



# Introductions

- Lyn Legere
- Introduce yourself
  - Name
  - Organization
  - Role



# Today's Discussion: "Return to Use"

- Facilitated Discussion
  - My role – provide some “food for thought” considerations
  - My role – facilitate discussion
  - Your Role – Take what’s helpful back to your decision-making process
- The Big Picture Issue for discussion
- Defining our terms: “Recovery,” “Return to Use”
- Possible routes of Action
  - Certifying Board vs. Employer

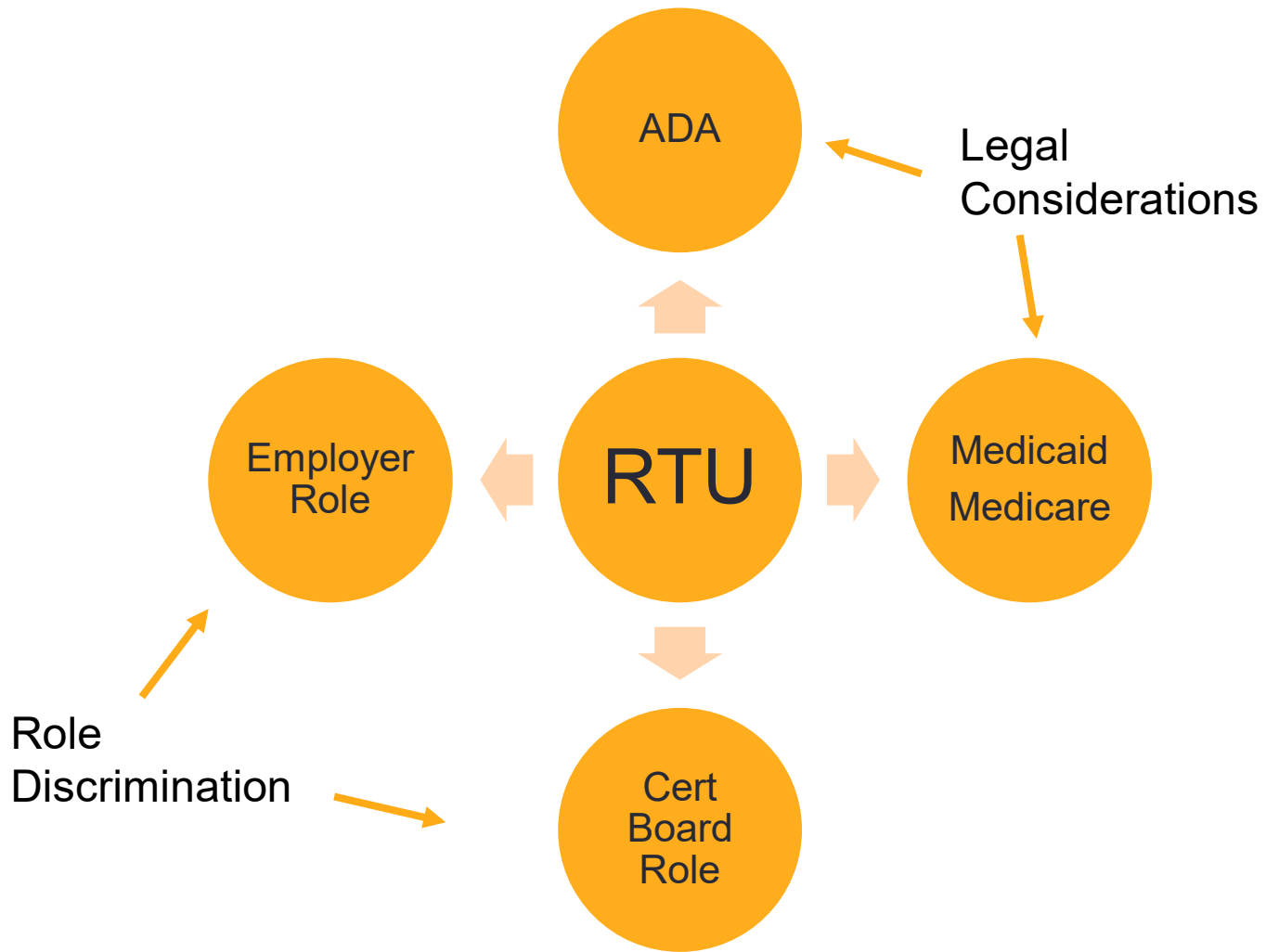


# Where, Who & How to address “Return to Use/Relapse” related to the Peer Support Workforce

# Where, Who & How

- Cert Board – abstinence as eligibility requirement
- Cert Board – Code of Ethics/Suspension
- Employer – Can discipline IF performance at work is affected





# Decision Making

Is it Legal?



Is it Defensible?





# Legal Framework



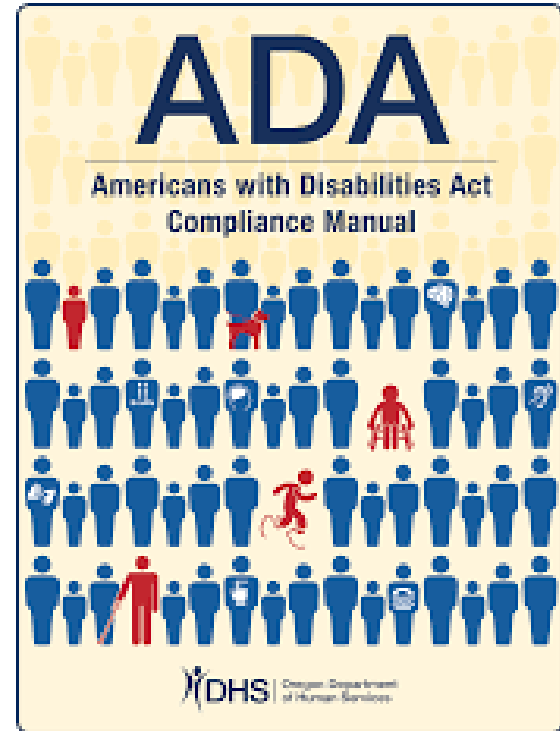


# ADA

- Mental Illnesses are accepted “disabilities”
- Alcoholism is an accepted “disability”
- *Addiction* recovery is an accepted “disability”
- Current use of illegal substances is NOT an accepted “disability”

