

SUBSTANCE USE

— EDUCATION —

A L A W Y E R ' S G U I D E

UNDERSTANDING SUBSTANCE USE
SIGNS AND ISSUES



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Attorneys, parents, and teachers are strong allies in the fight to assist others battling substance use and addiction issues. The journey of recovery for many individuals often begins during a legal intervention. It is imperative therefore, that lawyers are aware that they are in a strong position to utilize the most powerful weapons in the battle against substance use: awareness, compassion and being informed. It can be difficult to determine what to do if you, a family member, a client, or a student has a problem with drugs or alcohol. These challenges are amplified when they lead your loved one down a path of legal and criminal consequences. The goal of this pamphlet is to arm attorneys to advise parents, teachers, and other juvenile and child welfare advocates with basic tools for identifying, verifying, and then addressing substance use problems. It is important to keep in mind, however, that every situation presents a unique set of circumstances and ultimately requires a unique, customized intervention plan. As lawyers may play a part in developing that plan, they must be aware of treatment professionals, providers, and other resources in addiction recovery. The advice below is simply a starting point.

FOR MORE INFORMATION ON THIS SUBJECT, INCLUDING VIDEOS FROM EXPERTS TRAINED IN THE FIELD, VISIT: WWW.TYLA.ORG.

⚠️ WARNING SIGNS AND INDICATORS

Warning signs that a person is engaging in substance use are not always apparent. Despite societal biases of “who” is affiliated with drug-related crimes, substance use disorder doesn’t have a particular “look”. It crosses racial, socio-economic, and gender barriers. Communication amongst stakeholders is key to determine if there are substance use to corroborate their suspicion. Attorneys should also be on the lookout for these signs (especially if you observe more than a few of the following listed below), as substance use may affect the course of their client’s case:



EMOTIONAL CHANGES:

- Mood changes and emotional instability
- Sudden and significant changes in energy levels
- Resistance to discussions concerning substance use

SOCIAL CHANGES

- A change in the person’s circle of friends
- Uncharacteristic/unexplained isolation from extra-curricular activities
- Decreased interaction in close relationships, such as friends and family
- Uncharacteristic rebellion or failure to adhere to rules
- Drastic changes in performance at school or work

FINANCIAL INDICATORS:

- Unexplained and frequent requests for money
- Extraordinary or lavish purchases they cannot afford
- Realization that money or items of valuable possessions are missing

HEALTH/HYGIENE CHANGES

- Lack of care for appearance; inattention to personal hygiene
- Red, glassy, dry eyes, or avoidance of eye contact
- Rapid changes to weight or appetite
- Issues with coordination and balance
- Unexplained and frequent bruises, sores, or puncture marks
- Disappearance of cold medicine, pain medicine, or prescription medicine

WHAT TO DO IF YOU SUSPECT DRUG OR ALCOHOL USE

STEP ONE:

INVESTIGATE AND TRUST YOUR INSTINCTS



Remember: Ascertaining whether your client is struggling with substance use disorder, and determining both their condition, and whether treatment is needed, will largely inform the best course of action.

The law typically protects them from potential claims when surveilling those under their supervision from claims of invasion of privacy, for example. Caregivers should not feel uncomfortable about using aggressive surveillance techniques to uncover evidence of drug or alcohol use. Parents have both a right and responsibility to figure out what is going on with their children, even if that means going through a child's room or other personal belongings. Search the obvious places, but also recognize that less obvious places, such as desktop computers, speakers, and other large electronics are popular places to hide drugs because they have removable components and compartments. Children who drive often hide drugs in their cars, believing they safely concealed them if they have the only key.

The law in school districts is complicated. Teachers can potentially take action, but should contact the school's administration or refer to school-district policies and procedures before taking action. Failure to do so could result in potential legal against the teacher, school, or school district even if the claim of substance abuse is substantiated. Students do have some privacy rights on school property, but it is not unlimited and an attorney can help you navigate your rights in this space.

Attorneys advising companies on substance abuse in the workplace should consider consulting with their employment counsel on company versus management rights. Substance use can potentially involve claims of disability discrimination. Furthermore, many companies maintain Employee Assistance Programs and provide benefits for employees needing assistance in this space.

STEP TWO:

INVOLVE OTHERS



Remember: There is no benefit to hiding the issue from others; people need many allies to combat substance use.

Attorneys advising their clients should suggest they create a network to effectively share suspicions with family members and close relations important to the person combating substance use. The help of a neutral third party with substance use experience is invaluable. Caregivers should seek the assistance of a trained addiction or other healthcare professionals to discuss strategies for dealing with addiction at home, especially if your child is facing legal consequences arising out of the substance use, such as criminal proceedings or disciplinary action in school or work.

Parents can raise the issue of potential or confirmed substance use at their child's school, but only after recognizing that this may result in significant repercussions for their child. However, working in partnership with school administrators can provide data and insight into the magnitude of the problem, if your child, in fact, does have a substance use problem. If permitted by the school or school district's policies and procedures, teachers should notify parents about their suspicions. After informing supervisors if required by your school district. An attorney can help advise.

Reporting observed substance use at work is also important. Substance use at work can cause a cascading array of issues including safety concerns. Individual employees may also have an obligation to do so to meet their own safety obligations. Management has tools available to help employees with substance use if it is occurring at work.

STEP THREE:

INTRODUCE A CONVERSATION WITH YOUR LOVED ONE

Remember: Your client may not divulge their substance use upfront, but that's because they are scared and may not see you – their attorney – as an ally. At least not yet!



