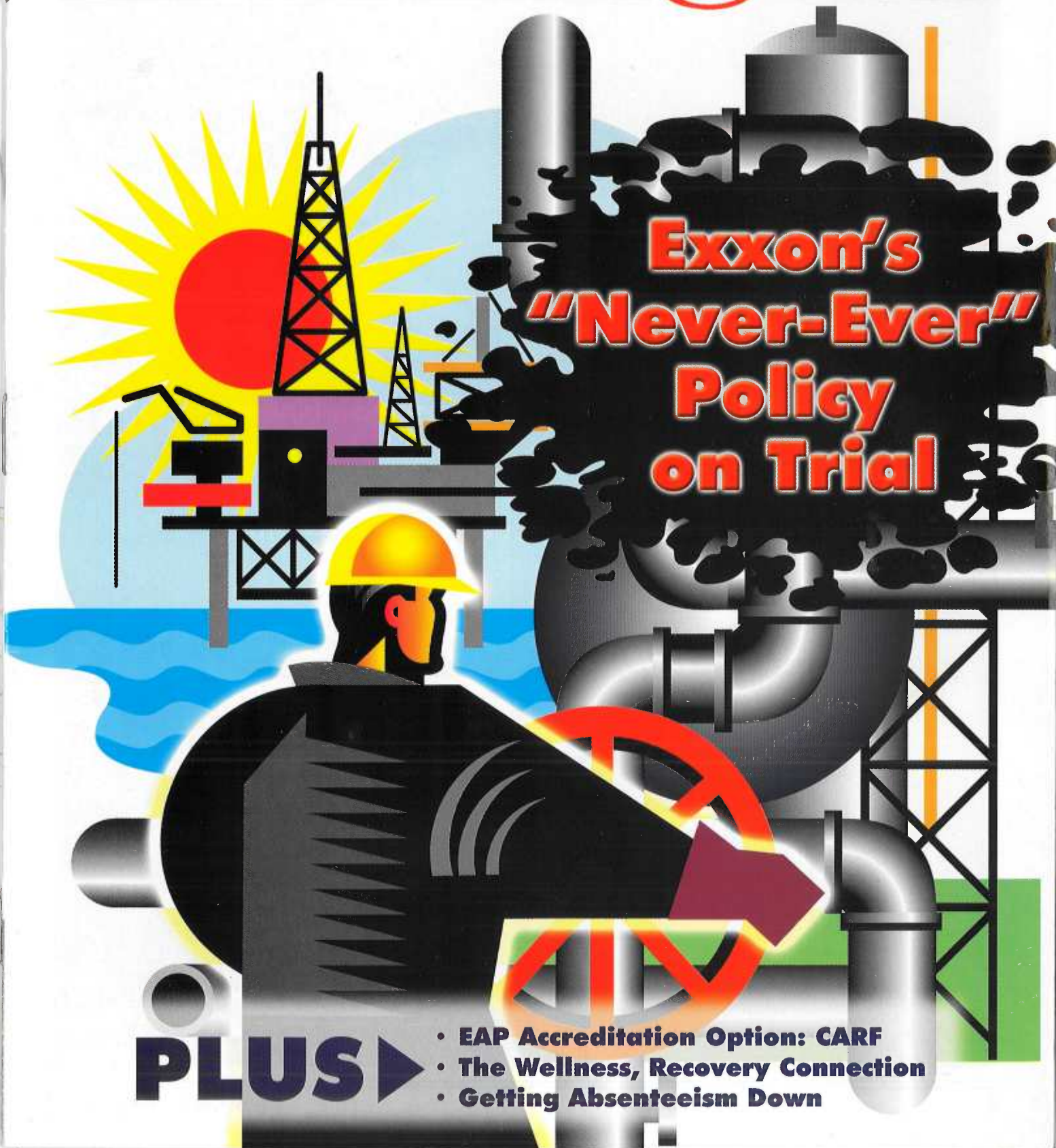


The Voice of Employee Assistance Programs

Winter 2000

EAP *Digest*TM



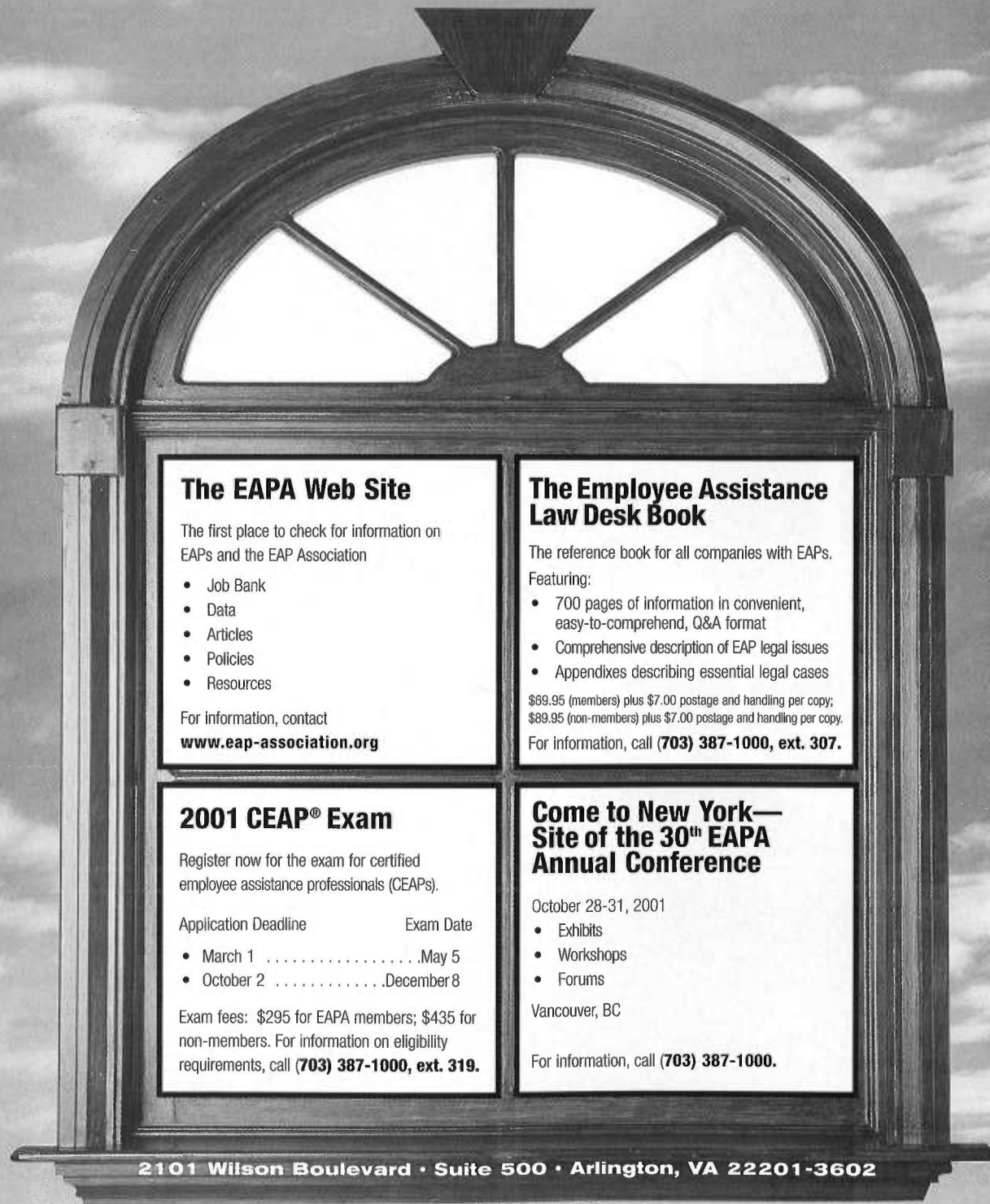
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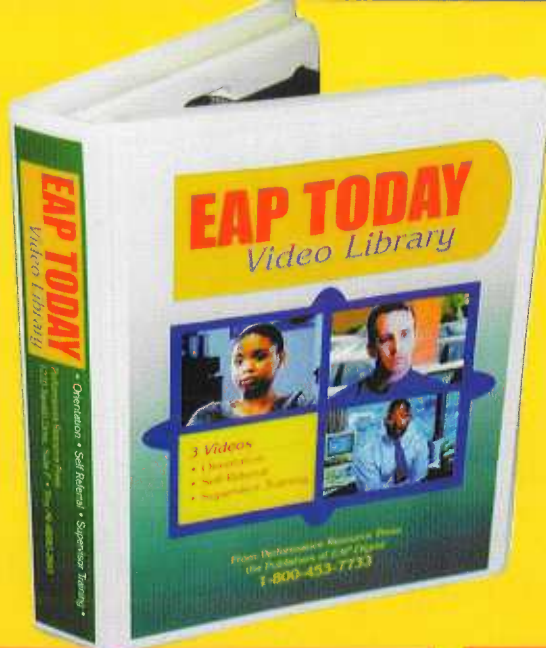
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A recent ruling in *EEOC v. Exxon* could determine the kinds of jobs recovering people can hold and have a major impact on the ways EAPs do their jobs.

By Brent Chartier

PLUS...

32 Substance Abuse Benefits At A Glance

How does substance abuse coverage at your company compare to the coverage provided by some of the nation's largest employers? Compare your plans to that of eight major employers, including AT&T, Eastman Kodak, General Motors and IBM.

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FEATURES

15 Accreditation Option: CARF . . . the Rehabilitation Accreditation Commission

Since it began accrediting EAPs in 1998, the Tucson, Ariz.-based CARF has accredited some 20 EAPs. The national director of CARF's behavioral health division spoke with *EAP Digest* about the CARF accreditation option.

