

# **OPIOIDS IN THE MARYLAND WORKPLACE: CHALLENGES AND SOLUTIONS**

A report on the November 5, 2018 workshop  
August, 2019



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## **Executive Summary**

On November 5, 2018, the Maryland Department of Health co-sponsored a workshop to address the challenges of opioids in the workplace. The workshop reviewed the medical, legal, ethical, fiscal, and regulatory challenges confronting Maryland employers, workers, and others involved in the response to opioids in the workplace. The workshop identified opportunities for possible collaboration and intervention to help Maryland businesses in areas including modifying social attitudes regarding substance use disorders, increasing knowledge through education and training, providing resources, changes to insurance policies related to pre-authorization, working with the legal community, treatment, drug testing policy, employee assistance programs, and the role of the primary care provider.

## Table of Contents

Executive Summary .....	3
Acknowledgments.....	4
Overview .....	5
Keynote Address .....	6
Panel 1: Defining the Problem — Medical, Legal, Ethical, Fiscal, Regulatory Issues .....	6
Panel 2: Emerging Trends and Innovations .....	7
Themes from Breakout Groups.....	8
Conclusion .....	8
Appendix I - Program .....	11
Appendix II - Participants.....	15

## Acknowledgments

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- The Maryland Department of Labor, Licensing and Regulation
- The University of Maryland School of Medicine, Division of Occupational and Environmental Medicine
- The NIOSH Education and Research Center of the Johns Hopkins Bloomberg School of Public Health
- The Maryland Chamber of Commerce

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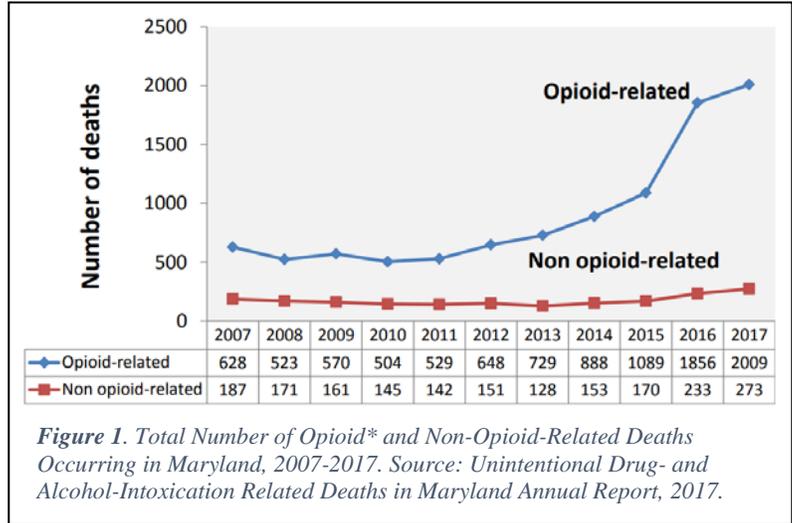
The views expressed in this report do not necessarily represent the views of the CDC, the Maryland Department of Health, or any of the sponsors.



## Overview

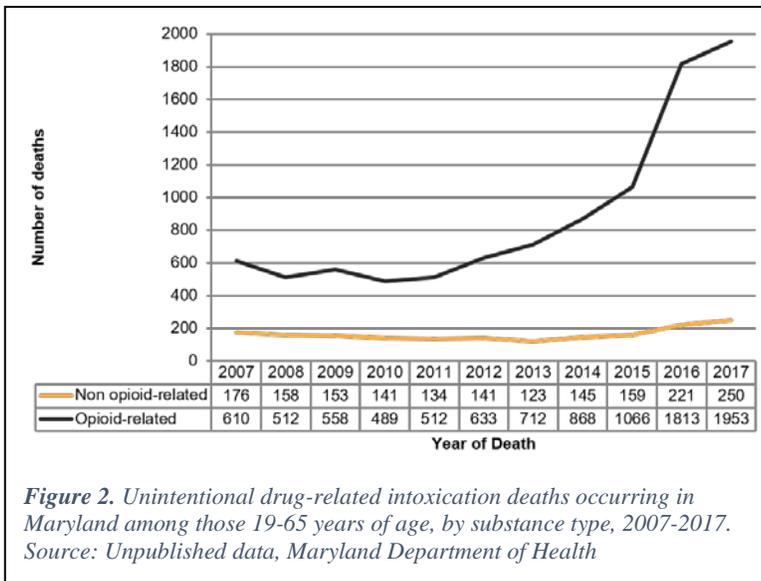
Ellen J. MacKenzie, Dean of the Johns Hopkins Bloomberg School of Public Health welcomed the participants to the meeting. Dean MacKenzie emphasized the importance of partnerships and interdisciplinary cooperation across the community in addressing the issues of opioids in the workplace.

