

# Drug Free Workplace Testing

## Where are we and where are we going?



*Ohio Health Consortium, Inc.*

1032 Buckeye Ave. • Newark, OH 43055

933 Military Rd. • Zanesville, OH 43701

Presented by  
Dwight D. Newell, C-SAPA

# DOT Testing Begins

- n several marijuana-related train and subway accidents took place in the 1980s
- n January 4, 1987 – catastrophic fatal collision between a Conrail train and an Amtrak passenger train
  - n 174 injured
  - n 16 killed
  - n The NTSB determined the probable cause to be cannabis use by the Conrail engineer and conductor.
- n Federal Railroad Administration (FRA) began drug testing almost immediately

# DOT Testing Begins

- n Omnibus Transportation Employee Testing Act of 1991 was the result of
  - n previous and subsequent public transportation accidents
  - n August 28, 1991 – New York Transit train derailed
    - n 200 injured and 5 killed
    - n Alcohol was involved
- n DOT Operating Administration Testing
- n Office of Drug and Alcohol Policy and Compliance
- n NTSB: no commercial transportation accidents involving THC in the 35 years since.

# ODAPC – 49 CFR Part 40

- n Provides the structure of drug testing and defines the roles and responsibilities of:
  - n Urine Collectors
  - n Breath Alcohol Technicians
  - n DHHS Certified Laboratories
  - n Medical Review Officers
  - n Substance Abuse Professionals
  - n Oral Fluid Collectors\*
  - n Employers

# Non-Regulated Testing

- n Not DOT-Regulated
- n Additional parameters are from company-specific needs, state, county or city ordinances, or laboratory capability
- n The Ohio BWC Drug Free Safety Program basically follows the DOT guidelines.
- n Other countries have adopted Part 40

# Results

Results are an answer to a question.

What is the question?

# Breath Alcohol Testing

- n “Has the person been drinking?”
- n When? - last few hours
- n approximate level of impairment
- n impairment test

# Reasons For Testing

- n Post-Accident
- n Reasonable Suspicion
- n Random
  - n It's more about the process than the question
  - n Deterrence
  - n Abuse vs. Addiction



# Abuse

- n use of an illegal drug
- n misuse of a legal drug

# Addiction

**“Using when you don’t want to.”**

# Pre-Employment Alcohol Testing

- n Uncommon
- n DOT allows but does not require
- n Oil and Gas Industry

# Urine Drug Testing

- n systems presence test
- n not an impairment test
- n Has the donor used controlled substances?
- n When? – last few days
- n levels

# Urine Drug Testing

- n Post-Accident
- n Reasonable Suspicion
- n Random
- n Pre-Employment

Illegal drugs are illegal, end of story.  
???

# Presence Of A Drug

- n “It is the policy of «Company» that its employees be free of substance abuse and alcohol abuse. Consequently, the use of illegal drugs, misuse of legal drugs and misuse of alcohol by employees is prohibited.”
- n “Prohibited conduct under this policy is being unable to perform work in a safe and productive manner, ..... having any detectable level of illegal drugs in the employee’s system.”
- n “Employees who are found to have a confirmed positive drug or alcohol test will be immediately taken off safety-sensitive duties and are subject to discipline up to and including termination.”

# Marijuana

“We don’t care what employees do on their own time.....”

# Possible Urine Drug Test Results

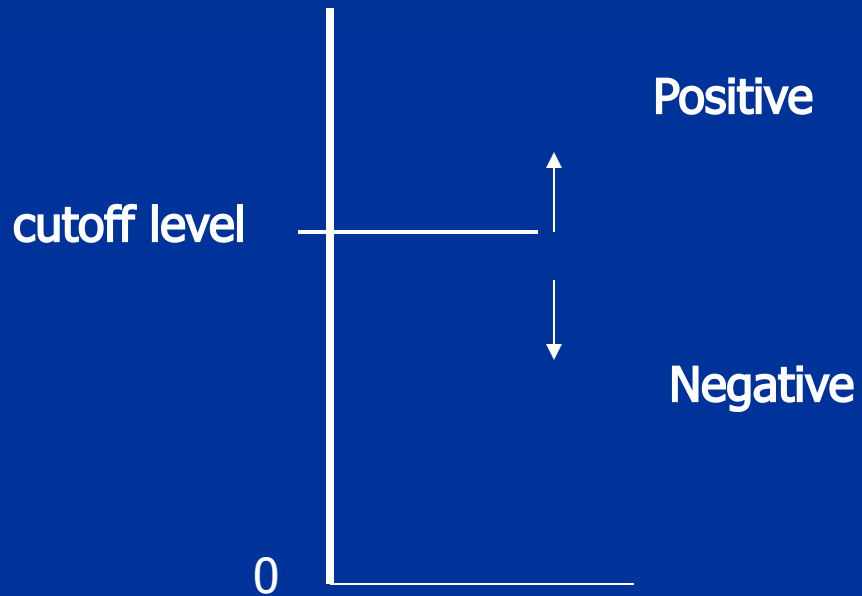
- J Negative
- L Positive
- K Negative-Dilute
- L Positive-Dilute
- L Adulterated
- L Substituted
- K Invalid
- K Cancelled Test