By Nikki K. Migas, MPA

28 The Wellness, Recovery Connection

A study of 50 individuals who had received residential treatment for addiction shows that those with the healthiest lifestyles before going into treatment had the best chance at recovery one year after treatment. The study has implications for EAPs who want to ensure client success.

By John Newport, PhD, DrPH, CEAP

38 Getting Absenteeism Down

in Close Up

While the number of unscheduled absences is down for the second straight year, the cost of missed days rose to an average of \$511 per employee per year. Want to prove the value of EAP services to your company or your client companies? Prove that your services have lower absentee rates.

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George T. Watkins

Editor
Brent Chartier

Associate Editor
Susan Hipsley

Graphic Designer
Barbara Kubert

Administration: George T. Watkins, President; Lynn Lonsway, Marketing Director; Harmonie Ponder, Operations Manager.

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IN HOUSE

Where Have All the Heroes Gone?

Remember the heroes in the old Westerns? They were always square-jawed and forthright, quick to make things right, and they always wore a white hat, except in the presence of a lady.

Remember the villains? They always looked cruel, crafty and corrupt. They were unshaven and smoked little cigars. Some had huge mustaches, and the black hats they wore, as I recall, never came off in the presence of anyone.

The ethical ideals we learned as children were dramatized in Hollywood's "B" movies. We learned that virtue triumphed, that the good guys always won, that heroes and heroines were honest, integrous and trustworthy.

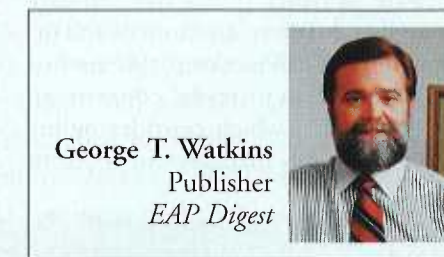
But real-life heroes lately are in short supply.

We're coming to the close of a decidedly unheroic decade. Political figures have lost the credibility they once had and cynical voters have stopped listening to their glib rhetoric and empty promises. Far too many corporate executives have embraced a balance-sheet morality that has encouraged bribery, price fixing and unethical attempts to influence government. Even the quintessential American hero, the professional athlete, has become little more than a muscled mercenary who defies contracts, jumps teams and decries as inadequate an annual salary that many people could not earn in two lifetimes.

As industry has carelessly manufactured but carefully promoted ques-

tionable and even dangerous products, I sense a kind of despair among Americans. Too many people see themselves as victims of forces they cannot control.

Trouble is, these large, faceless institutional forces once were heroes. Having fallen from grace in the public's eye, they have become the new villains.



George T. Watkins
Publisher
EAP Digest

As an example, the business community has been attacked for both real and imagined sins. Such legislative remedies as the Americans with Disabilities Act (ADA) are Congress's attempt to mandate anti-discrimination in the workplace. The ADA's harsh penalties may lead to complaints from business, but at its core, the ADA is a hero, defending the rights of countless millions of disabled Americans.

Now comes the latest ruling in *EEOC v. Exxon*, the implications of which are described in detail in our cover story. There are no heroes in this story. Not Exxon, with its blanket exclusionary practice, not the ADA, with its "business necessity" window of protection, not the EEOC, which has doggedly pursued this case going on six years without success.

I doubt that most companies will

follow Exxon's lead and exclude recovering people from holding safety-sensitive positions. Most will use common sense. Most will realize that rehabilitation is the preferred option to discrimination. Most will continue to turn to their EAP for guidance in matters of behavioral health and employee alcohol and other drug problems in the workplace.

What I fear are the companies who will view Exxon's solution to employee substance abuse not as an extreme but as a good business decision. Attorneys and number crunchers don't understand never-ever as an EAP professional might understand it. In these companies, short-term gains are always put before long-range profits.

There's another matter regarding this story as it relates to heroes. With the *EEOC v. Exxon* case, many alcohol and drug referrals to EAPs will dry up and treatment will be driven underground. The case, in effect, may throw the addiction treatment field back 30 years, reversing the work of all the heroes of our field and making our need for heroes today more acute.

In my view, there should be no opposition to the spirit of the ADA. What is idealistic is truly practical. What is idealistic is truly realistic. As individual heroes and EAP professionals, our goal should be to make the real and ideal synonymous.

George T. Watkins
Publisher

MARKETPLACE

San Rafael, Calif.-based **CareCounsel** will provide its health-plan assistance services to the 10,000 employees and dependents of the County of Santa Barbara. Care-Counsel helps employees navigate the complex healthcare environment through consumer education, advocacy and access to expert healthcare resources and information. (Anki Gelb, 415-472-2366, ext. 201)

Magellan Behavioral Health (MBH) has sold several group practice operations and schools for behaviorally challenged children located in Arizona, California and Texas. The units were sold to an MBH management team overseeing the operations. **Group Practice Affiliates, LLC** (GPA), the acquiring company, plans to open several more clinic sites and a new school within the coming year. In October, MBH announced plans to exit the specialty health operations, divest or close its psychiatric physician practice management businesses and sell off a number of smaller assets. (Timothy Schultz, GPA

president, 770-989-2661)

The **Health Enhancement Research Organization** (HERO) has moved to 3500 Blue Lake Dr., Suite 270, Birmingham, AL 35243. HERO's new phone number is 205-969-2680 and fax is 205-969-2142. HERO is a member organization of corporations and consulting groups concerned with the advancement of health promotion and its research.

Two subsidiaries of the Peabody, Mass.-based **Pioneer Behavioral Health** (PBH) announced developments. The name of PBH's online site has been changed to **WellPlace.com**. WellPlace.com recently acquired the Palo Alto, Calif.-based **TherapyRightNow** (TRN). TRN's proprietary software provides interactive self-care through evaluations, assessments and interventions. WellPlace.com also reached agreements to provide content to **WellMed, Inc.**, which provides online consumer health management tools, to

perform network develop and automation data for **Horizon Behavioral Services**. Also, PBH's **Harmony Healthcare** subsidiary has reached agreements to provide behavioral healthcare services to employees of the Aladdin Hotel and Casino and the Horseshoe Hotel and Casino, both of Las Vegas, Nev. Harmony also will begin providing EAP services for employees of the Stratosphere Hotel and Casino, also of Las Vegas. (Bruce Shear, PBH, 978-536-2777)

The General Services Administration (GSA) has added **Ceridian LifeWorks Services** to its federal supply schedule. The move allows federal purchasing agents to procure Ceridian's services more easily. (Amy Gage, 952-853-4147)

Send items to Marketplace, *EAP Digest*, 1270 Rankin Dr., Suite F, Troy, MI 48083-2843 or fax to 248-588-6633. ■

TRANSITIONS

The Columbia, Md.-based **Magellan Health Services** has announced that **Daniel Messina**, formerly chief financial officer and head of business strategy at Aetna U.S. Healthcare, will serve as Magellan's executive vice president and chief operating officer. Messina will oversee all business operations of the company as well as the corporate financial, legal, human resources and corporate communications areas. Magellan is the country's leading specialty managed care company.

Dr. Robert Kramer has been named CEO of the Danvers, Mass.-based **AdvantaCare**. Dr. Kramer has more than 20 years of experience in the behavioral healthcare field with such companies as Aetna and Human Affairs International. He also led development of **HorizOnline**, an interactive EAP and work/life program offered through **Horizon Behavioral Services**. **AdvantaCare** provides on-line, phone and paper-to-pencil healthcare assessments and disease management initiatives.

Michael Wooley has been named president of the Brighton, Mich.-based **Brighton Hospital**. He had served as executive vice president and CEO of the **St. John Medical Group**. Founded in 1950, **Brighton Hospital** provides a range of addiction treatment services.

OPEN MINDS, the Gettysburg, Pa., publisher and behavioral healthcare management consulting firm, has appointed three new members to its consulting team. **Bernard Lewandowski**, MBA, joins the company as a specialist in strategic planning and financial management. **Jan Smith**, MA, CAC, LSW, will consult on issues related to program development, administration and organizational turnaround. And **Christine L. Williams** will specialize in project management for the behavioral health and social services fields.

The Lewisville, Texas-based **Horizon Behavioral Services** has announced four key appointments. **Vincent Love** has been named vice president of Health Plan Sales, responsible for the sale of Horizon's managed behavioral healthcare products nationwide. **Jean Brogan** has been named regional vice president, sales, for Ohio, W. Virginia, New Jersey, New York and Pennsylvania. **John Parker** has been named regional vice president, sales, for Illinois, Indiana, Michigan, Kentucky, Wisconsin, Minnesota, Iowa, Missouri, North Dakota and South Dakota. Also, **Paulette Wellisch** has been named director of marketing. (Paulette Wellisch, 972-420-8323)

