

Questions and Answers – Bill Current
The Value of Drug Testing
Quest Diagnostics Web Seminar 7-31-07

Is random testing allowed in California?

California has no private sector drug testing statute; however, there is much case law and two municipality statutes (San Francisco and Berkeley). Employers are advised to limit random testing to safety-sensitive workers and only where there is a compelling argument for random testing. Random testing in the two cities cited above is prohibited.

Are all testing methods equal in detecting each drug?

No. The quality of drug testing devices varies significantly from product to product, and method to method. Typically, you get what you pay for with drug testing. Regardless of how you test, always confirm initial screen positives at a laboratory using GC/MS and have a Medical Review Officer verify all confirmed positive results to ensure the integrity of your program.

Is there any data you are aware of to support testing healthcare workers by utilizing a more comprehensive drug panel such as Quests Professional Profiles?

The nature of substance abuse is very different among certain professions as it is in various parts of the country. Healthcare professionals, for example, typically have easier access to an assortment of drugs that the average person would have more difficulty obtaining. I am not aware of a specific report that verifies this, but the drug panel used when testing healthcare professionals is usually very different from the SAMHSA 5 panel (marijuana, cocaine, opiates, amphetamines, and PCP).

Do you have any information on drug testing laws in countries other than the US?

I just completed a review of 60 countries' legal status on drug testing. Foreign drug testing laws are very challenging to track. Most countries do not have drug testing laws that mirror what we are accustomed to in the United States. Many countries have privacy laws and labor agreements that require employers to ensure safe and healthy working environments and/or that authorize them to screen workers, but they typically do not specifically mention drug testing. Members of the European Union have the EU Guidelines, but they are primarily laboratory-oriented standards that do not provide guidance on whom to test and under what circumstances, nor on on-site testing or alternative specimen testing.

What was factored in to come up with the cost of \$7,000 per substance abuser to an employer?

It was primarily based on productivity and replacement costs.

How can one access the U.S. Navy Study to determine the metrics & measurements used to establish the \$7,000 cost per year?

I would recommend a Google search on "A Model for Determining an Optimal Drug Testing Policy." Navy Personnel research & Development Center. San Diego, CA. 1996. Jules I. Borack and Mark D. Chipman.



Have many multi-location retailers begun to use oral testing? And if so, have there been any concerns with chain of custody? I would think it difficult to ensure that all managers know what to do.

I cannot speak to the first part of your question; however, I will say that the retail industry may be well suited to oral fluid testing in that it lends itself well to on-site collection and/or analysis, thus saving time and money. In industries where a lot of drug tests are conducted, the cost of sending individuals to off-site collection facilities can be costly.

Chain of custody protocols are just as important with on-site oral fluid testing as they are with any other testing method. As discussed in the presentation, training of supervisors and managers is critical to the success of any drug testing program.

Regarding post accident testing, what is a typical timeframe to have the employee tested?

Unless a specific state law dictates otherwise, I usually recommend adherence to the standard established in the DOT regulations: 32 hours for a drug test and 8 hours for an alcohol test. Outside of the federal regulations this standard may be altered to meet each company's particular circumstances, but 32/8 policy provides a framework from which to start.

It was mentioned that a trained employee can do urine testing - is it the testing or the collection? Is this recommended for random drug testing taking into consideration the legal ramifications involved or should this be outsourced to a third party?

First, always review all applicable local and state laws before implementing any drug testing program. If on-site testing is permitted in the state or states where you do business, and the vast majority states do permit on-site testing, then you can consider implementing such a testing program. If your state laws do not otherwise prohibit it, employees who are trained properly may be permitted to oversee the on-site collection and instant-result analysis. There are professionals such as third-party administrators or occupational health providers who, for an extra fee, will come to your workplace and conduct the on-site testing.

Where can I find out which states provide incentives to drug test?

Each state that offers a workers' compensation premium discount to companies that conduct drug testing has its own special set of requirements. Check with the applicable state's workers' compensation office for details. The states that currently offer some type of discount are:

Alabama	5%
Arkansas	5%
Florida	5%
Georgia	7.5%
Idaho	5%
Kentucky	5% (mining companies only)
Mississippi	5%
Ohio	10-20%
South Carolina	5% (up to 5%, can be lower)
Tennessee	5%
Virginia	5% (determined by insurance provider)

What type of drugs should be tested for?

The most common panel of drugs tested for is the SAMHSA 5, which includes marijuana, cocaine, opiates, amphetamines and PCP. Other common drugs included in drug testing panels are barbiturates and benzodiazepines. Quest Diagnostics provides a wide variety of drug testing panels.

