



# Unique State Collection Requirements

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## STATE-SPECIFIC DIFFERENCES IN COLLECTION PROTOCOLS AND HOW TO COMPLY WITH THEM

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# How States Manage Collections

- **Mandatory**
  - Several states have legislated drug testing statutes.
  - Some of these statutes apply to all persons in state to be tested.
    - Some apply or are directed to laboratories performing forensic drug testing of state workers.
  - Some of these statutes apply only to a subset of individuals, i.e. public employees or workers' compensation claimants.
- **Opt-In Programs**
  - Many states have voluntary drug free workplace laws that provide a workers' compensation insurance discount to employers who establish and maintain an annually certified drug-free workplace program in compliance with the relevant state law.
  - Many provide regulations for collection of specimens in relation to the opt-in programs.
- **Unregulated**
  - Many states have chosen not to legislate in this area.

# Connecticut

- **Mandatory All**

- Requires split specimen collection in employment testing. (31-51u (2013)).
- Failure to collect split specimen could subject employer to liability.
- *Pace Air Serv. v. Administrator*, 1998 Conn. Super. LEXIS 346 (Conn. Super. Ct. Feb. 6, 1998).
  - Employee fired for drug use was eligible for unemployment compensation benefits because the employer did not use split sample method of specimen collection.

# Hawaii

- **Mandatory All**

- Blood samples must be labeled with name of person drawing blood and type or amount of preservative or anticoagulant used. (11-113-7(4)).
- Prior to the collection of a sample, the individual being tested must be provided a list of the specific substances to be tested for and a statement that over-the-counter or prescribed drugs may result in positive test results. (329B-5(a) & 11-113-5(a)).



## Hawaii Cont.

- If immediate specimen collection is necessary and no third party collection site is available, a public restroom can be used. (11-113-6(9)).
  - A same gender collection site person shall accompany individual into the rest room, but remain outside the stall. (11-113-6(9)).

# Iowa

- **Mandatory All**

- Split specimens required for current employees. (730.5(7)(b)).
- Employer must provide donor with list of drugs to be tested.

# Maine

- **Mandatory Laboratory Requirements**
  - Maine has more than one drug testing statute that addresses collection.
  - Collection site must be a medical facility and supervised by a licensed physician or nurse. (265(B)(1)).
  - At the request of the donor at the time of collection, a portion of the sample must be segregated for that person's own testing. (265(B)(11)).
  - Oral fluid, hair, and sweat must be collected in accordance with federal HHS guidelines. (265(B)(6)–(8)).
  - Donor may request blood specimen for marijuana and alcohol testing and if requested, no other sample may be tested for alcohol or marijuana metabolites. (265(B)).

# Maine Cont.

- **Mandatory-All**
  - Specimen must be collected at medical facility by physician or nurse. (683(2)(C)(1)).
    - Medical facility includes a first aid station located at the work site.
  - Donor may request blood specimen for marijuana and alcohol testing and if requested, no other sample may be tested for alcohol or marijuana metabolites. (683(5)(B)).
  - At the request of the donor at the time of collection, a portion of the sample must be segregated for that person's own testing. (683(5)(A)).

# Oklahoma

- **Mandatory All**

- Oklahoma Statute Sections 551 – 565 & Oklahoma Administrative Code Sections 310:638-1-1 – 310:638-7-11.
  - Issues with Oklahoma's DOH authority to enforce regulations.
  - Detailed regulations on collections.
- Collectors certified by the State Board of Health. (559).
- Collector training: Documented training record or medical professional/technician who has acknowledged in writing that has instructions. (310:638-1-10).
  - Must provide employer representatives and donors with standard written instructions. (310:638-1-10).
- At the request of the donor at the time of collection, a portion of the sample must be segregated for that person's own testing. (310:683(5)(A)).

# Oklahoma Cont.

- **Detailed Regulations for Collection of Urine, Hair, and Saliva**
  - **Urine:**
    - If drug testing is to be conducted in a testing facility which performs both the initial screening test and the confirmatory test at the same location, urine may be collected as a single sample or split sample.
    - If drug testing is to be conducted in a testing facility which performs only the initial screening test, urine may be collected only as a split sample.
    - Upon receiving the specimen from the individual, the collection site person must ensure it contains at least forty-five (45) ml of urine under the split sample method of collection or thirty (30) ml of urine under the single sample method of collection. (O.A.C. § 310:638-1-8).