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NOTABLY

A study in a recent *Archives of Family Medicine* (Sept./Oct. 2000) found that nearly half of all **patients in a primary care setting** had symptoms of "harmful or hazardous" alcohol use while 18% met the *DSM-IV* criteria for alcohol abuse or dependence. The study, conducted by Michigan State University researcher Dr. Michael Liepman, involved 300 adult patients randomly treated for unrelated conditions in a hospital-based outpatient primary care clinic. Based on the findings, Liepman suggests "alcohol use disorders represent more of a spectrum of illness than previously recognized."... **What keeps men and women in treatment** for alcohol or other drug addiction problems? According to Kaiser Permanente researchers, the threat of job loss, being over 40 and having a goal of abstinence (versus moderation) had the greatest influence in determining whether a man would remain in outpatient care for at least a year. For women, those with higher incomes or who were unemployed, who were married and living with their spouse and who belonged to an ethnic group other than African American had the highest one-year retention rates in outpatient care. The study involved 317 women and 599 men and appeared in *Alcoholism: Clinical and Experimental Research* (Oct. 2000)... *Kiplinger's Magazine* has named www.familycareamerica.com **one of the leading Internet sites for caregiving information**. The site offers assistance to help caregivers learn the process of caregiving, manage their fears and concerns and obtain resources for help with all aspects of

caregiving... **Ireland now has the largest chapter** of the Arlington, Va.-based **Employee Assistance Professionals Association (EAPA)** outside the US. If traveling to that country, connect with the chapter president, Maurice Quinlan, director of the Waterford-based **EAP Institute**, at 353 51 855733 (international call) or at eapinstitute@eircom.net... There's more evidence of **acupuncture's effectiveness in treating addiction**. In a Yale School of Medicine study, 82 cocaine-dependent individuals who were also on methadone for heroin addiction were assigned to one of three groups. Two groups received acupuncture at points in the ear, one group in points known to be effective in treating addiction, the other in points not considered effective (the control group). The third group received a relaxation video, but no acupuncture. At the end of the study, 53.8% of the acupuncture group remained cocaine-free compared to 23.5% of the control group and 9.1% of the video-only group. (*Alcoholism and Drug Abuse Weekly*, 8/21/00)... **Rosacea**, a medical condition marked by redness of the cheeks, nose, chin or forehead, appears to have a job performance link. A survey of 700 rosacea patients found that 33% of these patients had cancelled or postponed business meetings due to their appearance; 28% had missed work due to the condition; and 28% claimed it may have influenced their promotability. More than 70% of survey respondents said that effective treatment had improved their work lives. For information, visit www.rosacea.org or call 1-888-NO-BLUSH. ■

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DOT Releases Changes to Testing Procedures

For the first time since the Drug-Free Workplace Act of 1988, the US Department of Transportation has introduced changes to its drug and alcohol testing program regulations. The goal of the changes is to "prevent cheating on drug and alcohol testing," according to US Transportation Secretary Rodney Slater. The regulations, which cover some 8.3 million transportation workers, were made available for comment last December and were to become final in December 2000 with an effective date announced at that time. The final regulations were not available at press time, however, the changes proposed in December 1999 would require training for individuals involved in testing and would require testing all specimens for adulterants. For the complete rules, go to www.dot.gov and follow the links to the new regs. The next issue of *EAP Digest* will feature information on the regs as they apply to EAPs.

'Moderation' Update

There have been several developments regarding individuals cited in the "Matters of Moderation" article that ran in the last *EAP Digest*. Audrey Kishline, who founded the Moderation Management (MM) movement with the publication of her book, *Moderate Drinking: The Moderation Management Guide for People Who Want to Reduce Their Drinking*, was sentenced in July to four-and-a-half years in prison after pleading guilty to vehicular homicide. In March, Kishline drove the wrong way on Interstate 90 in Washington and killed a father and his daughter. Kishline's BAC at the time of the crash was 0.26. In other news, the former medical director of Manhattan's Smithers Addiction Treatment and Research Center, the one who announced that Smithers had changed its treatment approach from an abstinence-only to a moderation-man-

agement format and who resigned following that announcement, said in a July 26 *New York Times* article that the change in treatment approaches was no secret to Smithers' officials. "This idea that I changed Smithers into a moderation-management clinic without telling [center officials] is absurd." In the same *Times* article, he admitted to having introduced MM principles to clients who were reluctant to embrace total abstinence. "Better [clients] should come in and talk to me and still drink than not come in at all," he said. Finally, the Bloomington, Ill.-based Chestnut Health Systems' William White, one of those interviewed for the "Moderation" article, co-signed with 33 other addiction treatment professionals a letter urging the field to move away from the Kishline and Smithers' events and consider MM as a viable option for some individuals with alcohol problems. "Recovery from serious alcohol problems is a difficult goal, and there are different paths to it," reads the letter. "We believe that the approach represented by Alcoholics Anonymous and that represented by Moderation Management are both needed." The letter was widely circulated on the Internet. The complete text is available at www.about.com. Search "Audrey Kishline," then "A Call for Unity."

Association Unveils Drug and Alcohol Testing Program Accreditation

The Alexandria, Va.-based Drug and Alcohol Testing Industry Association (DATIA) has unveiled the industry's first national accreditation for drug and alcohol testing programs. The accreditation is recommended for companies with an in-house, consortia or third-party testing program. To become accredited, a company principal or owner must first attend a one-day course, "Drug and Alcohol Testing Program Management," offered by DATIA in

cities across the country. The course fee is \$289 for DATIA members, \$349 for nonmembers. Those who complete the course must then score 90% or better on a 60-question exam that covers course materials. The cost of the exam is included in the course fee. Companies with 10 or fewer employees are required to have one principal/owner meet these requirements. Companies with 11+ employees must have at least two principals/owners meet these requirements. For companies with multiple locations, at least one principal/owner must meet these requirements for every three company locations within a 100-mile radius. Additionally, adherence to an industry Code of Conduct and insurance liability of \$500,000 are required before accreditation is granted. There is no grandfather clause that would allow automatic accreditation for current testing program managers or administrators. For locations of the "Drug and Alcohol Testing Program Management" course and for more information on the accreditation, visit www.datia.org or write DATIA, 1600 Duke St., Suite 200, Alexandria, VA 22314.

Depression: One Company's Experience

Cutting back on mental health expenditures may only increase absenteeism and employee healthcare costs. That's one conclusion to be drawn from a healthcare claims analysis of a major US employer that appeared in the *American Journal of Psychiatry* (August 2000). The analysis considered five disorders: depression, diabetes, heart disease, hypertension and back problems. The analysis was conducted in 1995, the last year of the employer's three-year effort to trim mental health expenditures. During the three years, however, non-mental health medical costs for individuals with depression amounted to \$3,032, more than three times the \$925 cost for employees without any of the

five conditions. Among other findings: • Annual sick days taken by employees with depressive illness averaged 9.5 days compared to 7.5 days for heart disease, and 7.2 days for back problems and diabetes. • Depressed employees under 40 took 3.5 more sick days than depressed employees over 40, perhaps because younger employees are less loyal and have more responsibilities at home, suggest the authors. • Per employee health and disability costs for depression were \$5,415, compared to \$5,523 for heart disease, \$5,472 for diabetes and \$4,388 for back problems. The health and employee data files of 15,153 employees were used in the analysis.

On Drugs and Dot-coms

Speed is a business necessity for those working in the fast-paced world of e-commerce. But "speed" means different things to different people. "I see [computer] programmers who start their day stirring meth into their coffee," quoted one clinician who claims to have treated thousands of California's high-tech workers for addiction. Several years ago, *EAP Digest* quoted a Silicon Valley HR professional who said smoking marijuana was a business necessity for programmers wanting to be their creative best. But with the Internet explosion in recent years has come a competitive climate of high pay, long hours and great stress. It's a constellation of factors that has many high-tech workers resorting to drug use. "It's speed to work on, coke to play on and heroin to come down on," says Dr. Alex Stalcup, medical director of a treatment center in Concord, Calif. "Drugs are the dirty little secret of the dot-com world," he says. But a Los Angeles *Times* survey shows that most technology companies in Northern California don't drug-test for fear they'd lose valuable employees. Narcotics agents in one California county report cocaine seizures were up 173% and methamphetamine seizures were up 678% last year over 1995 levels. (Los Angeles *Times*, Oct. 4, 2000)

Retention Concerns Worry Majority of Employers

A Society for Human Resource Management (SHRM) survey shows that employee retention is a worrisome problem for most HR professionals. Fully 84% of the 473 SHRM members who responded to the 2000 survey said they were concerned about the number of voluntary resignations among employees, a better than 13% jump from the number who responded similarly in 1997. Also, it appears that the larger the employer, the bigger the problem. The average voluntary resignation rate among all organizations that responded to the survey was 17%. At companies with 1,000 or more employees, that figure was 21%. For the largest employers (5,000+ employees), the rate was 26%. Respondents also were asked to rate the effectiveness of several approaches used to keep employees on the job. Health care benefits received the highest rating followed by competitive salaries, competitive salary increases and competitive vacation and holiday benefits. Concierge services, non-compete agreements and telecommuting were rated the least effective retention tools. SHRM members may access the complete survey for free at www.shrm.org/surveys/results. Nonmembers can order the survey for \$39.95 by calling 1-800-444-5006.

Glimpse into the Future Workforce

Straddled by a high number of employees with personal problems that affect job performance? Wait a few years. It may get worse. Every other year, the US Centers for Disease Control and Prevention (CDC) surveys teens in the 9th through 12th grades to determine their risk behaviors — teens who are, of course, tomorrow's workforce. The first survey was conducted in 1991. The 1999 survey found that the number of teens who use cocaine at least once a month increased 135% in 1999 over 1991 levels and that the number of students who had ever used marijuana increased 51% and who had ever attempted suicide increased 14% over the same

period. The number of current smokers also had increased 32% over the study period. For the good news, risky sexual behavior was down, as were the number of students involved in a physical fight, and better than one in five students wears a seat belt. Binge drinking, however, remained virtually unchanged; one-in-three students polled had five or more drinks in a row at least once in the month before the survey was conducted. Visit www.cdc.gov for complete results of the CDC's "Youth Risk Behavior Survey."

