

SUPERVISOR REASONABLE SUSPICION TRAINING REFRESHER

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PROCOM**



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Agenda

- Setting the Stage
- Reasonable Suspicion Overview



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A National Issue

High prevalence

- More than 59 million people 12 years and older used illicit drugs in the past year and more than 139 million are current alcohol users (Source: SAMHSA)
- Drug positivity rates in U.S. workforce remain at historically high levels (Source: Quest Diagnostics)

Extremely costly

- Drug use costs the US economy **more than \$700 billion** annually in costs related to crime, lost work productivity and health care (Source: National Institute on Drug Abuse)

Leading cause of death

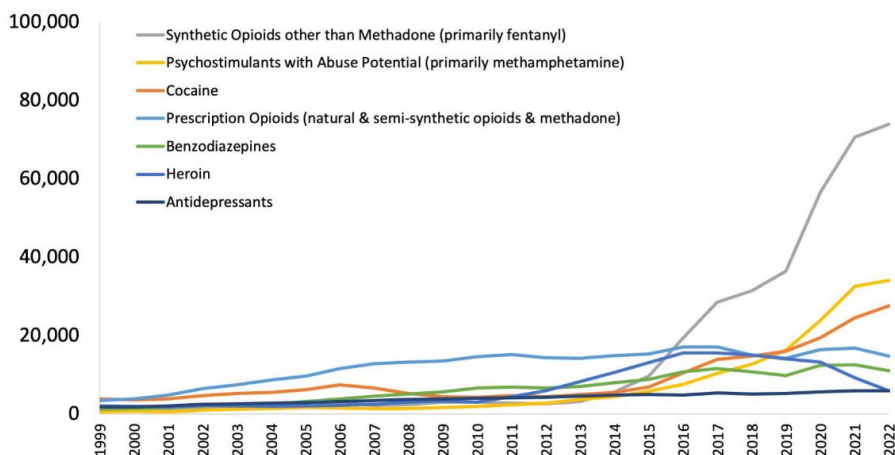
- 2.8% of all US deaths in 2020 attributed to drug overdoses, up from 1.9% in 2015
- Overdose deaths reached a record high of 111,029 in 2022 (Source: CDC)



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National Drug-Involved Overdose Deaths (all ages)



Source: Centers for Disease Control and Prevention
<https://www.drugabuse.gov/>

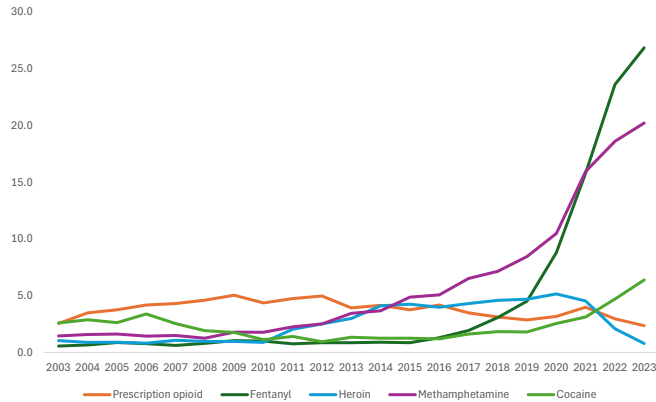
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Washington State Overdoses

Drug overdose deaths in Washington

Per 100,000 people, 2003-2023



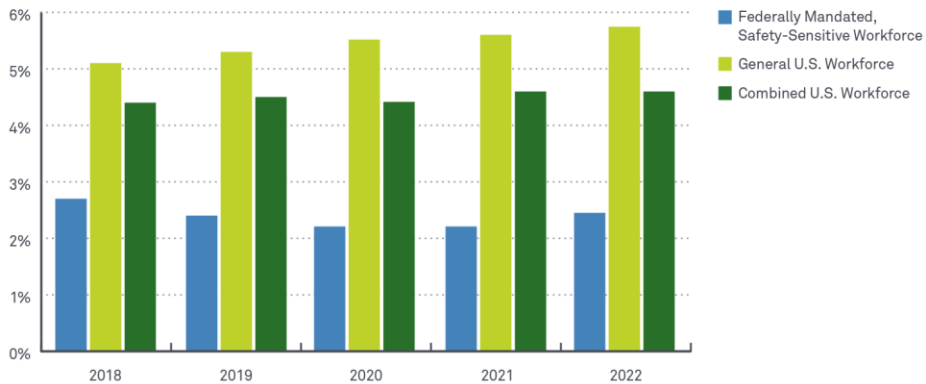
Data sources: Washington State Department of Health (deaths), State office of Financial Management (population)



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Positive Rates Continue to Climb



Reference: Quest Drug Testing Index, 2022

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Reasonable Suspicion Overview

Supervisor's role and key steps



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Understanding DOT Requirements for Drug Testing

- Pre Employment
- Random
- Post Accident
- **Reasonable Suspicion**
- Return to Duty
- Follow Up



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Definition of Reasonable Suspicion

The employer shall conduct a drug and/or alcohol test when the employer has reasonable suspicion to believe that a covered employee has used a prohibited drug and or is engaged in alcohol misuse.



