Drug testing in the age of marijuana normalization:

You have more options than you think

A s organizations struggle to find ways to hire and keep qualified employees and statistics about marijuana use soar, some employers have started asking:

Should we stop drug testing?
Can we just test for marijuana?
Could we stop doing random testing?
What would happen if we accommodated marijuana use?

Despite homing in on the drug testing element of their drug-free workplace programs, employers are wondering if their whole program is acting as a barrier to employment. However, it's important to pause and explore the role a drug-free workplace program plays in the workplace and remember that it has several moving parts. It is not a one-size-fits-all endeavor. Each of the five components of a program – policy, employee education, supervisor training, drug testing and employee assistance – can be customized to meet an organization's needs.

Reexamining your program – it's a risk analysis

Organizations don't just wake up one day saying, "Let's start a drug-free workplace program." There are reasons for the decision. From meeting contractor requirements to addressing safety concerns, reducing liability issues, federal and/or state compliance issues, an organization's drug-free workplace program is implemented to meet a variety of objectives.

So, when it comes to changing or eliminating your program, you need to think through all your objectives – not just what you hope to accomplish by making changes, but why you initially started your program. After you've thought through all your objectives (e.g., finding employees, keeping your current employees, maintaining safety, keeping contracts, staying competitive), you need to identify your priorities. Rank ordering them allows you to work toward a solution that balances all your objectives.

The right balance

For many employers, the pivotal issue with a drug-free workplace program comes down to testing. It is the accountability factor in a good program. Fortunately, many aspects of testing can be customized to balance your needs (e.g., how much do you proactively test and look for issues vs. only responding reactively vs. deciding not to test at all):

When you test: Among the various categories of drug tests, you have proactive tests, e.g., pre-employment, new hire and random testing, and reactive tests, e.g., post-accident and reasonable suspicion. Each test has rules around when and why the tests are done. Unless required by an authority to conduct specific types of tests, you are free to choose the types of tests your program conducts. Additionally, there are many options within the operational rules for each testing application. With slight adjustments in how you drug test, you could maintain an emphasis on safety while not over-testing.

How you test: There are different testing methodologies to choose from, e.g., oral, urine and hair testing. Each method has a specific window of detection and will provide different information about an individual's substance use. And specific testing methodologies are better suited for different situations or objectives. For example, oral fluid testing has a short detection window, tending to identify recent use (e.g., within a few hours to a few days), while hair testing will detect use that happened over a few months, potentially demonstrating a pattern.

Who you test: Different testing applications can be applied to different groups of employees, e.g., all employees, safety-sensitive roles, only employees working jobs that require testing such as those on a state job in Ohio, to meet your desired objectives.

What you test for: While there are standard panels (the selection of drugs) for testing, if you aren't answering to an authority, you can choose the substance(s) you test for. Ultimately, you can test for a variety of drugs depending upon your program objectives. You may select to test some, all or none of the drugs of abuse, e.g., heroin, methamphetamine, marijuana or cocaine, etc.

All these options boil down to the fact that the testing aspect of a drug-free workplace program resides on a spectrum, and your options range from not testing anyone for a substance to testing everyone for every substance. How you combine the myriad of variables to meet your objectives is at the heart of how you customize your program. For example,

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some options include:

• adjusting when and who is tested

• change the methods of testing, e.g., switch from urine testing to oral fluids or a situationally specific combination of the two

• only test for marijuana in some instances and some positions

When it comes to making program changes, there are additional tangential considerations. For example, in considering the various approaches to testing, if the hope is that the decision will aid in the hiring process, you also need to determine if and how you will convey this information to candidates:

If, in an attempt to broaden the pool of prospective candidates, you decide not to test for marijuana, is this something you will announce during the recruitment process, e.g., announce in the job posting, share during the interview?

If you aren't comfortable announcing your policy change to recruits, how come?

Even if you decide not to share your drug testing approach with candidates during the recruitment process, you still need to consider the objectives you are targeting. Are you desiring a larger pool of candidates? Are you avoiding the fall-off of candidates who go through the interview process but "ghost" you when it is time for the pre-employment test? There are pros and cons to either of these objectives i.e., higher expenditure of resources for the recruitment process, the higher possibility of absorbing an employee at risk. Every decision is a balancing exercise.

It's more than just testing

As you examine how your drug-free workplace program helps you accomplish your objectives, remember that drug testing is just one element of your program. Other program components can also support your objectives, e.g., education and

training and employee assistance. For example, if you decide to limit proactive marijuana testing, ensuring your supervisors are well-trained to recognize signs of impairment and are comfortable acting if they suspect use is one way to focus on safety. Similarly, if identifying risks is important and you remove random testing (a proactive testing method), emphasizing your assistance program benefits could help an employee who realizes they are having issues.

And don't forget to look outside of your drug-free workplace program. Your program is only one part of your company's culture and policies. While adjusting your drug-free workplace program may be low-hanging fruit in addressing any employment concerns you're experiencing, it is equally important to explore what else your organization is doing to recruit and retain employees and be a competitive and attractive employer.

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