

# What to Do When a Worker Shows Signs of Substance Abuse – Ask The Expert



The employer's duty to inquire about a worker's potential need for accommodations.

## QUESTION

What are our legal responsibilities if we suspect that one of our employees has substance abuse issues'

## ANSWER

Employees with drug or alcohol addictions, as opposed to casual users, are entitled to reasonable accommodations to the point of undue hardship under human rights laws. Employees are generally responsible for coming forward and disclosing their accommodations needs. The problem is that people with substance dependencies often don't admit, or even recognize, their issues. That's why employers who have reasonable grounds to suspect 'erratic behaviour, attendance issues, positive drug tests, etc.' potential substance dependencies have what's called a 'duty to inquire' by talking to the employee about his/her need for an accommodation.

## DUTY TO INQUIRE BEST PRACTICES

Don't treat the conversation as a cross-examination or attempt to diagnose the employee or recommend treatment. Best practices recommended by the Canadian Human Rights Commission:

- Ensure that the conversation is confidential;
- Be respectful, compassionate and non-judgmental;
- Recognize that the employee may be feeling pressured, guilty or anxious;
- Explain the basis of your concerns, such as recent job performance or incidents;
- Tell the employee that you have a duty to accommodate all disabilities, including substance dependence;
- Refer to your organization's accommodation policies and procedures;
- Only ask questions relevant to the employee's possible need for accommodation, such as whether he/she has been assessed by a medical

professional;

- Let the employee know about other workplace support available, such as an Employment Assistance Program; and
- Let the employee to involve their union or employee representative in discussions.