or for certain groups of employees (e.g. high risk) under other circumstances. Each policy must be absolutely clear on when testing applies, and the procedures which will be used.

Testing Accuracy: In Canada, drug testing is generally undertaken through analysis of a urine sample by a fully qualified laboratory. On-site testing kits are available, but there are considerable limitations, and the process has not been widely accepted for workplace programs at this point. There are three stages to the testing process - sample collection, laboratory analysis, and medical review and reporting of results. All three stages have been strictly regulated in the United States, and responsible Canadian programs mirror the U.S. requirements to ensure that accuracy and privacy are respected.

The science of urine drug testing is solid and the results are fully accurate provided the process is handled by trained collectors, there is no break in the chain of custody (form signed by the donor and all others that handle the sample), a screen positive is confirmed by GC/MS analysis (a more sophisticated analytical procedure) at a laboratory certified for employee testing and a qualified and independent Medical Review Officer reviews all lab positive results with the employee. Employment action should never be taken on the basis of an on-site screen result.

Breath testing for alcohol use is a widely used and accepted technology because breath is the most easily obtained bodily substance and the results are known within minutes of testing. The process to

collect and analyze breath alcohol samples is fully accurate provided an Evidential Breath Testing Device is used by a fully trained Breath Alcohol Technician. Again, screening devices to analyze the amount of alcohol in saliva are being used to “screen out” negative alcohol tests, but any screen positive must be confirmed (usually by breath, sometimes by urine). Again, employment action should never be taken on the basis of a screen result. If a breath analyzer is not available in a reasonable period of time (e.g. remote location), a urine sample may be taken for analysis at the laboratory, but very specific collection and analysis procedures must be followed to ensure accuracy.

A positive drug test result confirms recent use of a drug, and indicates that to some degree the individual was under the influence of the substance at the time the sample was collected, but can not confirm the degree of impairment at the time. The concentration of alcohol in end-expiratory breath accurately reflects the alcohol in the blood and can appropriately interpret the presence and degree of intoxication at the time the sample was taken. Because of the higher degree of intrusiveness, blood samples are rarely used to test for alcohol or other drugs.

Although there has been considerable discussion about false positive test results (when a sample is reported to contain a drug that is not actually present above the cut-off level), any possible error in the drug sample analysis is eliminated through the two stage screening process through a certified lab and independent medical review of results, as well as regular calibration of the breath equipment for alcohol testing.

Testing Legality - Trends: There is considerable controversy about the legality of drug testing programs. Concern centres on the employee’s right to privacy and the potential for discrimination based on a disability. Workplace testing programs could be challenged through a variety of routes. The most likely route of complaint in a non-unionized environment would be to a human rights commission (given that the *Charter of Rights and Freedoms* does not apply to private sector employers), or a wrongful dismissal action. In a unionized environment, management's right to introduce a testing program in general may be grieved if it is believed to be contrary to the collective agreement, or a union may grieve the company’s actions under their policy on behalf of an individual member.

There are at present no provincial or federal laws that would specifically prohibit drug testing, and there have been no Supreme Court decisions in this area. However, a series of arbitration decisions and a recent Ontario Court of Appeal decision provide some guidance on where the law may stand on this issue.

The Canadian Human Rights Act takes effect for federally regulated employers if there is a question of discrimination in employment on the grounds of a disability, as the *Act* specifically defines 'disability' to include a current or former dependency on alcohol or a drug. The application of the *Act* is not as

concerned with the testing procedure itself (although it must be handled in the proper manner), as with the use to which the results are put (for example, what happens to the individual with a positive test result). The only tribunal decision on testing upheld the Toronto Dominion Bank's pre-employment testing program, but that decision was overturned in the courts.

The Federal Commission has reviewed its policy on testing, which was released earlier this year, and taken a position that somewhat mirrors the Entrop decision (noted below); although there was no ruling on the drug testing components of the Imperial Oil policy, the Commission policy takes a stand similar to the Court in its comments about drug testing, although the Commission objects to testing as a condition of certification to a safety-sensitive position where the Court found that would have been acceptable if the drug testing parts of the company policy were before it. Provincial Acts and Codes prohibit discrimination on the grounds of a disability; it is anticipated current or former alcohol or drug dependency will be viewed as a disability in most if not all jurisdictions. There are some variations in their policies on drug testing, but most provinces have suggested they would follow the principles set out by the Federal Commission when dealing with a complaint.

Although there have not been many arbitration decisions dealing with testing programs specifically, the trend amongst arbitrators is to make an attempt to find a reasonable balance between public safety issues and employee rights when discussing medical examinations and drug testing. The issues are also often discussed within the context of human rights guidelines and principles.

Although these decisions are specific to the policy being reviewed in each case, the general trend appears to be to accept alcohol and drug testing in a reasonable cause situation, as part of a complete investigation into a serious accident or incident, as a condition of assignment to a higher risk position, and on a case by case basis on return to duty after treatment for a problem, or as a condition of continued employment after a violation.

