

2023 OVERVIEW

The State of Organizational Drug Testing

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Here at NOBLE, conversations concerning the future of drug testing occupies much of our time with clients . Providers and employers want to know what they can still do in terms of drug testing applicants and employees, especially considering seemingly wholesale legalization of marijuana among specific states. But as we look to the future, it is more than Cannabis that worries companies that both sell and buy drug testing services/supplies.

For as long as we can remember, marijuana has been referred to as the “gateway” drug that problematically leads to the use of “harder,” “more addictive” drugs such as cocaine, heroin, synthetic Opioids, etc. Unfortunately, what we’ve see in in terms of “decriminalization” of Marijuana

Take for example, Oregon; a state at the forefront of the legalization movement. Oregon has voted to decriminalize all Schedule I-IV drugs as designated by the Controlled Substances Act. Not surprisingly, the legalization of marijuana has coincided with a trend of more employees testing positive for pot. And let’s be frank, a quick “reading of the tea leaves” strongly suggests that the decriminalization of hard drugs will likely have a dramatically negative impact on the workplace as employers contend with the ever-expanding definitions and/or rights of individuals concerning “legal” substance abuse.

So, Why Drug Test?

Furthermore, the legalization movement now has its sights firmly fixed on crippling workplace drug testing. But everyone who relies on drug testing to secure the safety of their organization should keep the following facts in mind:

- 1. Drug testing is currently still legal is all 50 states.**
- 2. Testing for marijuana is still legal in all 50 states; even in New York under “limited circumstances.”**
- 3. Testing for drugs other than marijuana is still legal in all 50 states.**
- 4. Pre-employment drug testing is still legal in all 50 states and has never been more important.**
- 5. In all 50 states, employees at work under the influence of any/all drugs are more prone to cause a workplace accident, file a workers’ compensation claim, utilize their health care benefits, and work less productively than their non- drug abusing co-workers.**

Drug testing works! Over the course of many years, testing has proven to be a powerful deterrent to drug abuse and an effective way to identify people who need help. Yes, in some states that have legalized marijuana employers must comply with certain conditions when acting in good faith upon the result of a drug test, but no state has banned drug testing of employees or job applicants.

The Future of Drug Testing

People want to know what the future of drug testing looks like. Here are NOBLE's thoughts:

- **First and foremost we advise employers to always rely on a Medical Review Officer (MRO) to confirm positive drug test results.**

With the growing popularity of alternative testing methods such as hair and oral fluid testing and the ever-spreading legalization of marijuana, the role of MROs in ensuring the integrity of a workplace drug testing program is more critical than ever

- **Keep drug testing.** To discontinue drug testing, especially in marijuana-friendly states, is an open invitation to trouble.
- **Test for marijuana**, the number one substance of abuse after alcohol.ⁱⁱ If you don't test for marijuana, you are welcoming drug abusers seeking jobs to work for your company.
- **Test for a full panel of drugs.** Just testing for marijuana is at the very least "ill-advised.". In addition to marijuana, test for cocaine, heroin, amphetamines and synthetic opioids, as they are the most common in today's society.
- **Consider alternative testing methods:** that do not require the use of off-site collection sites. There are only two legitimate drug testing methods endorsed by the federal government—urine and oral fluid. Urine testing, a very reliable drug testing method, typically requires the services of a specially trained collector. However, oral fluid collections can be donor-driven and conducted anywhere, anytime without the donor and collector coming in contact with each other, giving employers an alternative when additional flexibility is required.
- **Consider alternative alcohol screening methods** that do not require a deep-lung breath sample. Breath is one way in which viruses are transmitted. Saliva alcohol testing, which is permitted by the Department of Transportation (DOT), eliminates the collection of a breath sample. A combination of both methods, saliva to screen and an evidentiary breath test for those instances when a confirmation is needed represents a viable option for workplace programs. Emerging technology is also making it possible to detect alcohol in a person's system via a skin test.
- **Consider tele-health collections.** Sometimes referred to as virtual drug testing, tele-health collections eliminate the need to send people to off-site collection facilities. This type of collection can take place anywhere or anytime because the donor and collector are not in the same location. Via the use of a video app like Zoom or Proof installed on a smartphone or tablet, the collector observes the donor throughout the entire collection process. The popularity of this collection method utilizing oral fluid is growing in the workplace market as well as in the insurance and drug treatment markets.

- **Remember, a positive drug test result, regardless of the method or the specimen type, does not provide legal or scientific proof that someone is impaired.** No reputable drug testing company will claim otherwise. Train supervisors to be able to recognize poor work performance, which may or may not be the result of drug abuse. Document aberrant behavior and, when necessary, take adverse employment action based on a combination of behaviors that violate company policy, including but not based solely on testing positive for drugs. Also, consider non-drug tests that are designed to identify impairment such as pupillary-type eye exams, variations of which have been successfully used in law enforcement for many years.

Conclusion

Until the powers that be eliminate drug testing entirely, to not use every available option to help secure your organization and your people's safety would be considered "negligent" at best...and we won't even speculate about the legal costs that could be incurred. Today, employers still have the power to secure and safeguard not only their own organization, but also the well-being of their partners, vendors, and contractors, by providing a safe, reliable & sober workforce. For more information about testing options, supplies, and emerging technologies, please contact a deep-knowledge NOBLE professional. He or she will be happy to assist and advise as required to ensure accuracy & compliance.