Be prepared that your client will withhold or deny use, deflect to another topic, provide explanations for your suspicions, and even become upset with you in an attempt to get you to back down. If you are nervous about the confrontation, attempt a role-play of the discussion prior to engaging with your client.

During the discussion, it may be tempting to emphasize that there are dire consequences for substance use and that they will be responsible for facing those consequences. But remember: how you approach this initial conversation may affect whether your client feels comfortable telling the truth and being receptive to your counsel. Given that the client-lawyer relationship could last for several months (depending on the case), consider that trust is built over time.

In most circumstances, the truth is found and the substance use cannot be hidden. Furthermore, hiding it can carry more severe consequences such as termination from employment for untruthfulness, expulsion from school, or potentially more dire consequences in court proceedings if caught unaware with these facts. These are good opportunities to consult with expert attorneys on the ramifications of the substance abuse.

Attorneys should also discuss implementing and enforcing rules and boundaries for those with substance abuse issues. During the discussion, you should try to determine whether the use is infrequent or is truly an addiction. While there should be a no-tolerance policy for alcohol and drug use, experts suggest you should differentiate between one-time or infrequent use, on the one hand, and addiction, on the other, to determine the best plan for treatment. It is important to keep an open dialogue so your client discussing substance use. It may improve their case. If your client is unwilling to engage in an open discussion, then you should consider involving a third-party interventionist or consider withdrawing representation.

STEP FOUR:

MAKE A PLAN FOR ADDICTION TREATMENT

Remember: Treatment may be necessary.



Caregivers who have identified an addiction issue should not attempt treatment. Addiction is a chronic brain disease that affects not only your client; it impacts everyone around them and the legal consequences of their case with their attorney.

Incorporating meaningful engagement, such as with family and friends, into a comprehensive treatment plan, therefore, is crucial. These types of engagements reduce relapse and aids in a client's in the healing process. Facilitating counseling and asking your client to attend a support group meeting are just a few examples of support which could have a transformative impact on your client's recovery process.

Another important component of a treatment plan is having a trained addiction professional conduct an assessment of your client. From there, the appropriate level of treatment can be determined, including treatment of psychiatric issues and the use of psychotropic medications, if necessary. Medical issues, wellness, and nutrition should be addressed in the treatment plan. Caregivers should check with insurance providers to determine coverage for treatment programs. Attorneys can help review insurance plans for coverage as well. Additionally, your client should be provided with a choice of sober, peer-based support systems such as Alcoholics Anonymous, Smart Recovery, faith-based programs, or other support groups focused on addiction recovery. This type of treatment can be lifesaving. It can also make a substantial difference in their court proceedings for things involving the substance use, such as custody, juvenile criminal cases, and more.

If your client is particularly resistant to your efforts to confront drug use where there is evidence of an addiction, your client may require a higher level of care. This can include inpatient or outpatient addiction treatment programs with intensive individual or group therapy components. . In more severe cases of Substance Use Disorder, it's not uncommon for clients to be extremely resistant to accepting help. In these instances, attorneys and caregivers can work together to develop plans that escalate the level of care, as needed. When possible, explain interventions clearly to the client so they understand what help you are trying to provide and what will happen if they continue to refuse it. When clients are extremely resistant to support, being arrested or going to jail may be necessary interventions.

STEP FIVE:

FOLLOW THROUGH AND AVOID ENABLING BEHAVIOR



Remember: Be cognizant of enabling regressions in your client's recovery.

“Enabling” refers to any behavior by a caregiver that reinforces or supports a loved one’s ongoing substance use. Often time, enabling is an attempt to help, but is detrimental to the process of recovery. Examples of enabling includes when a parent: (1) gives a child money knowing that your child might use it to purchase drugs or alcohol, (2) excuses or blames others for their use drugs or alcohol, (3) allows them to miss school and/or work due to drug use, or (4) fails to hold your client to their responsibilities.

Caregivers who discover substance use will experience many emotions, including shock, disappointment, depression, and anger. While natural, it is irrational to assign blame for their choice to use drugs or alcohol. It’s imperative that caregivers seek their own counseling during their loved one’s recovery journey.

In representing individuals who are on a journey to overcome addiction, it is imperative that attorneys employ a responsible and restorative practice. This is a crucial time for clients, and it is important that lawyers are both skillful at guiding clients regarding the law, and sensitive in learning about their client’s relationship with substances (learning about new substance use treatment programs is just as important as reading new case law). By employing this practice style, you will provide an invaluable service in obtaining the best possible results – both legal and non-legal – for your client.

FOR EVERYONE:

The Addiction Hotline:

(855) YES-REHAB / (855) 937-7342

The Texas Young Lawyers Association's BSAFE Web Page:

<http://tyla.org/resource/lawyers-guide-to-substance-use>

Alpha Behavioral Health:

<http://alpha180.com>

The Substance Abuse and Mental Health Services Administration (SAMHSA):

<https://samhsa.gov>

SAMHSA's National Registry of Evidence-based Programs and Practices:

<https://www.samhsa.gov/resource-search/ebp>

Alcoholics Anonymous:

<http://aa.org>

Narcotics Anonymous:

<http://na.org>

FOR LAWYERS:

Texas Lawyers' Assistance Program

<http://tlaphelps.org>

The Texas Young Lawyers Association's Attorney Wellness Website:

<http://texaslawyercare.tyla.org/>

FOR PARENTS, TEENS, AND CHILDREN:

The Partnership for a Drugfree America:

<https://drugfree.org/wp-content/uploads/2017/02/MAP-Parent-Talk-Kit.pdf>

The National Institute on Drug Abuse Parent Website:

<https://nida.nih.gov/research-topics/parents-educators>