"I hurt, therefore I am"

Couple of blank pages in your referral directory? You might want to fill them with the names and numbers of local philosophers. A recent issue of the newsletter *Practice Strategies* (1-919-553-0637) reported that the American Philosophical Practitioners Association (APPA) is petitioning insurers for reimbursement of their own brand of counseling. APPA's 60 members also are petitioning state legislators for counseling licenses and developing college curricula designed around the precept that the problems of everyday living can be solved through philosophy. From a marketing perspective, the phenomenon makes sense. Consumer interest in alternative medicines and treatments is growing. Also, philosophy could use a face-lift. Say the word "philosopher" and most people have an image of robed men walking and talking among ruins. How better to contemporize the field of philosophy than to repackage the "wisdom of the ages" and sell it in a modern-day counseling setting? A recent *Utne Reader* (1-612-338-5040) profiled one such philosopher who facilitates town-hall-meeting style "Socrates Cafes" and after-school "Philosophers' Clubs" for students, all at no charge. This philosopher chose his calling when, during a cross-country trek, he noticed a good many people overcome by "a pervasive sense of self-absorption, intolerance, fatalism and helplessness." He saw philosophy as the solution and has been hosting the cafes ever since. ■

Dual Disorders

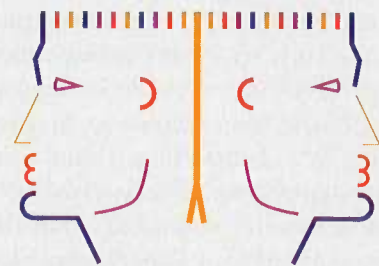
Research shows who's at risk.

Count a greater attention to "dual disorders" among the treatment community's crowning achievements of the '90s. Both market conditions and improved research methods led more treatment providers to develop specialized tracks for individuals with co-occurring substance abuse and mental health disorders.

As evidence, consider that both the National Association of State Alcohol and Drug Abuse Directors (NASADAD) and the National Association of State Mental Health Program Directors (NASMHPD) established a joint task force in 1998 to explore how best to direct federal and state funds to treat the dually-diagnosed. *Alcoholism & Drug Abuse Weekly* reports that the two associations held joint annual meetings this year to coordinate and discuss progress toward this goal.

To demonstrate the importance of

appropriate treatment for individuals with dual disorders, Daniel K. Hall-Flavin, MD, medical director of addiction psychiatry services at the Mayo



Clinic, Rochester, Minn., and National Council on Alcoholism and Drug Dependence (NCADD) medical/scientific director, shared the following statistics in a recent issue of *NCADD Amethyst*.

Dual addictions

- Among individuals with a history of alcohol disorder, between 20-40%

will have a co-existing drug abuse/dependence problem at some point in their life.

- Among individuals with a history of drug disorder, there is a 50% chance that they will have either alcoholism or alcohol dependence at some point in life.

Dual diagnosis

- Individuals with psychiatric disorders are two times more likely to develop an alcohol disorder and four times more likely to have a drug disorder in their lifetime.
- Among individuals with an alcohol disorder, one-third will have at least one other psychiatric disorder in their lifetime.
- Among individuals with a drug-abuse disorder, 53% will have at least one other psychiatric disorder in their lifetime.

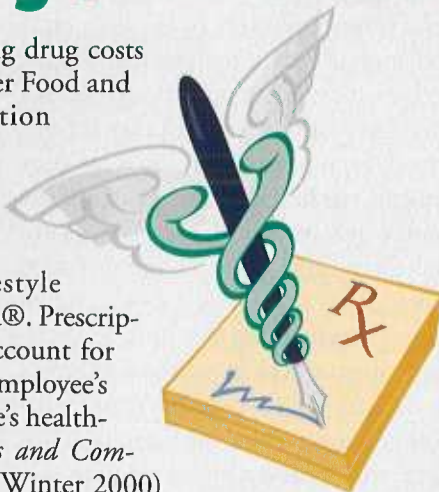
Stopping the Prescription Drug Price Climb

Prescription drug costs are climbing at a 15-20% annual rate, and with a host of expensive biotech drugs now in clinical trials, the increases are expected to continue. The situation is leading to a new wave of pharmacy benefit management (PBM) efforts targeting those who write prescriptions, those who fill them and those who take them.

Walgreens Health Initiatives (WHI), a division of the world's largest drug chain, uses Retrospective Drug Utilization Review (RDUR) to analyze medical and prescription claims data for efficiencies and problem areas, such as potential drug/drug or drug/disease interactions. WHI also keeps pharmacists abreast of developments in formularies, possible over/underutilized prescriptions and other cost management practices, such as generic equivalents. For patients, WHI tracks patients with chronic diseases and conditions that consume so much of the prescription drug price tag, targeting them with education and disease management practices.

Experts say rising drug costs are a result of shorter Food and Drug Administration approval times, a growing pipeline of new drugs, and the emergence of lifestyle drugs such as Viagra®. Prescription medications account for 15% of an active employee's and 40% of a retiree's health-care costs. (*Benefits and Compensation Solutions*, Winter 2000)

NOTE: Psychiatric drugs account for an average of 10¢ of every dollar of prescription drug costs covered by pharmacy benefit plans. (*Drug Cost Management Report*)



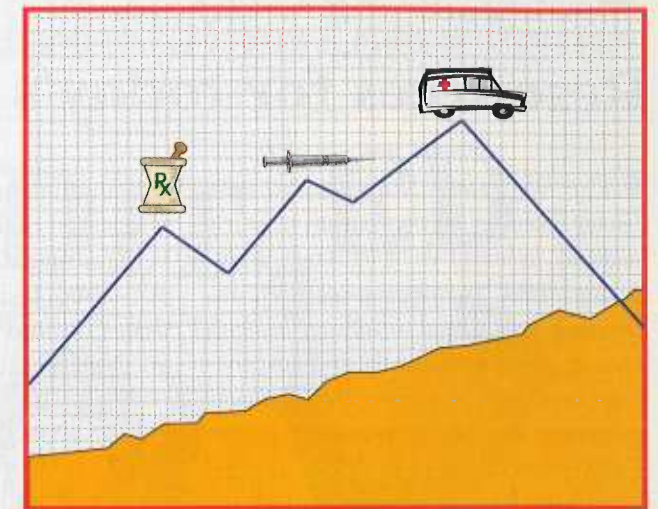
Disease Management Programs on the Rise

To curb rising healthcare costs and ensure that chronically ill employees get the right care, a growing number of employers are turning to a care-management approach relatively unheard of only five years ago — disease management. That's one finding from an Aon Consulting survey of 265 employers, many of them from the ranks of the *Fortune 1000* or Aon's own clients.

"Employers have discovered untapped savings potential in managing chronic illness," says Joe Marlowe, a senior vice president at Aon. His company's study found that 26% of employers surveyed have immediate plans to offer disease management services to employees.

Disease management programs use medical and prescription drug data to identify individuals at risk for serious

health problems, then intervene to avoid or minimize these problems. Many such programs target the more common chronic illnesses such as asthma, heart disease, diabetes and low back pain. The thinking behind such programs is that by helping an individual manage his/her chronic disease, more costly, acute situations are avoided. The programs are, however, voluntary and follow strict guidelines for confidentiality — only the disease management vendor knows the diagnosis of participants, not the plan sponsor. (For information as to how a disease management product line can be folded



into an EAP, see *EAP Digest*, July/August 1997).

Most disease management programs classify patients into low-, medium- and high-risk categories, then use interventions ranging from home visits to telephone contact to monitor symptoms of illness.

Aon's research found that 37% of employers considering a disease management approach were self-insured and 38% offered either a managed care or traditional health plan. Among other findings:

- 28% of employers had received complaints from chronically ill employees about problems choosing or communicating with their doctors.
- 53% had analyzed their healthplan enrollees to determine the cost benefits of a disease management program.
- 68% say the Internet will make it easier for them to implement a disease management program.

Aon research also suggests that chronic illnesses can consume between 30% and 40% of an employer's total healthcare costs, making such programs attractive to employers seeking relief from double-digit healthcare cost increases.

For more information on Aon's research, contact Dave Van De Walle at 312-701-1675.

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■ Need a behavioral health specialist for a short-term project or full-time position but don't have time to place want ads or do interviews? Turn to the Cincinnati-based PsychTemps. The company operates two divisions: PsychTemps places licensed mental health professionals in temporary, temp-to-hire and permanent jobs in 16 states; PsychPros assigns mental health trainers and consultants for such projects as organizational development, accreditation and licensure preparation. For information, phone 1-513-651-9500.

■ Guilford Publications' 2001 catalog is out. It contains 84 pages of books, videos and periodicals on addiction

and mental health issues, including assessment tools and directories of self-help resources. For a copy, call 1-800-365-7006, visit www.guilford.com or write Guilford Publications, 72 Spring St., New York, NY 10012.

■ Hazelden, one of the most recognized names in the addiction treatment and publishing industry, offers nearly 100 online courses for helping professionals. Course fees average \$40 each, take about three hours to complete and satisfy certification requirements in many states. Courses are available through the Distance Learning Center for Addiction Studies (DLCAS), a Hazelden subsidiary. To view courses, go to www.DLCAS.com. Once on the home page, click on the state listing information to learn whether your state certification board accepts distance learning credits.

■ The 45-page *Social Workers and Managed Care Contracts*, written by National Association of Social Workers (NASW) attorneys, offers suggestions for avoiding legal and ethical pitfalls when contracting with managed care companies. Copies are \$5 from NASW Legal Defense Service, 750 First St. NE, Ste. 750, Washington, DC 20002.