# Oklahoma Cont.

- **Detailed Regulations for Collection of Urine, Hair, and Saliva**
  - **Hair:**
    - Standard hair collection guidance.
  - **Saliva:**
    - Shall be collected in a device approved by the Federal Food and Drug Administration and according to the instructions provided by the manufacturer of the saliva collection device. (O.A.C. § 310:638-1-8.2).



# Puerto Rico

- **Mandatory Federal/City/Private Employees**
  - Provides vague guideline for volume of collection.
  - A sufficient amount of urine must be collected for performing initial and corroborative testing. (161(f)).

# Illinois

- **Mandatory Post-Accident Workers' Compensation Testing**
  - Detailed regulations for collecting blood, urine, and breath.
  - **Blood:**
    - All blood specimens shall be collected by a licensed physician, advanced practice nurse, registered nurse, licensed practical nurse, phlebotomist, or certified paramedic. (50 Ill. Adm. Code 9140.20(a)).
    - The blood specimen shall be collected using aseptic venipuncture technique. (9140.20(b)(3)).
    - The venipuncture site shall be cleansed with an antiseptic substance that does not contain ethanol prior to collection. (9140.20(b)(4)).  
A sufficient amount of blood shall be collected to permit split testing. (9140.20(b)(5)).

# Illinois Cont.

## ○ **Urine:**

- All urine specimens shall be collected by any of the following: a collector meeting the training requirements of 49 CFR 40.33, licensed physician, advanced practice nurse, registered nurse or licensed practical nurse.
- The following persons **may not** serve as a collector:
  - The immediate supervisor of the employee being tested, unless no other collector is available; or a person employed by a laboratory who could link the employee with a urine specimen, testing result or laboratory report. (9140.30(a)).
- Provides additional detailed guidelines on the process to take throughout the collection.
- Provides specific direct observation collection procedures.
  - Example: If observer is not collector, must be listed on CCF.
- Regulations require 7 part CCF. (9140.10).



# Ohio

- **Mandatory State Employee**
  - Collection site must maintain a log of ID verification. (123:1-76-05(I)).
  - Donor must sign log verifying specimen is his or hers. (123:1-76-05(J)).

# Vermont

- **Mandatory All**

- Must provide donor with opportunity at donor's expense to have blood sample drawn at time of urine sample to be later tested for drugs. (514(6)(B)).

# South Dakota

- **Mandatory State Safety Sensitive/Direct Care Employees**
  - Applies only to safety sensitive or direct care state employees.
  - Donor must fill out medication information form at collection site. (55:05:04:03; 55:05:05:06; 55:05:06:03).
  - Collection site must maintain chain of custody log, which must include name of the collector and signature of donor. (55:05:06:05).
  - Specimen must be shipped to laboratory within 24 hours collection. (55:05:06:05).



# Guam

- **Mandatory Public Safety Employees**

- Applies only to public safety employees i.e. fire, police, etc.
- Collection must always be conducted as a direct observation.
  - A same gender observer is required to watch employee give sample. (75105(a)(2)).



# New Mexico

- **Mandatory State Employee**

- Specimen must be collected by SAMSHA or CAP laboratory in accordance with HHS requirements. (1.7.8.12(A)).

- **Opt-In Workers' Compensation Testing**

- For a determination of impairment, drug and alcohol test and testing procedures must conform with DOT regulations. (52-1-12.1).



# Kansas

- **Mandatory Laboratory and Opt-In Workers' Compensation Laws.**
  - One provides collection guidance, the other does not.
- Even on the state level collection requirements can vary.
- **Mandatory Laboratory- K.A.R. § 28-33-12**
  - No mention of collection requirements.

## Kansas Cont.

- **Opt-In Workers' Compensation Testing**
  - Must be collected by or under the supervision of a licensed health care provider for test results to be admissible as evidence of impairment. (44-501(b)(3)(B)).
  - Split specimen required. (44-501(b)(3)(E)).

# Alabama

- **Opt-In Workers' Compensation Testing**
  - Collector must be a qualified person certified or employed by a laboratory certified by NIDA, CAP, or the Alabama Department of Human Resources. (25-5-335(c)(5)(b)).