# Cutoff Level

- n Definition: The concentration of a drug/metabolite, in urine, usually in nanograms per milliliter (ng/ml), used to determine whether a specimen is positive (at or above the cutoff level) or negative (below the cutoff level) for the drug in question.

# Cutoff Level



# Negative

**Definition:** A specimen that contains no drug/metabolite or a drug/metabolite whose quantitative level is below the cutoff level.



# Dilute

- n Definition: A specimen with creatinine and specific gravity values that are lower than expected for human urine.
- n “The specimen is more “watery” or not as concentrated as expected for human urine.”

# Negative-Dilute

- n Definition: A specimen that is both negative and dilute as defined above.
- n What do you do?
  - n 1. Accept the results as you would any other negative. OR
  - n 2 . Retest the individual.
    - a. Be consistent. Consistency by test type is a possibility.
    - b. The test should occur as soon as possible.
    - c. If the second test is negative-dilute, accept it as you would any other negative. There should be no third re-test.

# Positive

- n Definition: Drug detected at or above the cutoff level / threshold of a test.



# Positive-Dilute

- n Definition: A specimen that is both negative and dilute as defined above.
- n Treat a positive-dilute the same as you would any other positive.

# Adulterated

- n Definition: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- n “There’s something in it.”
- n Treat the same as you would a positive.



# Substituted



- n Definition: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.
- n “It’s not urine.”
- n Treat the same as you would a positive.

# Invalid

- n Definition: The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.
- n “There’s something unusual about this specimen.”

# Invalid

- n What do you do?
- n The MRO should provide you with guidance.

## Possibilities are:

1. Test Cancelled - Retest under direct observation.  
(no medical explanation)
2. Test Cancelled – Direct observation collection not required.  
(medical explanation)

# Cancelled Test

- n Definition: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which otherwise must be cancelled due to a regulation. A cancelled test is neither a positive nor a negative test.
- n “The test was not completed.”



# Cancelled Test



- n What do you do?
- n It depends:
  - n If the cancellation is due to a fatal flaw, you may not have to do anything unless a result is needed before a next step can be taken. For example, if a DOT pre-employment or return-to-duty test is cancelled, the driver must provide another specimen for testing. The employer must have a negative or negative-dilute result before permitting the driver to perform safety sensitive functions.
  - n If provided, follow the recommendations of the MRO.

# Pre-Employment Drug Testing

- n Pre-employment drug tests
- n New-hire evaluation within 90 days
- n Combination or both

# Random Drug Testing

- n Limit the amount of time between notification and testing
- n Avoid Predictability
- n Onsite Testing
  - n awareness
  - n second and third shift issues

# Reasonable Suspicion Testing

- n Whether or not it is done is directly related to supervisor comfort level.
- n Supervisor comfort level is directly related to the quality of your reasonable suspicion training.
- n Fear of making a mistake



# Reasonable Suspicion Testing

## THE ISSUE OF PROOF

**Proof beyond reasonable doubt is not required.**

**Do you have a fact or facts that lead you to believe your workplace rules have been violated?**

# Post Accident Testing

**Is it being done in a timely manner?**

**2 hours, 8 hours, 32 hours**

**Do employees know the accident reporting requirements?**

# What drugs are you testing for?

- n Marijuana
- n Cocaine
- n PCP
- n Amphetamines
- n Opiates
- n Benzodiazepines
- n Barbiturates
- n Methadone
- n Propoxyphene
- n Methaqualone
- n Bath Salts
- n K2 , spice
- n Khat
- n Other Opiates
- n Fentanyl
- n Alcohol

# Do you really know what drugs you are testing for?

## n Opiates

- n Morphine, codeine, heroin

- n Hydrocodone, hydromorphone, oxycodone

- n Instant tests: The test panels may be, but many times are not, comparable to the lab-based test panels.

# Who is your testing provider?

Is your testing provider a testing provider?