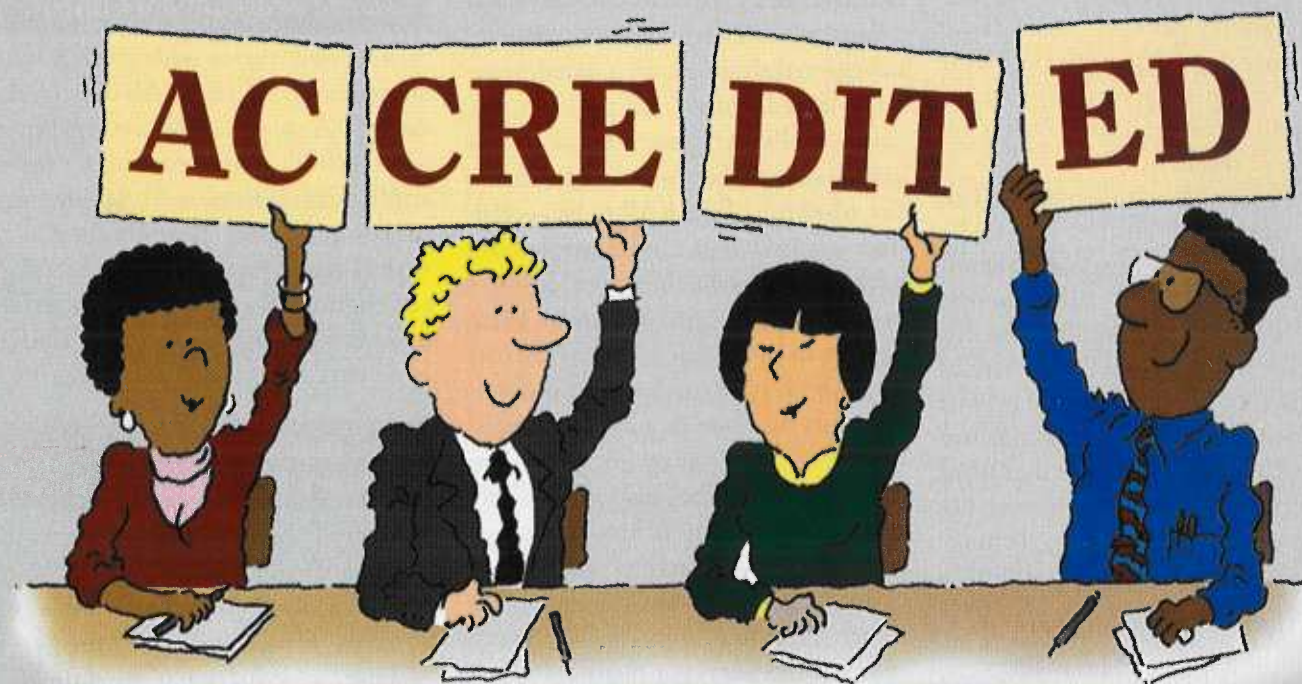
■ www.alcoholmd.com offers an online version of the *Journal of Psychoactive Drugs*, The International Addictions Infoline and information on treatment approaches, assessment tools, multimedia presentations that can be downloaded for personal use, and links to more than 100 other medical journals. The site's editor-in-

chief, David Smith, MD, is founder, president and medical director of the San Francisco-based Haight Ashbury Free Clinics and a past president of the American Society of Addiction Medicine.

■ A softcover version of the newly released *Taking Care After 50 — A Self-Care Guide for Seniors* (Three Rivers Press/Crown Publishers) is available in bulk from the Minneapolis-based Optum. Harvey Jay Cohen, MD, a Duke University professor of medicine and president of the Gerontological Society of America, authored the book, which may be helpful for EAP professionals working with older populations or as part of a pre-retirement wellness program. For information on ordering, call Optum at 888-262-4614.

■ The Pan American Health Organization has published two books that may be useful for EAP professionals who respond to natural disasters such as hurricanes, earthquakes or floods. *Mental Health Services in Disasters: Manual for Humanitarian Workers* is written in a simple, easy-to-read format. An accompanying *Instructor's Guide* provides material for training disaster relief personnel. Both books can be viewed on-line at www.paho.org/disasters. Hard copies can be requested by writing disaster-publishing@paho.org or PAHO, Pan American Sanitary Bureau, Regional Office of the World Health Organization, 525 Twenty-Third St. NW, Washington, DC 20037-2895. ■

Accreditation Option: CARF...the Rehabilitation Accreditation Commission



by Nikki K. Migas, MPA

The last issue of *EAP Digest* highlighted the efforts of the Employee Assistance Society of North America and the Council on Accreditation to establish a joint EASNA/COA accreditation for EAPs.

But another accreditation option has been available to the field since 1998. Some 20 EAPs are currently accredited through the Tucson, Ariz.-based CARF...the Rehabilitation Accreditation Commission. Nikki K. Migas, MPA, national director of the behavioral health division, spoke with *EAP Digest* about the CARF accreditation option.

What exactly is "accreditation"?

Accreditation is a process whereby an independent, third party evaluates an EAP based on generally accepted

standards of practice. Having an accreditation lets everyone know that yours is a quality program driven by



Nikki K. Migas, MPA, national director, behavioral health division, CARF

these standards. The fact that the accreditation is conducted by an independent organization external to the field and immune from field or professional politics ensures the credibility of the process.

An accreditation must be valid and reliable across all types of EAP models, whether internal or external, joint internal-external, member assistance or managed behavioral healthcare or-

ganization (MBHO) based. Accreditation also must have some flexibility to encourage providers to come up with their own best methods for meeting accepted standards of quality. CARF's accreditation process meets these criteria.

How would an EAP go about becoming accredited?

An EAP that seeks accreditation must first purchase the *CARF Behavioral Health Standards Manual* for the year in which the accreditation site survey will take place. Manuals are issued each January and apply to all surveys conducted from July 1 of that year through June 30 of the following year.

When an EAP believes that it is in substantial conformance with the standards, it should complete an

Application for Accreditation and submit this at least three months prior to the time it wants to arrange a survey. However, an EAP needs to be using the CARF standards for a minimum of six months prior to the survey. The survey generally takes about two to three days, depending upon the size and complexity of the program, and is conducted at a time that is acceptable to the EAP.

Each survey concludes with an exit conference that identifies the EAP's strengths as well as areas of nonconformance. A survey report is then sent about six to eight weeks after the on-site survey. If the EAP is in substantial conformance with the standards, it receives a three-year accreditation. EAPs with significant areas that need improvement receive a one-year accreditation and have 90 days from receipt of the survey report to submit a Quality Improvement Plan. This plan should outline how the program intends to meet the standards of which it is not in conformance.

BUSINESS HEALTH SERVICES

Employee Assistance Program

BHS is a national EAP providing a full spectrum of services to workplaces in both the public and private sector. We are currently seeking Licensed Mental Health Professionals in all geographic areas (specifically those listed below) to join our National Affiliate Network. Potential affiliates must meet the following criteria. Current license to practice independently in the state where services are rendered, professional liability insurance of \$1 million/\$3 million, working in a clinical practice for a minimum of 20 hours per week, experience providing EAP services and/or short term, solution focused services.

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If interested, please fax your name and full mailing address to 301-570-0211, Attn: Provider Relations or call 800-765-3277 ext. 725 and leave message with the same information. An application will be mailed to your attention.

Who conducts the surveys, and how are these individuals chosen and trained?

Survey teams consist of an administrative surveyor and one or more program surveyors who visit primary or regional sites that are owned, rented or leased by the EAP provider. Because EAPs vary tremendously, the actual sites to be visited depends on the structure of the EAP to be accredited. These details can be worked out with CARF when the organization is preparing for accreditation or completing its application.

To become a surveyor, an individual must be from an accredited organization or one that is close to becoming accredited. They also must be actively involved in administering or providing direct services in the type of EAP they will survey, whether internal or external. Someone who wants to become a surveyor must complete an application. CARF then pays the expenses of successful applicants to come to CARF headquarters for an intense training process. Surveyor interns then complete at least two surveys prior to gaining full surveyor status and are expected to conduct at least three surveys each year. Surveyors are reimbursed for expenses and paid a small per diem when conducting surveys.

How were the standards developed?

CARF's EAP standards were developed with input from members of the employee assistance field. Periodically, CARF convenes a National Advisory Committee (NAC) of purchasers, providers and consumers of EAP services to review the standards. Any changes are then submitted for field review, then submitted to CARF's Board of Trustees for review and approval. These standards define the EAP service and differentiate what it is that an EAP

hopes to achieve by emphasizing effective use of the core technologies and work-site based services.

How much does it cost to become accredited by CARF?

The cost varies with the size and complexity of the EAP being reviewed. A small single-site EAP may cost \$3,000, which includes a \$650 application fee and a \$1,100 fee per surveyor day, which includes a surveyor's travel expenses. Fees for larger programs depend on the number of sites to be visited. Contact CARF for a cost estimate.

Why should an EAP consider accreditation?

Accredited EAPs enjoy a greater chance of survival and success than non-accredited programs, and I believe that for a number of reasons.

First, accreditation is generally recognized as a measurement of conformance to accepted field standards and achievement of a high-level of quality. Stated simply, accreditation identifies EAPs that meet minimum standards of quality in the field — and separates these EAPs from those that do not.

Closely related to that, accreditation helps the EAP distinguish its product and professional standing from other service providers, including "1-800" providers that offer limited, quasi-EA services that, I believe, negatively impact the EAP field.

Finally, from a marketing standpoint, accreditation will help EAPs given the new trend in how companies select their EAP vendor. Increasingly, employers are turning to benefits brokers and EAP consultants for help in selecting an EAP provider. These brokers and consultants are beginning to include program accreditation as a part of the selection criteria. It's a practice that's been in place in Canada for several years and is becoming a factor in the US as EAP pro-

viders seek a competitive advantage in the marketplace.

How might accreditation benefit an internal EAP or a smaller, independent EAP?

