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Ethical Aspects of Drug Testing

Substance abuse can be a significant problem in the workplace, contributing to impaired productivity and job performance, increased accidents and injuries, violations of security, theft of company property, and diminished employee morale. The federal government and many companies have adopted policies regarding the use of drugs, as well as instituting a variety of drug screening, control, and rehabilitation programs. There has been a significant focus on the logistics and legalities of substance abuse testing while the ethical aspects often receive less attention. An effective drug testing program not only identifies substance abusers but also safeguards the personal rights and our ethical responsibilities as physicians.

The following guidelines deal only with ethical issues involved in drug screening in the workplace. Other important considerations which must be addressed in the design and implementation of a drug screening program include biological factors concerning rates of absorption and elimination of drugs, technical factors relating to specificity and accuracy of analyses, legal safeguards, regulatory requirements, and employee relations concerns.

Appropriate constraints must be observed in order to ethically screen employees and prospective employees for the presence in their bodies of drugs and substance of abuse, including alcohol, that might affect ability to perform work in a safe manner.

ACOEM recommends strongly that employers obtain expert legal, medical and employee relations advice before making a decision to require screening of employees or applicants for drugs. Such experts also should be involved in the actual structuring and implementation of any program of screening of employees and applicants for drugs.

These guidelines are pertinent to drug testing done under the following circumstances – pre-placement assessment, job transfer evaluation, periodic mandatory medical surveillance, post-incident/accident, for-reasonable-suspicion/cause, and random testing of those in safety- and security-sensitive positions, special work fitness examinations, and monitoring of employees who are under treatment for drug abuse, including alcohol, as a condition of continuing employment.

The following features should be included in any program for the screening of employees and prospective employees for drugs:

1. A written company policy and procedure concerning substance abuse and screening should exist and be applied impartially.
2. The reason for any requirement for the drug testing program should be clearly documented. Such reasons might involve safety for the individual, other employees, or the public; security needs; or requirements related to job performance.
3. Affected employees and applicants should be informed in advance about the company's policy concerning drug use, misuse and screening. They should be made aware of their right to refuse such screening and the consequences of such refusal to their employment.
4. Where special safety or security needs justify testing for the presence drugs on an unannounced and random basis, employees should be made aware of all aspects of the drug testing program.

5. Care should be taken to assure that such tests are done in a uniform and impartial manner for all employees in the affected group(s).
6. Collection, transportation and analysis of the specimens and the reporting of the results should meet stringent legal, technical, and ethical requirements. The process should be under the supervision of a licensed physician (MD/DO).
7. A licensed physician (MD/DO) with appropriate qualifications should be designated as the medical review officer (MRO) and should evaluate positive results prior to a report being made to the employer. This may require the obtaining of supplemental information from the employee or applicant in order to ensure that a positive test does not represent appropriate use of prescription drugs, over-the-counter medication or other substances which could cause a positive test. MRO training should include the pharmacology of substance abuse, laboratory testing methodology and quality control, forensic toxicology, pertinent federal regulations, legal and ethical requirements, chemical dependency illness, employee assistance programs and rehabilitation.
8. The affected employee or applicant should be advised of positive results by the physician and have the opportunity for explanation and discussion prior to the reporting of results to the employer, if feasible. The mechanism for accomplishing this should be clearly defined.
9. Any report to the employer should provide only the information needed for work placement purposes or as required by government regulations. Identification to the employer of the particular drug(s) found and quantitative levels should not be done unless required by law. Reports to the employer should be made by a physician sensitive to the various considerations involved.

If carefully designed and carried out, programs for the screening of employees and applicants for drugs, including alcohol, serve to protect and improve employee health and safety in an ethically acceptable manner. Physicians are encouraged to refer to the Medical Review Officer Certification Council's MRO Code of Ethics.

This statement was approved by the ACOEM Board of Directors on January 28, 2006, and reaffirmed by the Board on January 31, 2009. It updates the previous Board-approved statement from February 9, 1991.