

Human Rights and Equity: Frequently Asked Questions

Substance Dependence and the Workplace

What is substance dependence?

Substance dependence or addiction is a serious disease that involves the compulsion to procure and use alcohol and/or drugs. Substance dependence is diagnosed by reference to criteria in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV). It is characterized by behaviours that include preoccupation with the substance, impaired control over use of the substance, and continued use despite severe consequences. The disease is marked by a progressive pattern of usage and can be fatal if untreated. Substance dependence can be arrested through treatment followed by an active lifelong recovery program.

Is the rate of substance dependence higher for health care professionals?

There may be an assumption that greater access to drugs results in a higher rate of substance dependence. However, there is no evidence to suspect the prevalence of addiction in health professionals is any greater than in the general population. The profile of the average nurse with substance dependence is a top-of-the-class graduate and high-achiever with an excellent nursing practice.

How does substance dependence affect the workplace?

Substance dependence can result in behaviours that lead to disciplinary consequences, such as theft of narcotics. Individuals may engage in theft in order to satisfy the need for larger dosages or more frequent usage and to avoid the effects of withdrawal. Allegations of theft are often accompanied by other allegations of professional misconduct, such as improper charting, diversion of narcotics from patients, forging a prescription and practicing while impaired. Work attendance will often suffer due to intoxication at inappropriate times or sickness due to withdrawal.

How do human rights protections apply to substance dependence?

Substance dependence or addiction is recognized as a disability under the Ontario *Human Rights Code*. Employees are protected from discrimination and harassment because of substance dependence. The employer has a duty to accommodate the needs of an employee suffering from substance dependence to the point of undue hardship. The employee has a corresponding duty to cooperate in the accommodation process. The union and its members have a duty to facilitate the accommodation. Accommodations may include modifying a nurse's job duties to exclude narcotics administration, implementing a workplace monitor or supporting a schedule that provides for appropriate monitoring.

What are the employer's obligations when misconduct occurs in the workplace?

Discipline or discharge is not the appropriate response for misconduct related to substance dependence, and constitutes discrimination contrary to the *Human Rights Code*. Substance dependence is an illness. The appropriate response is for the employer to place the employee on sick leave so they can commence a treatment program followed by a period of rehabilitation.

When the employee is medically cleared to return to work, the employer has a duty to accommodate the employee's restrictions in the workplace. An employee should not resign under pressure because they will lose any access they may have to extended health benefits that cover the costs of residential treatment. Also, it can be very difficult for a health care professional to find new employment with restrictions on their licence to practice.

There is a mandatory obligation for employers to report a registered nurse to the College of Nurses of Ontario (CNO) if there is a reasonable belief that the nurse suffers from substance dependence. Resignation will not prevent a report to the College. ONA members should call ONA's Legal Expense Assistance Plan (LEAP) Intake if concerns are raised by the employer, and should not contact or respond to the College.

How is addiction treated?

ONA members who undergo residential and comprehensive aftercare treatment have the best prognosis for recovery. There are residential treatment programs across the province. Homewood Health Centre in Guelph offers an excellent residential treatment program specifically designed for health care professionals. Aftercare treatment consists of regular appointments with a physician specializing in addiction medicine, regular attendance at health professionals group (Caduceus) meetings, regular attendance at Narcotics Anonymous (NA)/Alcoholics Anonymous (AA) meetings, obtaining an NA/AA sponsor and urine testing. Full-time ONA members are entitled to access sick leave, disability benefits and extended health benefits during their rehabilitation. Part-time members may be entitled to Employment Insurance (EI) sick benefits or Johnson Insurance long-term disability (LTD) benefits.

What if an employee denies they have a problem?

Denial is a central feature of the disease of addiction. Individuals will deny they have a problem with alcohol or drugs to family, friends and others and to themselves. It is important we understand the powerful role denial plays in the disease, and that an individual may not be in a position to accept they are suffering from substance dependence until they seek professional help. Feelings of shame and embarrassment can immobilize individuals from seeking the help they need and from discussing their situation with others.

What should I do if I am concerned about a colleague?

If you are concerned about behaviours you have observed in a colleague, please contact an ONA representative or LEAP Intake at 1-800-387-5580 for advice and assistance. It is very important that you bring forward your concerns, even if you are not sure whether substance dependence is the problem. ONA will ensure appropriate steps are taken so members can receive the help they need while maintaining their privacy and professional reputation. Attempts at counselling or intervention by inexperienced persons will not help the situation. Accusing, preaching, ignoring or minimizing the situation and over-support all contribute to keeping the substance abuser from the realization that she or he has a problem.

What role does relapse play in the disease?

Relapse is recognized as a part of the disease. An individual may relapse one or more times before successfully achieving life-long sobriety. If a nurse relapses while under restrictions imposed by the College, her or his license may be suspended until such time as she or he receives clearance from an independent addiction specialist. If an employee relapses after returning to work, the employer must still consider its duty to accommodate the employee's disability. If an employee is terminated, the prospect of reinstatement may be diminished as the duty to accommodate is not limitless and is subject to undue hardship. Individuals who relapse after completing a treatment program are generally in a good position to identify and take the necessary steps to discontinue their substance use. This is because they are familiar with the resources and tools available to assist them. Most ONA members return to work and have successful, long-term nursing careers.

Where can I get more information and resources that can help?

- Call ONA's LEAP Intake line at 1-800-387-5580 for confidential advice and information about residential and aftercare treatment programs.
- ONA has a comprehensive "Guideline to Representing Members with Substance Dependence" document located in the Executive Section of our website at www.ona.org.
- Information on the Homewood Health Centre residential treatment program can be found at www.homewood.org.
- Members can find other residential treatment programs offered throughout the province through the Drug and Alcohol Registry of Treatment (DART). Call 1-800-565-8603 or visit their website at www.dart.on.ca.
- Alcoholics Anonymous: www.aa.org. Narcotics Anonymous: www.orscna.org.
- ONA offers ONA representatives and front-line members a one-day workshop called "Supporting Members with Addictions."

Please note: This FAQ document is intended to provide an overview of substance dependence and the workplace. Please contact your Bargaining Unit Human Rights and Equity Representative, Bargaining Unit President or Labour Relations Officer for more specific information, guidance and support.