The simple answer is that accreditation puts the small external program on equal footing with larger competitors, at least in the areas of professional competence and quality of service. That's also a factor for internal programs, many of whom are in competition with external programs because the externals would like nothing better than to contract with that company for EAP services.

But there's more to it than that. Achievement of accreditation offers objective, measurable evidence of an EAP's efficiency and effectiveness. Success is measured through documentation of positive outcomes and demonstration of value to the host organization, both of which are important to EAPs regardless of their size and/or

whether they are internal or external.

What's the difference between "accreditation," "certification" and "licensure"?

There are two main differences between each of these: who's doing it and who it's for. For instance, accreditation is usually done by an external third-party, although some accreditation is conducted by membership or trade associations that serve the field in question, such as the Drug and Alcohol Testing Industry Association's accreditation of drug and alcohol testing programs. Certification is usually done by membership or trade associations that serve the field, such as the Certified Employee Assistance Professional designation, which is conducted by an organization connected with the Employee Assistance Professionals Association. Licensure, on the other hand, is done by a state or other authority, such as a social work licensing

board in a state where social workers are licensed.

As for the "who it's for" part, accreditation is for an entire program, not just one or two people or one or two parts of the service being delivered — it's for the entire service. Certification and licensure, on the other hand, are for individuals. A program cannot be certified just as an individual cannot receive accreditation.

One final difference, accreditation and certification are voluntary, although certification may be a condition of employment and accreditation may be a condition of being awarded a contract. But licensure is mandated. If you're going to provide a service in a state that licenses that particular service, you must be licensed.

To learn more about CARF accreditation of EAPs, contact CARF at 4891 E. Grant Road, Tucson, AZ 85712, 520-325-1044, www.carf.org. Reach Migas at 520-325-1044, ext. 117, or nmigas@carf.org.

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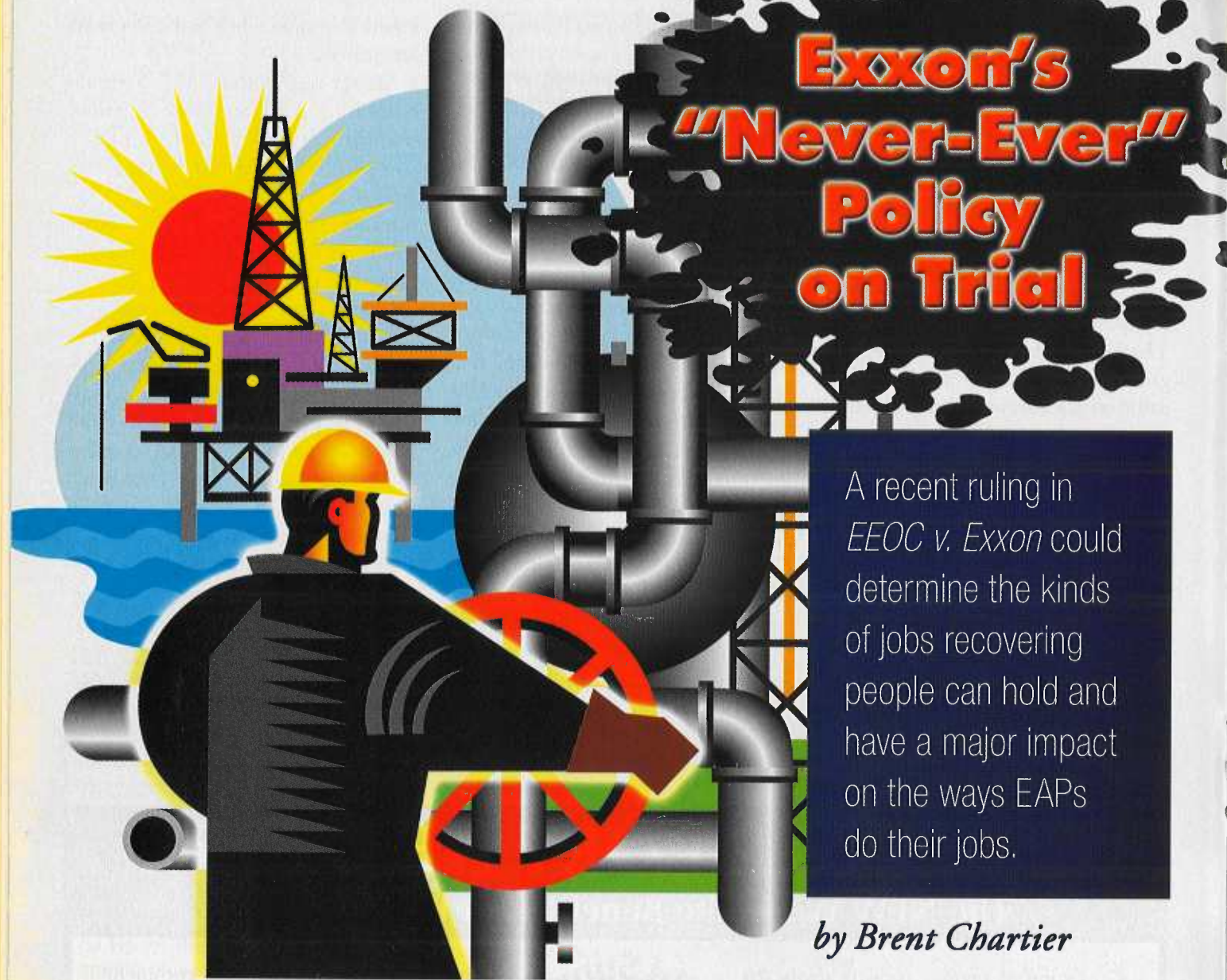
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Exxon's "Never-Ever" Policy on Trial

A recent ruling in *EEOC v. Exxon* could determine the kinds of jobs recovering people can hold and have a major impact on the ways EAPs do their jobs.

by Brent Chartier

Picture the following: Any time an employee with an alcohol or other drug problem goes into treatment, s/he uses an assumed name, pays in cash and keeps secret his/her social security number. Any time an EAP professional suspects that an employee has an alcohol or other drug (AOD) problem, the EAP attempts to "treat" the individual without referring him or her to a treatment program or self-help group for fear that it may jeopardize the employee's career. The US Congress passes legislation that exempts employees with a history of addiction from protection under the Americans with Disabilities Act (ADA). And employers across the country stamp "RECOVERING INDIVIDUAL" in the personnel files of employees, thereby prohibiting these employees from ever again holding a safety-sensitive position within the company.

These are chilling scenarios, but they could become a reality given several rulings by the US District Court for the Northern District of Texas currently pending appeal. Last February, a three-judge panel ruled on appeal that Exxon's practice of ensuring a safe workplace by reassigning recovering alcoholics from safety-sensitive jobs with little supervision could be argued as a matter of business necessity. A more recent ruling concluded that Exxon employees who were removed from their job due to a history of treatment for alcohol problems were not disabled under the Americans with Disabilities Act (ADA). Those most knowledgeable of these rulings view it as a turning point in recovering people's rights and the role of EAPs within the companies they serve. Those unfamiliar will want to pay attention. The future may never be the same.

How it all began: The Exxon Valdez

The 1989 Exxon Valdez oil spill was the greatest environmental disaster in US history attributable to a human. Recall that the public outcry after the spill reached a near din. Some 80 court cases were filed against Exxon within months of the spill. Environmentalists, legislators and average Joes alike wanted Exxon to pay — and pay dearly.

Amid the finger pointing, it was revealed that the captain of the Valdez, Joseph Hazelwood, had been seen drinking the day before the spill and had a BAC of .061 10 hours after the accident. Court testimony further revealed that Hazelwood had been treated for alcohol abuse and depression and had attended AA, yet, he returned to drinking (though it was never established that he had been drinking at the time of the spill). Furthermore, Exxon knew Hazelwood was in treatment and reinstated him as captain after his treatment. (Editor's note: Last year, Exxon merged with Mobil Oil Company to become ExxonMobil. This article uses "Exxon" as the company's name because it is the entity referred to in court documents and because the court has refused to allow Mobil employees to participate as plaintiffs. Also, when asked to comment on this article, Exxon directed *EAP Digest* to a prepared statement on its Web site. See the "Exxon's Comment" sidebar.)

The public outcry shifted slightly. How could Exxon have knowingly placed so much responsibility with a relapsed alcoholic? In the first case against Exxon after the spill, *Alaska v. Exxon*, the jury concluded that Exxon knew Hazelwood had relapsed, yet did nothing to remove him from his job as captain of an oil tanker. In 1994, the court fined Exxon \$125 million in damages, and Exxon agreed to take steps to ensure that incidents like the

Valdez spill would never ever happen again. These are the origins of Exxon's "never-ever" policy.

The "never-ever" policy

Through 1989, Exxon's employee AOD policy was typical to that of other policies among major US companies. Employee AOD use was prohibited on the job or on premises, employees were encouraged to come forward if they had a substance abuse problem, and confidentiality of medical records was assured.

But the Valdez spill and the subsequent demand placed upon Exxon by the first jury trial changed all that. In September 1989, just six months after the spill, Exxon changed its alcohol and drug policy to preclude recovering employees from ever holding a safety-sensitive position with limited supervision. (However, Exxon does not believe alcohol played a role in the Valdez spill. A document filed by the company reads: "Exxon does not contend that Captain Hazelwood's use of alcohol was a causal factor in the Valdez accident.")

Exxon's revised "Statement of Policy Regarding Employee Alcohol and Drug Use" reads, in part:

"No employee with alcohol and drug dependency will be terminated due to a request for help with overcoming that dependency or because of involvement in a rehabilitation effort. However, an employee who has had or is found to have a substance abuse problem will not be permitted to work in designated positions identified by management as being critical to the safety and well-

being of employees, the public, or the Company."