How can a company protect itself legally when drug testing?

Drug testing is legal throughout the United States, but that does not mean you can do whatever you want with drug testing. First and foremost, conduct your program in accordance with all applicable state and federal drug testing laws. Consult with an expert who understands the legal requirements for drug testing in the state or states where you do business. Utilize the services of a drug testing company that has a proven track record in the drug testing industry. Again, you get what you pay for when it comes to drug testing.

I'm not sure I got why bigger companies have lower positive rates.

A higher percentage of large companies conduct drug testing compared to smaller companies. As a result, there are more drug-abusing workers per capita at smaller firms than at larger firms.

Are those that train supervisors required to have certain credentials?

The drug testing industry is very loosely organized for such things as certification of trainers. The best advice is to use a company for training that offers up-to-date curriculums, trainers with experience and references, and that offers a variety of training program options (in-person, Internet-based, computer interactive, and DVD and manual-based).

Do employers pay for employee assistance ... typically?

Based entirely on my own observations... unless required to provide EAP services by a state or local law, many employers today will provide information about how to access substance abuse counseling and treatment services but will not actually pay for those services. This is a fairly recent trend over the past five to ten years.

Where do you get the percentage of random testing (not including HHS/DOT mandated testing?) Do you have statistics of how many employers conduct random testing? I see very little random testing in the large retail industry.

Based entirely on my own observations... random testing has made a big comeback in the past five years. It was popular in the early 1990s, then somewhat fell out of favor among employers for about 10 years. However, after the events of September 11, 2001, drug testing in general, and random testing more specifically, have become increasingly popular. It is difficult to say how many employers conduct random testing, but it is worth noting that the DOT continues to require random testing of truck drivers, for example, despite the fact that the positivity rate is very low. This is, in my opinion, a testament of the deterrent value of random testing.

Is it legal for employers to do random testing outside of DOT regulation?

Generally, the answer to this question is yes. However, always check with the laws (and case law) of the state or states where you do business. While very few states prohibit random testing, there are states that permit it but place some restrictions on random testing.

Can you account for the people who do not apply because they know that you do applicant drug testing?

Not specifically, but it is interesting to see the data in the most recent federal government study (cited in my presentation) that shows drug users are less likely to seek employment with a company that conducts drug testing. Unfortunately, there is no data-specific report that tracks how many times a job seeker turns around and walks out the door when he learns that a prospective employer conducts pre-employment drug testing.

Is hair testing accurate?

Hair testing is an accurate method of drug testing. Because the window of detection ranges from 5-7 days after use until about 90 days it is not a good post-accident or reasonable suspicion testing method, but it may be ideal for pre-employment testing for certain companies.

How accurate are on-site urine and oral fluid testing devices?

The technology behind most forms of urine and oral fluid on-sites testing is accurate and reliable. However, there is wide variation between the various products on the market today. Work with a reputable company that has independent data to back up all accuracy claims. Also, look for a product that is easy to use and read. Always confirm initial screen positives from on-site devices with a lab-based GC/MS confirmation test, and have a Medical Review Officer verify all confirmed positive results. Finally, review all applicable state drug testing regulations to ensure compliance with any restrictions or guidelines pertaining to on-site testing.

Where did you get the statistics for the numbers listed in slides 16-18?

This information can be found on pages 5-12 of a book I authored entitled "Why Drug Testing," which is available from Quest Diagnostics. The book features many statistics, all of which are fully cited in Appendix D: Notes found on pages 52-54.

How does the new SAMHSA report data differ from the prior report and what do you see as the significance of the new data?

I have not had the opportunity to compare the previous SAMHSA reports with the latest one; however, if nothing else, the new report represents data collected within the past three to five years making it pertinent to our time and providing timely evidence of the nature of the drug problem in the workplace. It also updates the levels of substance abuse by industries and occupations, which is particularly helpful when contemplating the need for drug testing.

Does ADA consider current use within last 30 days?

Unfortunately, your question is not easily answered. The ADA does not actually designate a specific number of days, weeks or months when defining past drug use. A person who tests positive in a drug test is considered a current drug user.

Also, from the ADA Technical Assistance Manual (available at: <http://www.ada.gov/taman3.html#III-2.3000>) you will find this definition of "current use": *"Current use" is the illegal use of controlled substances that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem. Therefore, a private entity should review carefully all the facts surrounding its belief that an individual is currently taking illegal drugs to ensure that its belief is a reasonable one.*