Dr. Clifford Mitchell, Director of the Environmental Health Bureau at the Maryland Department of Health, provided a brief overview of trends in opioids in Maryland. Like the rest of the country, Maryland has had a significant rise in opioid-related deaths (Figure 1). While the increase has occurred across the population, it has not spared working age adults (Figure 2). In addition, the same trends can be seen by race and gender (data not shown).



The State of Maryland created resources to address opioids in the community, all of which can be found in [“Before It’s Too Late”](#) online. Key elements of the plan include:

- Promoting clinician education on opioid prescribing practices and use of the Prescription Drug Monitoring Program;
- Outreach to populations at high risk of overdose;
- Expanding access to medication-assisted treatment for individuals with opioid dependence;
- Encouraging naloxone distribution; and
- Increasing public awareness.



This workshop is the beginning of an extended conversation with employers, employees, the treatment community, the payor and health care community, and other stakeholders who have a role in creating a successful environment for the management of opioids in the workplace. The task for the workshop is to identify the institutional barriers, policies, and resources that must be either changed or put in place to ensure that success. The goal is to produce recommendations for

the State, insurers, employers, health care institutions, and treatment programs, that can be re-evaluated in six months to determine whether stakeholders have met their commitments to help the people and businesses of Maryland successfully manage opioids in the workplace.

## **Keynote Address: The Honorable Kelly M. Schulz, Secretary, Maryland Department of Labor Licensing and Regulation**

The opioid epidemic is both a human and public health issue that employers care about because it involves the workforce. Employers like the Hirsch Electric Company have developed holistic approaches to employees with substance use disorders by funding a halfway house for employees to get care. Programs like Jumpstart provide a second chance for those coming out of the criminal justice system and out of recovery, providing resources to help these individuals to re-skill, up-skill, and get and stay on the right path.

The Maryland Department of Labor, Licensing and Regulation is focusing on “three pillars” as part of the solution to the opioid epidemic: (1) recovery assistance; (2) employer education; and (3) post-recovery employment. The first pillar, recovery assistance, involves resources to assist those going through recovery by “up-skilling” and training community volunteers as certified peer recovery specialists. The second pillar, employer education, involves teaching employers how to be proactive in offering support to employees going through recovery and communicating effectively that they are still going to have a job. Finally, the third pillar involves preparing the workforce system to match individuals in recovery with employers who are giving second-chance opportunities to hopefully get those employees on a sustainable and productive career pathway. Maryland is using a new workforce grant from the U.S. Department of Labor to address these three pillars.

## **Panel 1: Defining the Problem — Medical, Legal, Ethical, Fiscal, Regulatory Issues**

The first panel described the current landscape in Maryland for employers, workers, health professionals, insurers, and others who have a stake in the issue of opioids in the workplace, particularly with respect to the Americans with Disabilities Act (ADA). The ADA protects workers from discrimination on the basis of a disability, which is having a substantially limiting impairment that affects major life activities, having had a substantially limiting impairment in the past, or being regarded as having such an impairment. Oftentimes, opioid addiction is either a disability or the result of a disability. Consequently, the U.S. Equal Employment Opportunity Commission and the Maryland Commission on Civil Rights treat these cases as such. Many employees with an opioid addiction are covered by the ADA. While the ADA protects those with legal prescription opioid use and those recovering from addiction, it does not protect those engaged in current, illegal drug use. As both speakers noted, the definition of “current use” has been a critical component of many recent cases, involving issues such as failure to hire, drug testing, and accommodation in the setting of medication-assisted treatment (MAT). The panelists emphasized the importance of:

- A review by Human Resources of a company’s drug policies to ensure conformity with the ADA;

- An interactive process to assess the results of positive drug tests on an individual basis, rather than a blanket policy;
- Clear, written drug policy and an education and training process for employees regarding the rules, procedures, guidelines, and resources available for those employees seeking help with opioids;
- A supportive work culture in which an employee can be comfortable with admission of a problem, which encourages open communication between the employee and the employer;
- An outreach and education process for employees about prevention of opioid abuse at home, for example through safe medication disposal practices;
- Consideration by the employer of keeping naloxone (Narcan) available for onsite overdoses, and even whether naloxone should be a requirement for employers; and
- Supervisor and mid-level managerial training on opioids, recognition of impairment, and potential problems.