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A Key Distinction

Reasonable Suspicion **≠** **Random Testing**

Based on observed worker characteristics that would lead a reasonable person to conclude there may be alcohol or drug induced impairment

Testing designated groups of employees based on a random schedule with the goal of identifying (and deterring) alcohol and drug use in the workplace



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Why is Reasonable Suspicion Testing Important?

- Key to your company's overall safety program
- Plays an important role in helping to create and maintain drug-free workplace programs
- Can help to both dissuade and detect drug and alcohol use
- Supervisors required by regulations to act on any suspicion
- Supervisor & company liability is greater when you neglect an obvious problem that may result in a serious accident



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DOT Mandates Reasonable Suspicion Testing for:

- Marijuana
- Cocaine
- Amphetamines
- Opioids
- PCP
- Alcohol



**** Key difference between Drugs and Alcohol: timing matters!***



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Who Can Make the Call?



- A supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.
- Two people must independently make observations and agree on the steps forward

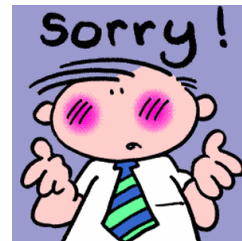


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Reasons Supervisors May be Reluctant

- Compassion
- Guilt
- Friendship
- Loyalties
- Jeopardizing employee's livelihood
- Loss of employee confidence/support
- Insecurities
 - Fear for personal safety
 - Do not like confrontation
 - Lack of training on the referral process



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Common Enabling Behaviors

- Ignoring job performance problems, hoping they will go away or are temporary
- Accepting excuses or apologies
- Threatening disciplinary action without follow through
- Giving advice or pep talks
- Doing some of the employee's work because he is in a bad spot or working around the person
- Considering someone a "functional alcoholic" who doesn't affect you



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How to Get Comfortable

- Only making determinations based on observable indicators covered today.
- With well-documented and reasonable evidence to test an employee for drugs and alcohol, a supervisor can prove that testing was ordered in the best interests of the driver, the company and the motoring public, **even if a test comes back negative.**



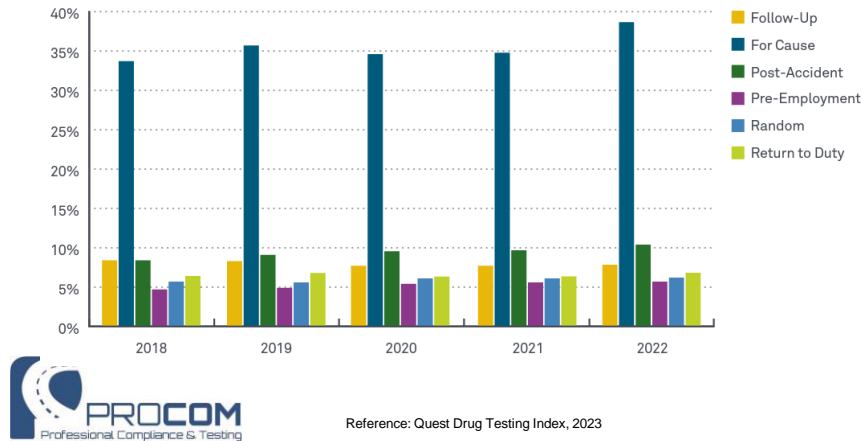
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Efficacy of Reasonable Suspicion Testing

Positivity Rates by Testing Reason | *Annual Report*

Urine Drug Tests – For General U.S. Workforce



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When Should you Test?

Drugs / Alcohol

- Direct observation of drug use or possession
- Symptom of being under the influence
- Pattern of abnormal behavior

Only Drugs

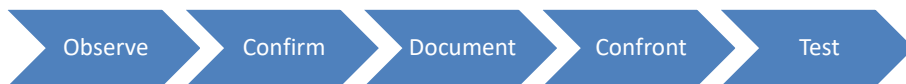
- An arrest or conviction of any drug-related offense



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Reasonable Suspicion – Step by Step



Observe

- Remove from any safety sensitive work
- Isolate the individual
- Build case
- Ultimate question: Is this employee both safe to perform their job function and abiding by company policy?

