

The Journal of
Employee Assistance

Health Care Overhaul



The Impact of PPACA
Disclosure Requirements

| Page 12



Employee Assistance
Professionals Association

PLUS:

**Finding
chi**

| Page 8

**EAP
and SAP**

| Page 20

**The New
Paradigm**

| Page 26



EAP and SAP *Similar But Not the Same*

"SAP services are structured for regulatory compliance, *not* as an employee benefit. ... Safety is the primary focus for the SAP."

| By Tamara Cagney, Ed.D., M.A., B.S.N

The relationship between employee assistance professionals and substance abuse professionals is something akin to cousins. They share the same roots and many branches of the same family tree but these are very different roles. Those outside the family sometimes confuse these functions and even practitioners can underestimate some of the conflicts that arise between the two roles.

"EAPs often pride themselves on their flexibility and creative interventions, while the SAP role is regulated and rigid."

The EAP

In general, an EA professional delivers services specifically designed to improve and/or maintain the productivity and healthy functioning of the workplace and to address a work organization's business needs by applying specialized knowledge and expertise about human behavior and mental health. EAP services are often positioned as benefits to the employee.

EA professionals need to have knowledge of how behavioral

health and psychological issues affect employees. They must also understand how the EAP relates to specific responsibilities that employers have to maintain a safe and healthy workplace. Most EA professionals are licensed mental health professionals or certified alcoholism and drug counselors.

The SAP

The substance abuse professional position, created by the Department of Transportation (DOT) alcohol and drug testing regulations, defines the SAP as a professional that evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing and aftercare. SAP services are structured for regulatory compliance, *not* as an employee benefit.

SAPs need to have clinical experience in the diagnosis and treatment of substance-related disorders. They must also be well informed and have specific training about the pertinent DOT regulations and SAP guidelines. They must also understand how the SAP role relates to the specific responsibilities that employers have for ensuring the safety of travelers. SAPs are required to be licensed physicians, psychologists, social

workers or marriage family therapists, certified alcoholism and drug counselors or certified employee assistance professionals (CEAP).

EAPs and SAPs intersect in multiple ways. EAPs may "broker" SAP services for their employers. This means that the EAP provider, either internal or contracted, facilitates the connection between DOT regulated employers and employees and the SAP. Some internal EAPs offer both EAP and SAP services to employees. Some EA professionals also provide SAP services. Many EA professionals and SAPs have the same credentials.

Clear Differences

While EAP and SAP services have similarities, there are clear differences between the two. These exist not only in obvious structural characteristics such as specialized training, but also in some less obvious, yet dramatically important areas of distinction such as the primary client, the advocate role, flexibility, perceived control, confidentiality, and consequences of non-participation or non-compliance.

EAPs are familiar with having multiple clients – the organization, manager, and employee. EAPs deliver appropriate services to each of these parties.

The SAP, however, has *one* client – the traveling public. Safety is the primary focus for the SAP. By performing the SAP role you choose to have a “special relationship and bond with everyone the employee will encounter if that employee returns to the performance of safety sensitive duties” (SAP guidelines).

Unlike the EAP role where the EA professional can be an advocate for the employee, in the SAP role the professional has a different function. As the DOT states, “As a SAP, you are not an advocate for the employer or the employee. Your function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education, treatment, aftercare and follow-up tests” (SAP guidelines and 40.291(b)). EAPs can help assure due process and fair treatment for employees. However, in the SAP role, even if you believe that a test was administered in error, for the purposes of your SAP assessment “you must assume that a verified positive drug test conclusively establishes that the employee committed a DOT violation” (40.293(f)).