A couple of terms from this policy need to be explained. First, in Exxon parlance, a "designated position" is the equivalent of a "safety sensitive" position as described in the Omnibus Transportation Employee Testing Act of 1991. There are an estimated 1,800 such "designated positions" held by some 3,000 Exxon employees, including executives, according to court documents. Also, Exxon defines "rehabilitation" in its "Trainers Manual" as "a structured process of counseling, education and therapy through which an employee seeks resolution of a personal problem with the abuse of alcohol or drugs." The manual lists "self-help programs such as Alcoholics Anonymous, Narcotics Anonymous, or Cocaine Anonymous" as examples of rehabilitation programs.

In 1994, the court fined Exxon \$125 million in damages, and Exxon agreed to take steps to ensure that incidents like the Valdez spill would never ever happen again. These are the origins of Exxon's "never-ever" policy.

Although the new policy went into effect within months of the Valdez spill, court testimony shows that Exxon only selectively removed recovering individuals from designated positions for the next four years. Theodore Ellenwood, who was removed from his job as chief engineer of an oil tanker,

was the first to file suit. Ellenwood prevailed and was awarded \$678,000 in 1992 due to breach of contract.

Then, in 1994, when the criminal phase of *Alaska v. Exxon* was decided, all employees with a history of substance abuse treatment were reassigned to non-safety-sensitive jobs within the company, regardless of whether they sought treatment before being hired into Exxon, had dozens or more years of sobriety or a record of exemplary job performance.

Other employees began to file discrimination complaints, eventually raising the interest of the federal agency charged with ensuring the rights of disabled employees, the Equal Employment Opportunities Commission (EEOC).

EEOC files suit

Recovering alcoholics and drug addicts may be considered disabled under the 1990 Americans with Disabilities

"An employee who has had or is found to have a substance abuse problem will not be permitted to work in designated positions identified by management as being critical to the safety and well-being of employees, the public, or the Company."

— Exxon

ities Act (ADA). In describing this protection, Sandra Nye writes in the *Employee Assistance Law Answer Book*, "Once a person has become rehabilitated and is no longer currently abusing, he or she may not be discriminated against because of past abuse" (10-29).

In 1995, armed with complaints from Exxon employees, the EEOC filed suit against Exxon in the US District Court for the Northern District of Texas, claiming that Exxon had discriminated against a group of employees based on their disability. In all, 16 employees were represented in the EEOC's case.

The basis for the EEOC's claim was that, in order to institute a safety-related standard, an employer must demonstrate that an employee poses a direct threat to the health and safety of others on a case-by-case basis and that Exxon had wrongfully screened out a group of employees based upon their common disability.

In 1997, the court found in favor of the EEOC and demanded that Exxon reinstate the employees. Commenting on the case, Gilbert F. Casellas, EEOC chair at that time, claimed,

"This is a clear example of why ADA mandates case-by-case assessments of whether individuals can safely perform their jobs. Exxon's [never-ever policy] appears to be based on irrational fears or stereotypes about individuals with a record of substance abuse."

Exxon appealed the ruling, claiming that its policy was a matter of "business necessity." To understand its appeal, consider the following passage from the ADA section on employer defenses against a disability charge:

"It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards...that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity...."

"The term 'qualification standards' may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace." (ADA § 103(a)(b))

Last February, a three-judge panel from the 5th US Circuit Court of Appeals ruled that Exxon could use the

business necessity argument in its defense on appeal. The ruling was significant for three reasons. First, it established that employers within the 5th Circuit's jurisdiction (Louisiana, Mississippi and Texas) could implement safety-related qualification standards for a group of employees without having to prove that each employee within that group posed a direct threat of harm to himself/herself or others. This does not mean that employers who do so may not be challenged by the EEOC, only that companies in these states could put such policies in place. Second, the ruling set legal precedent for employers in other regions of the country to defend such policies. Again, the EEOC would likely file suit against these employees, but the 5th Circuit Court's deci-

sion would offer a legal defense of the practice. Finally, the decision paved the way for a jury to decide Exxon's case. That trial was to have commenced in February.

However, last September, a magistrate judge for the US District Court for the Northern District of Texas in Dallas reviewed the facts of the case and concluded that the EEOC had not established that the employees named in its suit were in fact disabled within the meaning of the ADA. To support her argument, the magistrate first cited the three-pronged definition of "disability" from the ADA (Sec. 3(2):

"The term 'disability' means, with respect to an individual:

"(1) a physical or mental impairment that substantially limits one or more of the major life activities of an

individual;

"(2) a record of such impairment; or

"(3) being regarded as having such an impairment" (ADA § 3(2)).

In her ruling, the magistrate cited case law that demonstrates "hospitalization, inpatient counseling, or a record of a mere medical diagnosis" isn't enough to establish that a person has a disability. She also cited case law as proof that these employees were not "regarded as" disabled by Exxon. Quoting from her decision: "[E]ach of the sixteen named plaintiffs was offered or kept in a nondesignated position by Exxon within his field of employment...[and] retention of an employee in other positions has been found to suggest that an employer does not perceive an employee as substan-

The Problem with "Safety Sensitive"

In Exxon parlance, a "designated position" is the equivalent of a "safety-sensitive" position as described by the Omnibus Transportation Employee Testing Act of 1991. However, that companies are allowed discretion to determine which jobs are safety sensitive disturbs some of the people following the *EEOC v. Exxon* ruling. These people say companies can broaden their definition of safety sensitive and, using their own never-ever policies, preclude other groups of disabled employees from holding choice jobs within their company.

"This is policy whereby a company can determine where a recovering person can work, plain and simple," says Tamara Cagney, EAP consultant. "If we think it's going to stop there and not spread to other employees with stigmatized disabilities, we're being very optimistic."

Jim O'Hair, Internal EA Programs director for the Employee Assistance Professionals Association (EAPA), agrees. "There are certain safety-sensitive jobs that pose a great risk to a company if an accident were to occur, and for a wide range of reasons, alcohol being only one. If companies can do this with one impairment, they may try to exclude a number of other impairments or conditions, such as

depression or people who take certain medication for an array of medical conditions."

Ken Edgell, senior program analyst for the US Department of Transportation's Office of Drug and Alcohol Policy and Compliance, says that some jobs are designated as safety-sensitive by law and that companies have the discretion to designate other jobs as safety-sensitive as they see fit.

Edgell uses an example of a truck driver and forklift operator for a chemical company. While the truck driver who hauls barrels of chemicals is considered by the government to be safety-sensitive because s/he operates a commercial motor vehicle, the forklift driver who unloads the barrels is not. Yet, from a liability standpoint, the forklift operator is just as much a safety risk because s/he is transporting the barrels of chemicals. For this reason, the company may designate as safety-sensitive these forklift operators and begin testing all operators for drugs under a separate company-run program.

But it's this discretion that Cagney says is chipping away at the rights of recovering employees. "Do we trust employers to determine who can hold these jobs? I know I don't." ■

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tially limited in working" (italics theirs).

In its objection to the magistrate's decision, the EEOC stated that Exxon's never-ever policy "reflects and perpetuates myths, fears, and stereotypes about substance abuse," which is exactly why Congress chose to include recovering people in its protection under the ADA.

Last October, District Court Judge Barefoot Sanders adopted the magistrate's recommendation. At press time, the EEOC was weighing its option for appeal.

Should Exxon ultimately prevail in defending its

Another Federal Case Against Exxon

EEOC wasn't the first federal agency to sue Exxon for discrimination. Chalk that up to the US Department of Labor, Office of Federal Contract Compliance Programs (OFCCP).

Among its other responsibilities, OFCCP oversees employment policies of companies that supply goods or services to the US government. Companies that are not in compliance with employment law risk having their contracts canceled, which could mean tens of millions of dollars in lost revenue to a company as large as Exxon.

The OFCCP first filed a complaint against Exxon for its never-ever policy in 1991. The complaint asked that Exxon reverse its policy and fall into compliance with the Americans with Disabilities Act (ADA) and Section 503 of the Rehabilitation Act of 1973 or risk losing its status as a federal contractor. When Exxon failed to act, the OFCCP filed suit in 1993.

OFCCP won that case in 1996. The case has been on appeal since. ■

That's the burning fear among many of those interviewed for this article, that one company's policy may, out of a sense of caution, become policy for employers across the country.

never-ever policy, it will have implications for companies, employee assistance programs and addiction treatment providers alike.

Implications for companies

Court testimony reveals that it's not unusual for a company to require a recovering person to demonstrate two to five years — or as much as 10 years — of continuing sobriety before s/he can resume work in a safety sensitive position. Also according to testimony, only one other employer follows

Exxon's never-ever policy, and for only one occupation: NASA's astronauts cannot have a history of addiction treatment.

But Tamara Cagney, an EAP consultant based in Byron, Calif., overheard at a conference that a nationwide trucking firm had removed recovering drivers from the road after implementing a never-ever policy. She has reason to believe other companies will begin implementing never-ever policies of their own following *EEOC v. Exxon*.

That's the burning fear among

many of those interviewed for this article, that one company's policy may, out of a sense of caution, become policy for employers across the country.

But Jonathan Segal, an attorney with the Philadelphia law firm of Wolf, Block, Schorr and Solis-Cohen, suspects the EEOC would pounce on other companies in other industries that adopt a never-ever policy, and few companies would risk "hundreds of thousands of dollars in attorney fees to fight it," he says.

Segal says unionized companies would have the greatest difficulty adopting these policies. "If you say you won't hire anyone with a history of treatment to a safety-sensitive position, there's nothing a union can do about it because unions don't decide who gets hired. But if you're talking about an existing employee, the union wouldn't stand for it."

