

Simple, Secure, and Scalable

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DrugPak

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Prioritizing Drug Testing to Optimize Legal Defensibility

Drug testing is a complicated process, scientifically and legally. From the collection of a sample to the reporting of a result, there are many steps that must be done perfectly every time or providers and end users expose themselves to legal liability. Because we live in a highly litigious society, legal defensibility should be a top priority for both sellers and buyers of drug testing.

What is Legal Defensibility?

Legal defensibility can be defined as a company's strategy for reducing exposure to legal risk. It does not necessarily mean avoiding legal challenges to a drug test program or test result, but it does mean being in the strongest position possible to legally defend your program and each individual test result. For this reason, and others, employers are well advised to do their



homework before deciding which drug testing method to use.

Federal Impact on Legal Defensibility

There are only two drug testing methods that have been officially endorsed by the federal government: lab-based urine and lab-based oral fluid.

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Ten Steps to Collection Site Security and Integrity

The Department of Transportation (DOT) has rigid requirements when it comes to the sample collection process. Collectors must hold DOT certification to perform DOT collections, and collection facilities must adhere to certain parameters to be used for DOT collections. DOT's 10 Steps to Collection Site Security and Integrity is a document outlining these parameters. It is often posted in collection facilities serving as an educational tool for both collectors and donors.



While some of the steps on the security and integrity document are straightforward and self-explanatory, some warrant further discussion, especially for those who are new to the DOT collection process, or for those wanting to further develop their understanding of the drug testing industry. In this article we will take a closer look at this document and discuss the importance of each step, ultimately revealing how all these steps work together to maintain collection site security and integrity.

Step 1: Pay careful attention to employees throughout the collection process.

Employees subject to drug testing may not always be willing participants. In some cases, an individual may attempt to cheat at some point during the collection process. Keeping a close eye on employees can help ensure that those efforts are minimized, and when something abnormal does occur it can be handled accordingly. Depending on the severity of the situation, the collector can decide the appropriate action, which includes performing a collection under direct observation or terminating the collection process altogether.

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The Current and Future State of Drug Testing According to Three Major Reports

Drug abuse is up. Positive drug test results are up. The number of companies testing for marijuana is down.

We know this from three major annual reports on substance abuse and drug testing:

1. The National Survey on Drug Use and Health (NSDUH) from the Substance Abuse and Mental Health Services Administration (SAMHSA),
2. The Drug Testing Index (DTI) from Quest Diagnostics, and
3. The Annual Drug Testing Industry Survey from the Current Consulting Group.

The finger of blame can be pointed at one main culprit—the legalization of marijuana. As of August 2023, 40 states, including the District of Columbia, have made using marijuana legal for either medicinal or so-called recreational purposes. The trend to legalize marijuana corresponds precisely with the trend lines from these three major reports that indicate that substance abuse is here to stay, that drug testing is more needed than ever, and that the decision to drop marijuana from a company's drug test panel is ill-advised at best and potentially dangerous and costly.

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When was your Drug and Alcohol Policy updated last ?

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[800.321.7826](tel:800.321.7826)

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