



Ethical Aspects of Drug Testing

ACOEM MEDICAL REVIEW OFFICER SECTION

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. Substance abuse includes not only the ingestion of illegal substances but also the misuse and abuse of prescription and non-prescription medications. The United States 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; however, the ethical aspects often receive less attention. An effective drug-testing program not only identifies substance abusers, but also safeguards the personal rights and ethical responsibilities of physicians.

The following guidance deals with ethical issues involved in substance abuse screening in the workplace. Other important considerations which must be addressed in the design and implementation of a substance-abuse 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 to ethically screen employees and prospective employees for the presence in their bodies of drugs and substances of abuse, including alcohol, which might affect employees' ability to perform work in a safe manner.

The American College of Occupational and Environmental Medicine (ACOEM) recommends strongly that employers obtain expert legal, medical, and employee relations advice before deciding to require screening of employees or applicants for drugs. Such experts should be involved in the actual structuring and implementation of any program screening employees or applicants for drugs.

This guidance is pertinent to drug testing done under the following circumstances:

- a. pre-placement assessment
- b. job transfer evaluation
- c. periodic mandatory medical surveillance
- d. post-incident/accident
- e. reasonable suspicion/cause
- f. random testing of those in safety- and security-sensitive positions
- g. special work-fitness examinations
- h. monitoring of employees who are under treatment for drug abuse, including alcohol, as a condition of continuing employment
- i. pre-access prior to employees entering certain facilities

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. 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 of the company's policy concerning drug use, misuse, and screening. Employees should be made aware of their right to refuse such screening and the consequences of such refusal to their employment.
4. Employees should have a clear understanding of — and the company's policy should state — the possible consequences of a non-negative test result including, but not limited to, refusal to hire, firing, suspension, rehabilitation, referral to substance abuse counseling, and not entering a facility.
5. Where special safety or security needs justify testing for the presence of drugs on an unannounced and random basis, employees should be made aware of all aspects of the drug-testing program.
6. 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).
7. 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).
8. 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 obtaining supplemental information from the employee or applicant to ensure that a 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, and employee assistance programs and rehabilitation.
9. The affected employee or applicant should be advised of the 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.
10. 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 drug(s) found and quantitative levels should not be done unless required by law or upon specific release request by the donor. 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 document was prepared by the ACOEM Medical Review Officer Section, reviewed by the Committee on Policy, Procedures and Public Positions, and approved by the ACOEM Board of Directors on April 27, 2019. ACOEM requires all substantive contributors to its documents to disclose any potential competing interests, which are carefully considered. ACOEM emphasizes that the judgments expressed herein represent the best available evidence at the time of publication and shall be considered the position of ACOEM and not the individual opinions of contributing authors. This statement was originally developed in 1990, and approved by ACOEM on February 9, 1991. The statement was subsequently updated January 28, 2006, and reaffirmed January 31, 2009. This and previous statements were developed by the ACOEM Medical Review Officer Section.