In a recent decision (Entrop/Imperial Oil) the Ontario Court of Appeal upheld the testing circumstances noted above and also found random alcohol testing for individuals in safety-sensitive positions to be acceptable. Although the Court did not provide a ruling on random or pre-employment drug testing, it did indicate testing in these circumstances may not meet a '*bona fide* occupational requirement' standard from a human rights perspective (using the Supreme Court's test outlined earlier). As well, arbitrators have not supported random drug testing in the policy-wide decisions issued to date.

Testing as Part of a Comprehensive Policy: Many employers are choosing to include testing in certain circumstances as part of their company policy. The most common circumstances in which testing is being used is to determine on an individualized basis whether an employee is in violation of the

company policy on alcohol and drug use. This may be where there are reasonable grounds to believe the employee is unfit for duty, as part of a full accident investigation, or as a condition of continued employment after a policy violation. In higher risk jobs, it may also be used as a monitoring tool after an individual has undergone treatment for an alcohol or drug problem and is returning to the job. A number of employers are requiring applicants to pass a drug test as a final condition of job offer, again primarily for higher risk positions.

Finally, an increasing number of companies require certain employee groups to be subject to random testing. Random testing is generally used to deter alcohol and drug use in violation of the company policy, for employees in jobs with the highest risk to public or co-worker safety. Deterrence theory forms the basis for the drinking and driving programs throughout the world on the assumption that it is possible to dissuade people from committing a particular act if they understand the rules, perceive that there is a possibility of being caught, and that the consequences are significant enough that they have a reason to change habits or behaviours. The same theory would apply in the workplace.

Employers must recognize that they can not simply implement a testing policy and assume it will be found acceptable by employees or the courts. It is essential that any testing they undertake be within the context of their overall approach to health and safety, and their specific requirements with respect to alcohol and drug issues. If alcohol and drug testing is included as a component of a comprehensive policy, the policy must clearly identify which groups of employees are subject to testing and under what circumstances. It should also outline the procedures which will be used to ensure accuracy and respect individual privacy. Finally, the company should be able to confirm and explain why testing is being undertaken in each circumstance - in other words, be able to explain how it contributes to the company's overall safety objectives.

IMPLEMENTATION AND COMMUNICATIONS

Once policy decisions have been made, planning for implementation needs to take place. A number of tasks need to be addressed before the policy is announced, and its implementation starts. These include:

- designating someone to be in charge of the implementation program;
- identifying a specific program administrator if there is a testing component;
- identifying the all positions within the safety/risk-sensitive job categories as required;
- notifying contractors of policy expectations;
- making any changes in the benefits or insurance coverage that may result from the policy decisions;

- contracting for external services where required (e.g. testing, EAP, training, SAP);
- advising the existing EAP of the new policy and any implications for their services;
- consulting legal counsel; and
- finalizing the communications strategy.

When contracting for external services, companies should be extremely clear in assessing and identifying their program needs, so that they do not end up with products, or a long term service delivery contract, that does not meet those specific needs, or provide the necessary level of quality in the most cost-effective manner. This is a particular priority when contracting for supervisor training, employee assistance and substance abuse professional services, and any testing component of the program.

A policy is of little value if it is not effectively communicated. In fact, with a subject matter as controversial as an alcohol and drug policy, the way in which the policy is communicated is probably just as important as the message being conveyed. It is crucial that communication be clear and consistent throughout the organization and that the policy be seen to have the support of top management. Companies should develop a communication strategy that ensures everyone that needs to know about the policy and procedures is informed and that identifies the most controversial components, where opposition may lie to them, and a strategy for responding to issues that are raised.

CONCLUSIONS

Each company must decide what will work best; there is no model policy. Each program should be tailored to meet the specific needs of each workplace, and should be seen as a reasonable and responsible response to those stated needs. The ultimate keys to success in addressing the problems associated with drug use in the workplace are prevention and the commitment of employees to achieving a workplace free of the negative effects of substance use. The result should be an appropriate balance between health and safety (due diligence) and respect for individual privacy. This means finding a balance between measures to control or deter use (standards, investigation tools and discipline) and prevention measures (education, training, and employee assistance). Companies need to ensure they keep these considerations in mind as they make their program decisions.

Implementing a testing program is not without controversy. Concerns have been raised about privacy issues, the accuracy of the technique used, the possibility of testing for other substances or conditions, the invasiveness of the procedure and the potential for misuse. Alternatively, many feel testing is a necessary part of a comprehensive program, to maximize safety, minimize liability, ensure individuals are fit to perform a particular job, and deter them from alcohol and drug use where it may impact the workplace. If testing is introduced as part of the overall program, it is essential that the

company's expectations are well communicated in advance, and that employees have an avenue to get help if they have a problem before they are in a situation where they may fail a test. This is why testing, in and of itself, is not considered a complete program to address alcohol and drug problems. The prevention components of education, training and access to assistance, good communication around the policy standards and expectations, and fair and consistent consequences for a violation, all must work together if workplace problems are to be successfully resolved.