It is noteworthy that sometimes a problem exists with an immediate family member that tremendously impacts the employee. This can create significant stress for the employee that may result in absenteeism and decreased productivity. Employers need to understand that the problems facing family members can and do affect the employee and find ways to help the employee.

When thinking about the management of opioids from a referral and treatment perspective, there are three considerations: (1) having an employee assistance program (EAP); (2) avoiding stigmatizing the employee with a substance use disorder; and (3) having a benefits package that does not impose barriers to effective treatment, including MAT. Workplace policies and resources like these, combined with employee education, and State policies and programs such as the Prescription Drug Monitoring Program, are all needed to manage opioids in the workplace effectively. The framework for effective management includes:

- Offer treatment first, rather than starting with disciplinary procedures;
- Benefits packages should avoid the requirement to seek pre-authorization for MAT, and should cover MAT medications such as buprenorphine, methadone, and naltrexone (without co-payments and deductibles); and
- Good communication and cooperation between and among the EAP, Employee Health, and Human Resources.

## **Panel 2: Emerging Trends and Innovations**

The second panel addressed some of the emerging trends and innovations across the country as employers, employee unions, trade associations, government agencies, and non-profit organizations grapple with the challenge of opioids in the workplace. The panel stressed the importance of collaborative approaches that employ a public health, prevention, and harm-reduction model and open communication. Many of the key messages from the second panel resonated with those in the first:

- Successful programs don't ignore the problem or have a "one size fits all" approach;
- Drug testing needs to be integrated with the program to encourage participants to move towards a "positive" test – that is, no substance use – rather than banning workers from the workplace;

- While programs should include flexibility and accommodation for the person with a substance use disorder, there can be challenges in reconciling the human needs of the worker with business needs. Workers and employers should be very clear about the limits of temporary accommodation; and
- The use of “last chance” agreements, with clearly written expectations and consequences, is a valuable component of the program.

## **Themes from Breakout Groups**

In the afternoon breakout sessions, workshop participants were asked to identify and then rank the most important challenges/barriers and the important or significant opportunities or best practices to achieve optimal management of opioids. Many of the major themes were elaborations on the morning sessions, but there were new challenges and opportunities that participants felt required urgent attention. One need that was widely articulated was for a follow-up meeting to assess whether there had been progress in some of the key areas identified as priorities. There were some overarching themes and needs identified that crossed many areas, including the need for strong commitment across the board. Priorities identified by the audience included a specific government focus on resources on small businesses, creation of toolkits for employers that are industry-specific, and removal of barriers to treatment, including barriers related to treatment availability and insurance coverage. Further, many participants noted that in addition to the stigma that prevents hiring of individuals with a history of substance abuse, there is a significant racial disparity associated with the use of employment drug testing and criminal background checks.

There was strong support for expanded use of programs such as Screening, Brief Intervention and Referral to Treatment, which is being used in acute care hospitals and community primary care centers in Maryland. As in other settings, one of the most challenging aspects is how to acknowledge the risks associated with the employee in recovery, the possibility of relapse, and jobs involving patient safety or public safety.

Table 1 shows selected recommendations from the workshop participants. This is only a selection; it represents some of the broad categories discussed in the breakout sessions.

## **Conclusion**

The workshop concluded with a commitment from the organizers that there would be follow up on the recommendations, including a subsequent convening event to review progress on the recommendations.

*Table 1. Selected challenges and recommendations to improve management of opioids in Maryland workplaces by thematic area.*