Observe – Performance Indicators

- Increased or unexplained absences or lateness, continual excuses.
- Lack of concentration; unwilling or unable to follow directions.
- Decreased productivity.
- Inability to get along with co-workers and frequent disruptions.
- Mood swings
- Increased mistakes, accidents, injuries.
- Disregard for safety; taking unnecessary risks.
- Unreliable; often away from assigned job.
- Making unbelievable excuses; blaming others.



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Observe – Other Indicators

- Drug paraphernalia
 - roach clips, bent/burnt spoons, razor blades, straws
- Odor from illegal drugs (i.e., marijuana smoke)
- Specific observations of use
- Physical symptoms
 - Bloodshot / Watery Eyes
 - Lack of Coordination
 - Slurred Speech



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Confirm

- Best practice to have another supervisor or manager confirm that there is reasonable suspicion for a drug/alcohol test
- Protects both the supervisor and the employee
- Confer and determine next steps forward



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Document

- Document specific observable behaviors, as well as physical and job performance indicators.
- Include confirmation from another supervisor or manager
- List signs and symptoms.
- Be specific and brief.
- Be objective.
- Include date, time, course of events



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Documentation Example

"This person looks like they're drunk or on drugs"

– NOT SPECIFIC



"John came in 30 minutes late this morning. When he arrived he look disheveled, had bloodshot eyes and was slurring his speech. When I asked him why he was late he said he got caught in traffic. The smell of alcohol was on his breath."

– SPECIFIC



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Observed Personal Behavior (check all that apply)											
Behavior		Appearance		Speech							
(1)	(2)	(1)	(2)	(1)	(2)						
<input type="checkbox"/>	<input type="checkbox"/>	Stumbled	<input type="checkbox"/>	<input type="checkbox"/>	Flushed complexion	<input type="checkbox"/>	<input type="checkbox"/>	Slurred, thick			
<input type="checkbox"/>	<input type="checkbox"/>	Drowsy, sleepy, lethargic	<input type="checkbox"/>	<input type="checkbox"/>	Sweating	<input type="checkbox"/>	<input type="checkbox"/>	Incoherent			
<input type="checkbox"/>	<input type="checkbox"/>	Agitated, anxious, restless	<input type="checkbox"/>	<input type="checkbox"/>	Cold, clammy, sweats	<input type="checkbox"/>	<input type="checkbox"/>	Exaggerated enunciation			
<input type="checkbox"/>	<input type="checkbox"/>	Hostile, withdrawn	<input type="checkbox"/>	<input type="checkbox"/>	Bloodshot eyes	<input type="checkbox"/>	<input type="checkbox"/>	Loud, boisterous			
<input type="checkbox"/>	<input type="checkbox"/>	Unresponsive, distracted	<input type="checkbox"/>	<input type="checkbox"/>	Tearing, watery eyes	<input type="checkbox"/>	<input type="checkbox"/>	Rapid, pressured			
<input type="checkbox"/>	<input type="checkbox"/>	Clumsy, uncoordinated	<input type="checkbox"/>	<input type="checkbox"/>	Dilated (large) pupils	<input type="checkbox"/>	<input type="checkbox"/>	Excessively talkative			
<input type="checkbox"/>	<input type="checkbox"/>	Tremors, shakes	<input type="checkbox"/>	<input type="checkbox"/>	Constricted (pinpoint) pupils	<input type="checkbox"/>	<input type="checkbox"/>	Nonsensical, silly			
<input type="checkbox"/>	<input type="checkbox"/>	Flu-like illness complaints	<input type="checkbox"/>	<input type="checkbox"/>	Unfocused, blank stare	<input type="checkbox"/>	<input type="checkbox"/>	Cursing, inappropriate speech			
<input type="checkbox"/>	<input type="checkbox"/>	Suspicious, paranoid	<input type="checkbox"/>	<input type="checkbox"/>	Disheveled clothing			Body Odor			
<input type="checkbox"/>	<input type="checkbox"/>	Hyperactive, fidgety	<input type="checkbox"/>	<input type="checkbox"/>	Unkempt grooming	<input type="checkbox"/>	<input type="checkbox"/>	Alcoholic Beverage			
<input type="checkbox"/>	<input type="checkbox"/>	Frequent use of mints, mouthwash, breath sprays, eye drops				<input type="checkbox"/>	<input type="checkbox"/>	Marijuana			
<input type="checkbox"/>	<input type="checkbox"/>	Inappropriate, uninhibited behavior									
Description of other observed action, behaviors or incidents. (Be as specific as possible.)											
Name of Observers											
First Supervisor Name (1)				Signature				Date			
Confirming Observer Name (2)				Signature				Date			

