



ADA & SUD

WHAT EMPLOYERS NEED TO KNOW

WHAT IS THE ADA?

The Americans with Disabilities Act (**ADA**) is federal law giving civil rights protections to individuals with disabilities in many areas of life. The ADA guarantees people with disabilities have the same opportunities as everyone else to enjoy employment opportunities, participate in state and federal government programs, and purchase goods and services. The ADA typically covers an individual in treatment or recovery from Substance Use Disorder (**SUD**), such as opioid addiction – **unless the individual currently is engaged in illegal drug use.**

DOES THE ADA PROTECT INDIVIDUALS TAKING LEGALLY PRESCRIBED MEDICATION FOR SUBSTANCE USE DISORDER?

Yes, if the individual is not engaged in the illegal use of drugs. Under the ADA, a person's use of prescribed medication is not "illegal use of drugs" if the person uses the medication under the supervision of a licensed healthcare provider, including primary care and other non-specialty providers. This includes medications for opioid use disorder (MOUD) and medication-assisted treatment (MAT). MOUD encompasses use of three medications (methadone, buprenorphine, or naltrexone) approved by the Food and Drug Administration for treatment of opiate addiction. MAT refers to treatment of opiate addiction by combining use of these FDA-approved medications with counseling and behavioral therapies. Individuals whose SUD is a disability and who are participating in supervised rehabilitation or a drug treatment program are protected by the ADA if they are not currently engaging in illegal drug use.

WHAT DEFINES 'CURRENT ILLEGAL USE OF DRUGS?'

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

CAN EMPLOYERS HAVE A DRUG POLICY OR CONDUCT TESTING?

Yes. Employers may adopt or administer reasonable policies or procedures, including drug testing, designed to ensure individuals are not engaging in illegal use of drugs. However, some individuals who test positive for an opioid, which may include MOUD, will be able to show the medication is being taken as prescribed or administered, and that a healthcare professional is supervising its use. These individuals may not be denied, or fired from, a job for this legal use of medication, unless they cannot do the job safely and effectively or are disqualified under another federal law.

Source: The U.S. Department of Justice Civil Rights Division

9.5% **OVERALL RATE OF PAST-YEAR SUD AMONG FULL-TIME U.S. WORKERS AGES 18-64**

Source: Substance Abuse and Mental Health Services Administration



For help with drug testing and drug-free workplace policies: 866-843-4545