Companies that implement never-ever policies may actually find that these policies do the opposite of what they intend to

achieve, says James Wrich, a Chicago-based EAP and management consultant. In other words, instead of preventing accidents like the Valdez spill, they may lead to even more catastrophes.

Wrich says that when he directed the EAP for United Airlines, his research showed that substance abusing employees who received proper treatment were far less likely to be involved in alcohol-or-drug-related accidents than other employees.

Jim O'Hair, Internal EA Programs director for the Employee Assistance Professionals Association (EAPA), concurs with Wrich. "There's a difference between active and passive substance use. Someone who hasn't had a drink in 15 years is less of a risk than someone who might actively be using."

But not all companies are getting this information. In an article describing the February decision by the 5th

Circuit Court, attorney Tom Eden from Birmingham, Ala., offers a four-step CYA for companies attempting to implement a never-ever policy. Eden's article appeared in an August/September 2000 newsletter of the Drug & Alcohol Testing Industry Association. His first recommendation: "[M]ake sure you can back up your decision with an overwhelming amount of data and can demonstrate the magnitude of possible harm."

Advice like this fuels fear that never-ever policies will become the norm.

Employers will have at least one other issue to contend with if they im-

"There's a difference between active and passive substance use. Someone who hasn't had a drink in 15 years is less of a risk than someone who might actively be using."

— Jim O'Hair

plement never-ever policies — employee cover-up and dishonesty.

"This will engender cover-up. Companies that implement these policies will just be sealing in those people who have problems," says Wrich.

"This policy says to employees, 'How dumb are you? Are you going to tell anyone that you have this problem, or are you going to keep it a secret and go underground?'" says EAP consultant Cagney. "For an employee to admit to an alcohol or drug problem would be career suicide."

Cagney believes that, even in companies without such a policy, employees may refrain from entering treatment out of fear that their companies may one day institute such a policy. She also believes the cover-up will extend to new hires. "There's no chance that people applying to your company will tell you the truth."

Wrich agrees. "All this policy is going to do is cause people to lie about their medical condition. And for those of us who have experienced the joys of long-term recovery, we know that dishonesty in itself is a threat to one's continuing sobriety."

After the Merger: Mobil and "Never-Ever"

Dennis Derr holds a unique position within the EAP field. He was director of EAP for Mobil Oil Company when it merged with Exxon in 1999.

So, how did it go? If it's any indication, Derr says no one from Mobil's original EAP chose to remain with the new company. He shared the following statement on the matter:

"The Exxon policy, which was being imposed on Mobil employees as a result of the merger, was a key factor for many of [Mobil's] talented Occupational Health professionals and the EAP staff in deciding whether or not they wished to continue working in the newly merged organization. It should be noted that none of the Mobil EAP staff remains in the new organization.

"For many talented recovering individuals who hold safety-sensitive positions, their recovery and achievement now must be kept silent, or they may find themselves removed from their current position."

Derr now has his own consulting company, Integrated Human Solutions, and is also managing the EAP for Federal Occupational Health in its delivery of services to the US Postal Service. He can be reached at DennisDerr@Integrated-Human-Solutions.com. ■

Implications for EAPs

Cagney is perhaps the most expert EAP professional in the country when it comes to Exxon's never-ever policy. She was an expert witness in *Alaska v. Exxon*, hired to testify to the effect that Exxon's policies prior to the spill were like most other such policies in corporate America, and she's been tracking the court case ever since. Her article in the May/June 2000 *EAPA Exchange*, "The Legacy of the Exxon Valdez: Will Recovering Employees Be Excluded?" was the first to alert EAP professionals to the seriousness of the *EEOC v. Exxon* ruling.

She says companies with never-ever policies will present a "terrible dilemma" for EAPs. "As far as the day-to-day operation of an EAP, it would make a difficult job even more difficult. Alcohol and drug referrals will dry up, and employees who need treatment will be driven underground. If

employees are told that someone who seeks treatment is going to be identified and removed, it will be difficult for EAPs to do their jobs."

She believes never-ever policies also will have another effect. "A lot of EAPs will have their limits of confidentiality statements rewritten, basically reflecting a 'don't-ask-don't-tell' policy when it comes to talking about alcohol or drug problems."

As evidence of this, Working Partners, an alcohol- and drug-free workplace initiative of the US Department of Labor (DOL) and the White House Office of National Drug Control Policy, issued an "Executive Briefing"

"With Exxon's policy, you get the feeling that this is about revenge."

— John Schwarzlose

of the case law surrounding *EEOC v. Exxon*. The briefing asks five compelling questions that EAPs must answer if they provide services to a company with a never-ever policy:

- What will be the obligation of the EAP to notify an employer if a safety-sensitive employee has requested help or has entered treatment on his/her own?
- Will the EAP be viewed as an "agent" of the company, and will an EAP professional's knowledge of an employee alcohol or drug problem be interpreted as knowledge by the employer? How will this impact the issue of negligent retention for employers?
- How will this type of exclusion affect efforts to encourage employees to self-identify and seek assistance?
- What protection can be offered to employees who seek help through the EAP?

But Don Rothschild, an EAP consultant from Littleton, Colo., believes a company has every right to implement a never-ever policy. In companies that have such a policy, EAP professionals had best adjust to the change. "It's up to the EAP to help the employee to understand that this policy was in place when he or she started to work for this employer and to guide the employee to seek employment either in a non-safety-sensitive

What can be done?

"I think EAP professionals need to have discussions with the policy makers in their company on the importance of self-identification and of allowing people to come back to their jobs. EAPs need to focus on the fact that they save lives, and we need to do a better job of promoting what it is that we do."

— Tamara Cagney, EAP consultant

"We need to speak up about the benefits of recovery. If we don't get involved, no one will. This may affect every alcoholic in recovery and every client who seeks treatment through our programs."

— John Schwarzlose, treatment center president

"Associations like the Employee Assistance Professionals Association and the Employee Assistance Society of North America, and journals like *EAP Digest*, should do more to educate and to show the return on investment of rehabilitation and return to duty. There are enough utilization reports and cost studies to support publication of reports that could and should be read, not by the HR or the benefits departments, but by the directors of finance of these organizations."

— Don Rothschild, EAP consultant

position or elsewhere outside the organization."

He admits, however, that companies may be shooting themselves in the foot if they go never-ever. "It's much more cost-effective to work with troubled employees, to get them through rehabilitation, into recovery and back on the job. It may be in [a company's] best interest, from both the profit and the productivity standpoint, to make every attempt to work at rehabilitation."

Nonetheless, EAPs who operate in never-ever companies will need to toe the line. "It's not the responsibility of the EAP to take sides, and the EAP must always remember who pays his or her salary," says Rothschild.

Implications for addiction treatment providers

Word that Captain Hazelwood's relapse may have caused the Valdez spill was a pivotal moment, says John Schwarzlose, president/CEO of the

Betty Ford Center in Rancho Mirage, Calif., because it ended a decade-long trend of events that may have reversed the stigma attached to addiction and recovery.

But the Valdez spill changed all that. Now, a decade later, the oil spill still haunts the country as evidenced by the recent ruling. "This will have a significant impact on treatment providers," says Schwarzlose. "Even more importantly, it poses one more obstacle in the way of men and women getting well. Treatment providers have had so many things thrown at them, what with the changes in reimbursement and everything else, this will be a blow to the whole field."

He believes companies should tear a page from the success journals of other industries that contend with the problem of employee substance abuse. "With airline pilots, the Federal Aviation Administration has a program whereby recovering pilots receive in-

tense follow-up and can be drug-tested at any time, 24 hours a day, for the rest of their career. The long-term success rates with that program are 80% to 90%. That's the kind of approach we should be focusing on. With Exxon's policy, you get the feeling that this is about revenge."

Cagney says treatment programs had best be prepared for a new type of client. "If you're employed, you'll enter treatment under a false name, pay out-of-pocket so that you don't access the health plan and you won't dare give a treatment program your social security number. There are going to be a lot of paranoid alcoholics seeking treatment."

She sees the Exxon case as yet another step in axing the rights of recovering people and a shift in corporate America's responsibility to its recovering employees. As evidence, the Rehabilitation Act of 1973 initially covered both active and recovering alcoholics and drug addicts. Now it and the ADA exclude from coverage individuals who are current users of illicit drugs. She says it may be only a matter of time before legislation excludes all recovering people from protection.

At that point, using an analogy from Schwarzlose, addiction will truly become the modern-day scarlet letter. ■

Chartier is the magazine's editor. The author wishes to thank Tamara Cagney and the US Department of Labor's Working Partners program for their assistance in preparing this article.

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Exxon's Comment on EEOC v. Exxon

The following is an excerpt from a statement posted on ExxonMobil's Web site shortly after the District Court judge's ruling in *EEOC v. Exxon*. The entire document is available at www.exxon.mobil.com:

"ExxonMobil's Alcohol and Drug Use Policy is a critical component of the company's commitment to the safety and well-being of its employees, the public and the environment.

"Under this policy, the company is committed to working with each employee who discloses a drug or alcohol problem. ExxonMobil provides the employee with confidential counseling; substance abuse rehabilitation; an extensive after-care program; and attempts to locate, for employees who were working in safety-sensitive positions, a comparable job with more supervision or less risk.

"Society should not, and ExxonMobil will not, take the risk of assigning a recovering substance abuser to a highly safety-sensitive, largely unsupervised position where an accident could have catastrophic consequences. Medical experts agree that a person who seeks recovery from an addiction to alcohol or drugs is always in recovery. In addition, numerous studies conducted in the late 1980s and early 1990s on the high rates of recidivism of recovering alcoholics further justify this policy." ■