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Confront

- Escort from the workplace discreetly and respect the employee's confidentiality
 - Discuss in a private office with supervisor and confirming party
- Use your documentation to discuss your specific observations – stick to the facts. Repeat if necessary
- Discuss testing process and make expectations and consequences clear, including:
 - Transportation to the facility
 - Consequences of refusing to take the test
 - Possible outcomes and consequences of test results
- Review company policy and procedures
- Document the meeting



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Carefrontation vs. Confrontation

- Be confident, diplomatic and respectful
- Show concern and listen carefully and respectfully – don't confront or get angry
- Stick to the salient points – not subjective but objective
- Give the employee the opportunity to describe and explain the events from their viewpoint



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Carefrontation vs. Confrontation

- Society of self medication
- Coping mechanisms
- Stresses
- Poor self esteem
- Family Problems
- Finances



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What You Might Say

Reasonable Suspicion Script:

(_____) (employee name), we have noticed a change, such as in attitude, attendance, behavior or performance. You are a valued employee and we are concerned about the pattern of decline. _____(employee name) as you know the Company has a both a DOT and Non-DOT Drug and Alcohol Testing Program Policy and as an employee of the Company you have agreed to abide by its policy to prevent drug and alcohol abuse in the workplace. The policy says we must first eliminate drugs and alcohol as a reason for your actions/work performance. At this time, as your supervisor I am informing you that a reasonable suspicion determination of drug or alcohol use has been made and you must submit to a drug test and/or breath alcohol test at this time. A Company representative will go with you to the collection facility.



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If Employee is Being...

- Defensive or denies your comments
 - *Don't get defensive back, stay calm*
 - *Stay focused on the facts and what you've documented*
- Won't stop talking and making excuses
 - *Interrupt and let the employee there will be time from them to tell their side of the story*
- Angry outburst (starts crying, yelling, screaming)
 - *Acknowledge that this can be emotional*
 - *Wait until the employee has run out of steam and then continue where you left off, focus on performance issues.*
- Becomes uncooperative
 - *Acknowledge their frustration but stay on track, explain their options.*
 - *Remind them that it is your responsibility to uphold the organization's policy and find a solution that will help both the you.*
 - *Get help of another supervisor or manager*



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Testing

- Do NOT allow the employee to drive on their own. A supervisor or manager must transport the employee to the testing facility. Arrange for transportation home as well.
- If after hours be sure to have a facility identified where you can send employee(s) after hours
- The employee should not be left alone at the testing facility, nor should the employee ever be out of sight.



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Testing – Time Management

- Testing for Reasonable Suspicion should be completed within 2 HOURS of initial observation but at a minimum that day
- Set a timeline to consent to testing – don't let them stall
- DOCUMENT WHY AFTER 2 HOURS TEST NOT PERFORMED
- DOT – documentation in drug/alcohol file within 24 hours



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If Employee Tests Negative

- Behavior may not be the result of drug use
- Employee may not have had enough in their system for detection
- Employee may have used an adulterant
- Address performance issues and state expectations
- Consider fitness for duty referral
- Continue to monitor and document
- Monitor other employees to minimize gossip and retaliation



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If Employee Tests Positive

- Follow the DOT regulations
- Consequences depends on your policy
 - If your company has a zero tolerance policy you must give the employee the name of a local SAP to follow up with his or her positive test
 - If you allow for a second chance, then you must allow the SAP to do his or her job
- If employee returns to work, continue to monitor and document behaviors and other indicators.



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When There is a DOT Violation

- FMCSA Clearinghouse reporting
- Substance Abuse Professional (SAP) referral process.
- Assessment/Treatment
- Return to Duty
- Follow Up testing



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Recap: Supervisor Do's & Don'ts

Do...

- Know the policy
- Focus on the job
- Be specific
- Be respectful
- Document

Don't...

- Enable
- Escalate
- Delay
- Discuss with others



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Common Mistakes

- Not consistently following and enforcing the company's policy
- Letting employee drive on their own
- Basing reasonable suspicion on hearsay
- Inappropriate testing procedures
- Failing to maintain confidentiality



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Questions?