<b>MAJOR THEMATIC AREA</b>	<b>BARRIERS/ CHALLENGES</b>	<b>OPPORTUNITIES</b>
<b>ATTITUDINAL</b>	Stigma towards “substance abuse” and the “abuser” as choice behavior, rather than as a medical condition and medical model	Changing nomenclature and usage to Substance Use Disorder, including in regular communications
		Consider incentives to encourage employers to adopt programs, like discounts on State licensing and certification applications
<b>KNOWLEDGE</b>	Lack of employer information about jobs that employees receiving Medication Assisted Treatment for Opioid Use Disorder should or should not do	Priority recommendation from many was for industry-specific toolkits for employers
	Employer awareness of, knowledge about medication-assisted treatment (MAT)	Toolkits, outreach for employers on Americans with Disability Act (ADA), accommodation
	Lack of employee awareness, knowledge about substance use disorders, disability law	Need to make employees, employers aware of ADA protections for individuals with history of substance use disorder, or taking legally prescribed opioids
<b>RESOURCES</b>	Lack of locally available treatment resources	Create a centralized database or clearinghouse for resources so that employers know where to access local resources
	Lack of jobs for workers in recovery	
<b>INSURANCE</b>	Workers’ compensation as both an adversarial system and one in which there is no ability for employers to influence care or treatment	Need to engage with the Workers’ Compensation Commission, other stakeholders
	Pre-authorization requirements for MAT	Remove or reduce requirements for pre-authorization for MAT
	Employers and employees are concerned about loss of coverage for employees with history of substance use disorder	

	Concerns about insurability for small businesses, day labor, temporary employees	
<b>LEGAL</b>	Employers need to perform an individual assessment of requests for reasonable accommodation	Toolkits, outreach for employers on ADA, accommodation
	“Safety sensitive” jobs imply greater potential liability, requirements	
<b>TREATMENT</b>	Absence of a cohesive, congruent literature on providing education and treatment	Need definition of “best practices” for treatment, accommodation
	Lack of literature on efficacy of alternative treatment modalities for pain management	
<b>DRUG TESTING</b>	Use of “blanket” drug testing practices (not tailored)	Need employer education on drug testing, individualized assessment of drug tests, use of drug tests as part of an entire program, not an end itself
		Need training for employers, supervisors, co-workers on recognition of impairment
<b>EMPLOYEE ASSISTANCE PROGRAMS</b>	There is trend towards “shallow” EAPs with less experience and focus on assessing substance use disorders	Encourage quality EAPs, skilled at assessing substance use disorders and referring employees for treatment
<b>PRIMARY CARE</b>	Lack of primary care provider familiarity with workplace issues, effect and stigma of opioids	Education of primary care providers on pain management guidelines, alternative pain management models (also need evidence base for alternative treatment)

**Appendix I**  
**PROGRAM**

## Agenda

- 8:30 AM **Registration**
- 9:00 AM **Welcome**  
Ellen J. MacKenzie, PhD, Dean, Johns Hopkins Bloomberg School of Public Health
- 9:05 AM **Overview**  
Clifford S. Mitchell, MS, MD, MPH, Director, Environmental Health Bureau, Maryland Department of Health
- 9:20 AM **Keynote Address**  
The Honorable Kelly M. Schulz, Secretary, Maryland Department of Labor, Licensing, and Regulation
- 9:50 AM **Panel 1: Defining the Problem — Medical, Legal, Ethical, Fiscal, Regulatory Issues**  
*Moderator: Darrell VanDeusen, Kollman & Saucier, P.A.*
- Panelists  
Terrence J. Artis, Assistant General Counsel, Maryland Commission on Civil Rights  
Joyce Walker-Jones, Esq, U.S. Equal Employment Opportunity Commission  
Lawrence A. Richardson, Jr., Esq., Maryland Chamber of Commerce  
Robert K. White, MA, LCPC, University of Maryland Medical System
- 10:50 AM **Break**
- 11 AM **Panel 2: Emerging Trends and Innovations**  
*Moderator: Marianne Cloeren, MD, MPH, University of Maryland School of Medicine*
- Panelists  
Rebecca L. Jones, RN, MSN, Health Officer, Worcester County  
Linda Carter Batiste, JD, Job Accommodation Network  
Chris Trahan Cain, CIH, The Center for Construction Research and Training  
Wayne J. Creasap II, The Association of Union Constructors
- 12:10 PM **Lunch** (provided)
- 1:15 PM **Breakout Groups (Feinstone Hall, W7023, W2015):** Participants will be assigned to breakout groups. Each group will have a cross-section of disciplines and will address the following questions:
- 1:30 PM What are the most important challenges/barriers to optimal management of opioids in the workplace?
- 2:00 PM What are the most important/significant opportunities or best practices to achieve optimal management of opioids?
- 2:30 PM Rank and order priorities
- 3:00 PM **Breakout Group Reports**
- 3:45 PM **Wrap-Up and Next Steps**
- 4:30 PM **Adjourn**

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