- n accountants
- n Professional Employer Services / Organizations
- n HR service providers

# What's Next?

# Oral Fluid

- n Final rule published in the Federal Register May 2, 2023
- n Final rule went into effect on June 1, 2023
- n HHS has yet to approve any primary or secondary testing labs for oral fluid testing

# Oral Fluid

- n Can be done “on-site”, anytime, anywhere – important in remote locations; situations difficult to collect a urine sample
- n More flexibility for mobile and on-site collectors
- n More flexibility for collection site design and layout
- n Less invasive



# Oral Fluid

- n All collections are directly observed – leading to greater confidence in results.
- n The employee is never out of sight of the collector from start to finish.
- n This specimen type is very difficult to adulterate and/or dilute.
- n Concealment of paraphernalia becomes low risk.

# Oral Fluid

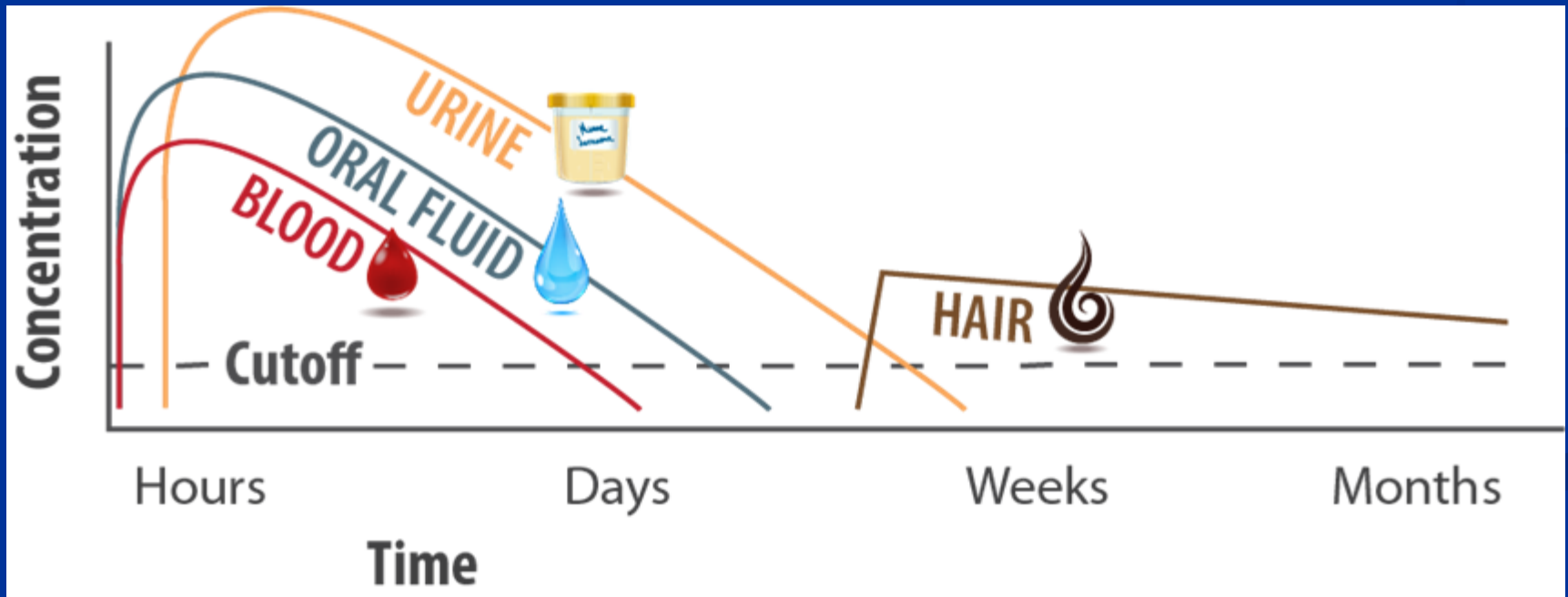
- n eliminates gender issue with direct observation urine collections
- n Positive rates higher than standard lab-based urine testing.
- n shorter detection period than urine

# Downside To Oral Fluid

- n time required to complete a collection
- n costs unknown
- n standing orders under DOT

# Oral Fluid & Other Methodologies

Oral Fluid - Detection within **15 minutes** and up to **2-3 days**. THC detection from **15 minutes** to **1-2 days**.



# Breath Tests For Marijuana

- n Not yet
- n Hound Laboratories has permanently closed.

# Non-Chemical Tests

- n mobile applications that test for cognitive and motor impairment
- n automated eye tests by AI based on law enforcement ocular tests

# Contact Information

## Ohio Health Consortium, Inc.

### Newark

1032 Buckeye Avenue, Newark, Ohio 43055

Ph: 1-888-368-3926

### Zanesville

933 Military Road, Zanesville, Ohio 43701

Ph: 740-454-9805

[info@ohio-health.com](mailto:info@ohio-health.com)