

INSTANT TESTING IN YOUR WORKPLACE

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In today's world, we have become accustomed to information being available in an instant at all hours of the day. Therefore, it is no surprise that in the world of workplace drug testing, instant testing has become increasingly popular. Does your workplace drug testing policy include instant testing? If not, you may want to consider the logistics of adding it to your program.

It is not an exaggeration to say that instant testing could save lives in high-risk workplaces where accidents caused by substance abusing employees may be prevented. An employee could be tested prior to entering a work site, for example, and anyone with a positive result could be immediately removed from duty until a confirmed result is available. Even reasonable suspicion testing could lead to removal of an employee high on drugs before harm occurs. Instant testing can help employers and employees feel confident that every person on that worksite is drug-free.

How can instant testing be added to a workplace policy?

When incorporating instant testing into a drug-free workplace program, contact a policy expert before implementing changes to your policy. State and local laws can directly impact the use of instant testing in your area.

Whether you are starting a testing program from scratch or updating an existing program, having a compliant policy is essential to prevent violations of applicable laws. Accordingly, once an employer decides the benefits to instant testing would be a value add to their testing program, the specific rules surrounding instant testing will need to be considered and carefully incorporated into the testing program and policy.

Generally, instant testing is legally permitted in most states. Only 6 states strictly prohibit instant testing, while the rest generally permit it, sometimes with limitations. While a few states with mandatory laws prohibit instant testing, most of the potential complications involve states with voluntary drug testing laws. For example, Tennessee and Ohio, among others, offer workers' compensation premium discounts to encourage drug testing but only permit lab-based testing, thus prohibiting instant testing for participating employers. Employers in those states must weigh the benefits of instant testing against the incentives offered by the state's voluntary programs and determine which is best for them.

Some states permit instant testing but place restrictions on it, such as specific testing procedures that must be followed. These laws must be carefully evaluated, followed, and any restrictions on instant testing must be reflected in a company policy. Common restrictions include use of approved devices only, state registration, adherence to specific collection procedures including use of qualified individuals to perform the test, training requirements, confirmation testing for non-negatives, and specific drug cutoff levels. While some states place these restrictions on employers, they are often easy to overcome for employers that wish to experience the benefits of instant testing in their workplace.

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The law and instant testing

One of the biggest considerations when adding instant testing are laws that require drug testing to be performed in a certified laboratory, or that on-site testing meet the standards of testing performed in a laboratory. Not all states require certified laboratories for workplace drug and alcohol testing, so for many employers this is not an issue.

Additionally, attention should be paid to state and local laws that dictate when instant testing can occur. [Refer to graphic on page 9.] Some states do not permit instant testing across the board but do permit it in certain circumstances. For example, the state of Maryland only permits instant testing for pre-employment testing, but does not allow it for testing of employees. Wyoming allows instant testing for pre-employment, random, and reasonable suspicion testing, but prohibits instant testing for post-accident testing. Illinois allows instant testing for most employers but prohibits it for those employed in public works projects.

Circumstances for testing typically include pre-employment, reasonable suspicion, post-accident, random, follow-up, and return-to-duty testing. Pre-employment drug testing is the one testing circumstance allowed in every state, and instant testing is permitted for pre-employment purposes in the vast majority of states. Employers should be aware of the restrictions that may be placed upon when they can perform instant testing in some states, but should understand that they can still use this effective testing method as long as they comply with the requirements of the law(s).

Lastly, the sample used for instant testing may be subject to restrictions. Essentially, there are two types of specimens used for instant testing, urine or oral fluid. There are benefits to both types of instant testing methods. Oral fluid testing, for instance, may be preferable because of the ease of obtaining a sample. No special facilities are required and the sample can be collected under direct observation. Employers should consult state laws to determine if they are permitted to use only instant oral fluid, only instant urine, or both testing methods, prior to implementing an instant testing program in their workplace.

Once the program details have been carefully considered, the next step is to share the changes of the testing program by communicating what is in the policy. There are several ways of introducing the updated policy to employees. A formal training session is a very effective means of communication and it allows the employees the opportunity to ask for clarification. Another means could be to provide a written announcement in a letter format. Either way, a drug testing program works best when implemented through a clear written policy that has been communicated to all employees.

Conclusion

Having information when you want it, where you want it is essential in today's busy workplace. Quick access to vital information can help keep a workplace safe. For this reason, among others, it may be wise to take a second look at your workplace policy and add instant testing to your program.