# Florida

- **Mandatory Public and Opt-In Workers' Compensation**
  - Florida provides some of the most detailed requirements in the nation.
- Blood specimen must be 7ml in a vial containing anti-coagulant and preservative of sodium fluoride. (59A-24.005(3)(c)(8)(a) – (b)).
- Split specimen collection is permitted if performed in accordance with HHS regulations. (59A-24.005(3)(c)(22)).

# Florida Cont.

- **Mandatory Public and Opt-In Workers' Compensation**
  - Specimen collection must be done on a state-mandated “form for the [donor] to provide any information he or she considers relevant to the test,” including prescription medication. (440.102(5)(b)(2)).
  - Laboratories are required to provide or directly contract with collection sites or collectors for the collection of workplace drug testing specimens. (59A-24.005(1), 59A-24.006(6)).
  - Laboratories are legally responsible for ensuring that collectors are trained in specimen collection procedures —whether actually employed by the laboratory or not. (59A-24.003(5), 59A-24.005(1), 59A-24.006(6)).



# States That Follow DOT Collection Procedures

- Several states merely state the collection must follow DOT collection procedures.
  - **Arkansas**
    - Opt-In Workers' Compensation Testing.
    - Collection procedures must follow DOT requirements. (11-14-107(a); 099.00.1-099.36(VII)(C)).
  - **Tennessee**
    - Opt-In Workers' Compensation Testing.
    - Specimen collection must comply with DOT regulations. (50-9-107(a)).
  - **Montana**
    - Mandatory State Safety Sensitive Employees.
    - Collection, transportation and confirmation testing of urine specimen must be as stringent as 49 CFR part 40. (39-2-207(4)).

# States With Volume Requirements

- **Oklahoma- Mandatory All**
  - Must collect 45 mL if split, 30 mL if single. (310:638-1-8(10)).
- **Hawaii- Mandatory All**
  - Specimen volume must be at least 30 mL. (11-113-6(a)(10)).
- **Maryland- Mandatory Laboratory Requirements**
  - Specimen quantity must be sufficient for retesting. (10.10.10.07(B)).
- **Mississippi- Opt-In All**
  - Specimen volume must be sufficient for two tests as “defined by federal statutes and regulations.” (71-7-9(7)).
- **Utah- Mandatory Local Government Employees**
  - Must be at least 45 mL of specimen. (30/15).
- **Iowa- Mandatory All**
  - specimen collections are required for current employees with bottle A containing at least 30 mL and bottle B containing at least 15 mL. (730.5(7)(b)).
- **Illinois- Mandatory Post Accident Testing**
  - The collector shall collect a specimen of at least 45 mL. (9140.30(f)(9)).



# States With Split Specimen Requirements

- **Arkansas-** Opt-In Workers' Compensation
- **Boulder, Colorado-** Mandatory All
- **Connecticut-** Mandatory All
- **District of Colombia-** Mandatory Public Employee
- **Georgia-** Mandatory Public Employee
- **Illinois-** Mandatory Post Accident Testing
- **Iowa-** Mandatory All
- **Kansas-** Opt-In Workers' Compensation Testing
- **Montana-** Mandatory Safety Sensitive Employees
- **Ohio-** Opt-In Workers' Compensation Testing
- **Oklahoma-** Mandatory All
- **Tennessee-** Opt-In Workers' Compensation Testing
- **Utah-** Mandatory Local Government Employees
- **Virginia-** Opt-In Unemployment Benefits Testing
- **West Virginia-** Mandatory Mine Inspector and Mine Safety Instructors



# States With Opportunity To Provide Relevant Information Requirements

- **Alabama-** Opt-In Workers' Compensation
- **Arizona-** Opt-In Workers' Compensation
- **Georgia-** Opt-In Workers' Compensation
- **Iowa-** Mandatory All
- **Louisiana-** Mandatory Workers' Compensation
- **Mississippi-** Opt-In All
- **Oklahoma-** Mandatory All



## States Prohibiting Observed Collections

- **Connecticut-** Mandatory All
- **Maine-** Mandatory All
- **Rhode Island-** Mandatory All
- **Boulder, Colorado-** Mandatory All

# QUESTIONS



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