EAPs often pride themselves on their flexibility and creative interventions, while the SAP role is regulated and rigid. The SAP must follow regulations. Although SAPs consider stipulations such as insurance coverage or the employees’ ability to self-pay for care, the SAP is directed to refer the employee to the level of care that the SAP determines will provide the

most appropriate level of assistance to enable the employee to be *in compliance with DOT regulations*, even when insurance is inadequate or non-existent, or when the employee is unable to self-pay, or when managed care refuses to authorize. The SAP sets the specific requirements that the employee must meet to be in compliance. *No one can overrule the SAP, so the role carries great power and greater responsibility.*

Release of Information

The ability of the client to control the release of information in the EAP process is perhaps the area of greatest divergence for SAPs. Traditionally, laws, ethics and licensing boards have all stressed the confidentiality of the client-counselor relationship. In the SAP process it is imperative that the SAP be able to receive and communicate pertinent information regarding the employee’s progress through the SAP process. DOT Part 40 places no restrictions upon the SAP communicating with the medical review officer, the employer, or even education and treatment providers. There are no releases of information signed for communication between service agents, the employer and the SAP. Employees cannot control the flow of information, rescind or limit releases.

➤ This lack of confidentiality is a dramatic departure from the assurance that EAP participation will be confidential and that employees will not be penalized

for participating. The SAP process has high penalties for lack of participation or compliance.

➤ If the employee is unable or unwilling to complete the course of treatment prescribed by the SAP, the employee is banned from returning to any safety-sensitive duty for any agency regulated by the Department of Transportation.

➤ DOT also requires that if a SAP believes that an employee will benefit from participation in ongoing services to maintain sobriety and abstinence from drug use that these recommendations be part of the SAP report to the employer.

➤ The employer, however, has an option whether to incorporate aftercare recommendations in a

**LOOKING
FOR A
SAP?**

SAPlist.com
the best way to find Substance Abuse Professionals

**Current info
on SAPs...
It's easy...
It's free!**

**Questions? Lee Mauk
612-827-4147
Lee@saplist.com**

return-to-duty agreement. These employer-written agreements include monitoring employee participation. The employer can ask the SAP or the EAP to monitor compliance. There is very little flexibility in this monitoring role.

➤ Unlike EAP recovery agreements where a relapse may be dealt with as a therapeutic issue, in the case of DOT rule violations, failure to adhere to the agreement must be reported to the employer. *Depending on the return-to-duty agreement, this could result in job loss. It is a large responsibility to take on and role clarity is vitally important.*

Drug Testing

Drug testing is another area that differs between EAP and SAP practice. EAPs are rarely in the position to require drug testing, unless there is a specific recovery agreement.

➤ All SAPs, however, are charged with prescribing ongoing follow-up testing if a safety-sensitive employee returns to duty.

➤ These follow-up tests are seen by DOT as one way to assure ongoing compliance with regulations.

➤ A minimum of six tests for the first twelve months are required.

➤ SAPs have the ability to determine the type (alcohol and/or drug), frequency and duration of testing. DOT provides the ability to test for five full years.

➤ If a SAP chooses to test for a shorter period of time, due to the focus on safety, they must be able to support the decision not to use

all of the tools DOT provides to support ongoing abstinence from prohibited substances.

Summary

These differences illustrate why it is always a risk for a professional to deliver both EAP and SAP services to the same group of employees. Employees continue to struggle with understanding what the EAP does and what protections are provided. Into that uncertain territory we have EAPs “changing hats” and now delivering SAP services. The process, goals, and protections are vastly different, even though the professional delivering the service looks the same.

Can a distraught employee understand those differences? The confidentiality under EAP, that employees have relied on as their protection, is absent under DOT rules. The consequences of non-compliance are potentially life changing. If an employee assistance program is contracted to deliver both EAP and SAP services, it is essential to design standard operating procedures that prevent the same individual provider from serving in both roles with a single employee.

➤ Both the EAP and SAP roles share similar roots and offer unique opportunities to broaden clinical and professional expertise.

➤ Both roles use knowledge and skills in challenging and rewarding ways.

➤ Both roles provide an opportunity to change people’s lives and to support ongoing recovery from addiction to alcohol and other drugs.

It is, however, incumbent upon the SAP and the EA professional to construct *clear boundaries* between these roles, to obtain specialized training, to construct clear statements of understanding for the employee, and to discuss with other EA professionals and SAPs the conflicts that arise while serving as the gatekeeper for the DOT return-to-duty process. ❖

Tamara Cagney works in EAP at Sandia National Laboratories in Livermore, CA. She may be reached at tcagney@sandia.gov.

The Journal of
Employee Assistance

is now
ONLINE

www.eapassn.org