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Reasonable Suspicion Example

- Step 1: Check the list of short-term and long-term indicators and document what you have specifically observed. Do not rely on what others have told you.
- Step 2: Get a second opinion from another supervisor or manager that indicators are reasonable cause.
- Step 3: Complete your documentation
- Step 4: Take the employee to a private location and confront him or her
 - Explain what you have observed using your documentation
 - Give the employee the chance to respond to your observations
 - Review your company policy
 - Advise the employee that he/she must go immediately for testing or voluntary resign from employment



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Reasonable Suspicion Example

- Step 5: Proceed with testing
 - Explain the testing process in general
 - Advise the employee that he/she is suspended immediately until test results are back.
 - Arrange for transportation to and from (employee should never drive on their own)
 - Document that the employee went for testing and include in their file
- Step 6: Follow-up in accordance to your Company's drug policy and DOT regulations



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Scenario #1 – Group Discussion

Larry is a 32 year-old driver who has been with your company for 4 years. He has been a good employee, with only 2 accidents on his record. Over the past 2 months, Larry has been late 6 times, 4 of them on Mondays. Today, his wife called and said he had "car trouble"; he arrived 2 hours late. When you walked into the dispatch area to talk with Larry about his late arrival, you thought you detected a faint odor of stale alcohol on his breath. As you approached closer, Larry quickly popped some breath mints in his mouth, and started to complain about his car problems. You also noted that Larry's eyes were blood shot, he was unshaven, and his clothing looked like he had slept in it.



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Scenario #2 – Group Discussion

Arlene is a 35 year-old flight attendant. She has been with the airline 12 years, and is now a senior attendant on many of her flights. Recently you have been getting reports from fellow crew members that she "isn't pulling her own weight" on the job, that she is late for the crew bus on lay overs, and that she "just doesn't seem to care." You have noticed that her grooming isn't up to airline standards. Today you have called her in for a supervisory session. You are shocked at the change in Arlene since you last saw her about a month ago. She is very thin, her hair and makeup are unkempt, and she seems lethargic and apathetic.



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Scenario #3 – Group Discussion

Sam is a 23 year-old truck driver, recently hired through a community action program for assisting rehabilitated drug users. You know he is still in an aftercare program with the local drug abuse clinic. When you approach Sam to check on paperwork prior to dispatch, you notice that he is sweating profusely, his hands are shaking, and his eyes "look funny".



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Scenario #4 – Group Discussion

Harriett is a 52 year-old school bus driver who has been with the School District for 10 years. She has an excellent work record and is a favorite among the students and their parents. She is usually cheerful, outgoing and cooperative. This Friday afternoon you ask Harriett if she will do a "double run", returning to the school after her normal afternoon trip to pick up athletic team members after a practice game. You are surprised when Harriett refuses your request, curses you and the athletic coach, and tells you to "get off her case". As she storms out of your office, you notice an unopened beer can in her tote bag.



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Nationwide Substance Abuse Helplines

- ▶ Substance Abuse Treatment Locator

www.findtreatment.samhsa.gov

The Substance Abuse and Mental Health Services Administration (SAMHSA) web site will help individuals locate drug and alcohol abuse treatments programs in their communities.

- ▶ AlcoholScreening.org

www.alcoholscreening.org

This free confidential web site lets individuals privately assess their own drinking habits and receive personalized feedback to help them determine if they need help to change those habits. There is also information about their community drug and alcohol abuse treatments and consultations.

- ▶ Al-Anon/Alateen

www.al-anon.alateen.org

Al-anon provides information on the effects of alcohol abuse and refers to nearby support groups. Alateen is the organization's program for young people whose lives have been affected by someone else's drinking.



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Nationwide Substance Abuse Helplines

- ▶ Alcoholics Anonymous (AA)

www.aa.org

AA offers a way to stop drinking to individuals who feel they have that problem. There are community programs listed in local phone books.

- ▶ American Council on Alcoholism

www.aca-usa.org

The service provides referrals to alcoholism treatment programs nationwide and distributes written materials.

- ▶ National Council on Alcoholism and Drug Dependence Hopeline

www.ncadd.org

This organization provides written information on alcohol and drug abuse and referrals to treatment and counseling services nationwide.

- ▶ National Drug and Alcohol Treatment Referral Service

www.ncadi.samhsa.gov

- ▶ Center for Substance Abuse Treatment

www.csat.samhsa.gov



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Nationwide Substance Abuse Helplines

- **(800) 527-5344** Alcohol Helpline
- **(800) COCAINE** Helpline
- **(877)-A-LIFE-4U** Marijuana Helpline
- **(800) 662-HELP** National Drug and Alcohol Treatment



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