

A Prescription for Alcohol and Drug Testing: Do It ... But Do It Right!

What your employees do outside the workplace may seem like none of your business, and in most cases it isn't. But when a worker's extracurricular activities affect his or her performance on the job, that's a whole different ball game.

This is especially true of substance abuse: Nothing can harm a business in more ways than an employee with a drug or alcohol problem. The abuse doesn't even have to occur on the job. Even substance abuse outside the workplace can carry over in a variety of destructive ways.

The following are just a few examples of the negative effects substance abuse can have on your company:

- 1) Alcohol or drugs, even when used "recreationally" on the employee's off-hours, often leave the employee too hung over to show up for their shift;
- 2) Calling in sick due to inability to carry out one's job functions—though certainly the responsible thing for a substance-impaired employee to do—is unacceptable, because it leaves that shift short of help;
- 3) Showing up even slightly impaired can have a major impact on the employee's performance, not to mention the bad impression it leaves with customers;
- 4) An impaired—or even unimpaired, but hung over—employee is a safety hazard to customers, co-workers and even the community at large in some cases;
- 5) Loss of good judgment can lead to inappropriate and destructive behavior, like sexual harassment and violence.

Examples 4 and 5 can—and will—lead to liability suits. And if you're not already familiar with the concept of *respondeat superior* (loose translation, "let the master answer"), you may be surprised at just how easily employers can be held liable for the actions of their employees.

Drug and alcohol addiction is a huge problem in the United States. One segment of that problem—prescription drug addiction—has reached alarming levels. Nowhere is the problem felt more than in the workplace.

And it's not as easy to fix as you may think. Yes, there are all sorts of ways to test for drug use. But how will you know when it's legal to test in the first place? And when a test comes back positive, what are your rights—and what are the employee's rights?

The following scenario illustrates the problem:

A small company (Employer) chooses to test its workers (Employees) for drugs. But, being a small concern, Employer would rather test only those it considers a high risk for drug abuse and/or who operate dangerous machinery. To prevent fraudulent testing, some Employees are required to give a urine sample in the presence of someone in Human Resources. Employee "A" tests positive for opiates; however, Employee "A" has a valid prescription for Oxycodone as a result of an injury suffered outside

of work. In addition, Employee “A” operates only a pallet jack as part of his job duties, though he may sometimes be called upon to fill in on the forklift when needed.

Red flags should be popping up in your head. There are many considerations when deciding who, when, and even where to test for drugs. Not least of these is the Americans with Disabilities Act (ADA), and the various federal and state statutes preventing discrimination. Finally, most states have statutes prescribing all the whos, whats, wheres and whens of drug testing—if it’s allowed at all.

Drug abuse is such a serious concern that every employer should consider testing. Yet the laws are such a mine field that it’s easy to get oneself into a major jam for not doing it properly.

So don’t take chances. Hire a reputable, full-service background investigation firm like The Hire Authority: Visit www.hireauth.com, call (508) 230-5901, or email info@hireauth.com. At The Hire Authority, we’ll get the job done the right way, to get you the results you need without the headaches.

Better to pay a little now than a lot later.

The foregoing should not be construed as legal advice. Employers should always consult their own legal counsel for advice on labor and employment matters.