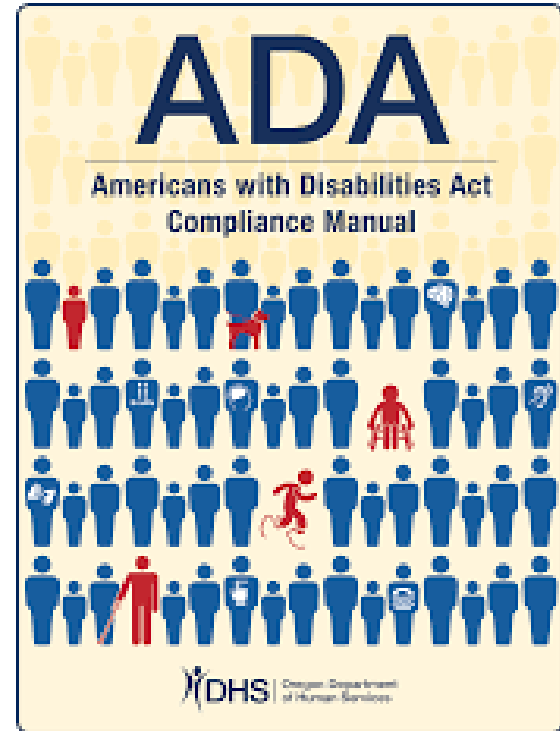
# Implications

- PSW – Create two policies?
- PSW – Create one policy consistent with ADA alcoholism policy?



# Implications

- Is policy consistent with other fields/employees or is it discriminative against Peer Workers



# ADA

- All caselaw relate to employers' rights and obligations
- Cases all refer to performance issues related to substance use, not the substance use itself
- ADA and Certification Boards – testing obligations

# Medicaid/Medicare considerations

Quality of care





# Definitions to Consider

# It's all about the WORDS

Clear objective definitions for  
everyday words communicate  
intentions to PSWs, employers,  
EEOC and judges

[ Words  
matter\_ ]

# Put on your Analytical Hat

- Subjective to Objective
- “Our” definitions to “authoritative” definitions





# “Recovery”

“SAMHSA developed the following working definition of recovery by engaging key stakeholders in the mental health consumer and substance use disorder recovery communities:

*Recovery is a process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential.”*



# “Recovery”

Recovery is a process of change through which people improve their health and wellness, live self-directed lives, and strive to reach their full potential. Even people with severe and chronic substance use disorders can, with help, overcome their illness and regain health and social function. .. Being *in recovery* is when those positive changes and values become part of a voluntarily adopted lifestyle. While many people in recovery believe that abstinence from all substance use is a cardinal feature of a recovery lifestyle, others report that handling negative feelings without using substances and living a contributive life are more important parts of their recovery.

*NIDA/NIH*

# “Recovery” – Surgeon General Report

Recovery from substance use disorders has had several definitions. Although specific elements of these definitions differ, all agree that recovery goes beyond the remission of symptoms to include a positive change in the whole person. In this regard, “abstinence,” though often necessary, is not always sufficient to define recovery.

There are many paths to recovery. People will choose their pathway based on their cultural values, their socioeconomic status, their psychological and behavioral needs, and the nature of their substance use disorder.

# “Recovery” – Surgeon General Report

Remission from substance use disorders—the reduction of key symptoms below the diagnostic threshold—is more common than most people realize. “Supported” scientific evidence indicates that approximately 50 percent of adults who once met diagnostic criteria for a substance use disorder—or about 25 million people—are currently in stable remission (1 year or longer). ...

*U.S. Department of Health and Human Services (HHS), Office of the Surgeon General,  
Facing Addiction in America:*

*The Surgeon General’s Report on Alcohol, Drugs, and Health. Washington*



# Implications

Recovery Definition that includes abstinence:

- Legal – yes
- Defensible – Could be challenged



# “Return to Use”

- What is the criteria?
  - Amount – a toke on a joint in a state where legal?
  - A glass of wine at a wedding?
  - Weekends vs. weekdays?
  - Taking a prescribed Ambien every night?
  - Who reports? People reporting colleague?

# Implications

- Does policy discriminate if other employees can drink or smoke pot at night?
- Does policy only apply to PSW with substance use but not with mental health challenges who have the same certification?
- Does a Certification/Employer have the right to dictate non-work- related behaviors?

## “Return to Use”

- Including a “return to use” criteria divorced from work performance:
  - Legal – probably not
  - Defensible – could be problematic





# Questions and Discussion

- Any specific questions about the material presented?
- Discussion – Main Points
  - Can “abstinence” be the “recovery” definition?
  - Who defines “abstinence”?
  - Does that then become a requirement for PSW with mental health challenges with same Cert?
  - Can Certifying Board or employer regulation behavior outside of work functioning?



# Thank You

For asking me to share  
today. I hope the  
information is helpful.

