

OCCUPATIONAL HEALTH BRIEFS

NEWSLETTER of the ACA's **COUNCIL on OCCUPATIONAL HEALTH**

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President, ACA Council
on Occupational Health

MESSAGE FROM THE PRESIDENT FRED RASCHKE, DC

Fred Raschke, DC, CCSP, has practiced in Weyauwega, WI since 1991. Dr. Rashcke has completed 360 hours of postgraduate Chiropractic Occupational Health and Applied Ergonomics educational. Dr. Raschke works with schools for implementing strategies for prevention and wellness.

"I've learned that everyone wants to live on top of the mountain, but all the happiness and growth occurs while you're climbing it"

- Andy Rooney (Journalist)

Greetings Council Members.

Have you ever felt like your efforts to build your practice is a daily uphill and rocky climb? Maybe some days it's two steps forward, three steps back. Yet upward and onward we go, scaling challenging obstacles. Has it seemed at times, that you (or I) are on a solo journey trying to reach the summit of our practice experience? Then I have good news to share; while you and I are out there climbing, *we are not alone*. Fortunately, we can equip ourselves for a mountain-top practice by securing the best resources for the climb. The best resource you and I have is the ability to communicate often within a professional network of family, friends, and colleagues to share ideas and support each other. Even better, you and I have the American Chiropractic Association (ACA) on our side, working *harder than ever* as our greatest representative to help lead us on this journey. The ACA is our profession's #1 leadership organization. This Council has enjoyed great support from the ACA.

You really need to become an ACA member, or renew your lapsed membership to the great ACA. If you are a member – fantastic, continue to utilize their services and website as you help your patients, local businesses, and elected officials stay abreast of the value of chiropractic care in helping our nation's chronic disease crisis. Being a member of the ACA tremendously increases our ability to network with colleagues, but that's just one reward for supporting the ACA financially by membership.

This issue will help you see the reasons why you should choose to join the ACA; the ACA is working harder each day to learn how it can support doctors like you and me. And they're doing it – the ACA is keenly aware of what will help us in our practice maintenance and growth. (See page 3-4.)

Obviously, the ACA needs each and every one of us to give our financial support in order to represent each and every one of us to ensure we continue as the leaders in preventative and corrective health care in this country. I ask you on behalf of the ACACOH to join the ACA today. It's the best investment you can make to help ensure yours and the profession's livelihood and future.

Respectfully,
Fred W. Raschke DC
President ACACOH

THE COMPANY DRUG TESTING PROGRAM: A BEGINNERS GUIDE

by Christopher D. Thorpe, Esq.

Before a company decides to implement drug testing in the workplace, it is important to gain full understanding of how the program can work. To do otherwise could place the company at risk for potential legal liability stemming from implementing or executing a program not in accordance with various laws. Simple steps can reduce or even eliminate potential risk and exposure. This article provides some general advice on *three important steps* a company can take in dealing with *hot button* legal issues commonly faced when first instituting drug testing programs.

1. Understand the various types and respective differences of drug testing available to a company's program.

Let's say that the human resource generalist from Company ABC, (a fictitious company), calls a local occupational consulting company, informs them that the company is interested in establishing a random testing program at their company. After discussing the respective nuances concerning the administration of such a program, the HR generalist admits, "what we are really facing is an employee who we suspect is a drug abuser and we want to *randomly* select him for a test to see if our suspicions are correct."

In the above case, the HR generalist clearly did not understand the difference between a *random* drug test and *just-cause/reasonable suspicion* drug test. They are vastly different types of tests with respect to their administration, basis for conducting the test, and the documentation required for testing. Had the HR specialist in this hypothetical scenario actually proceeded under his/her incorrect understanding of *random testing* by subjecting the individual to drug testing and particularly received a positive test result that would have (based on a company decision) resulted in a negative employment condition (e.g., suspension, termination, etc.) it could have exposed Company ABC to a wrongful termination claim costing tens of thousands of dollars in attorney's fees, payment of back wages and settlement costs, and may even result in the employee's reinstatement.

It is of paramount importance that management and employees alike understand the differences as well as the individual nuances and procedures associated with the major types of drug tests utilized in today's workplace—*pre-employment*, *just-cause (reasonable suspicion)*, *random*, *post-accident*, and *return-to-work*. Here at WorkRite Safety, our consultants explain the types of drug tests to our client companies during the initial training sessions.

2. Make sure the policy is in writing, is clear and unambiguous, and is understood by supervisors and employees.

The company's drug testing program must be supported and managed by a *written policy*. Sounds simple enough but it is astonishing, the number of companies that proceed with testing their employees without some form of a policy in writing. With this in mind, it is important to realize that U.S. courts place a premium on the individual's right to privacy. Drug tests conducted and test results obtained pursuant to a written policy, if challenged, will likely face intense judicial scrutiny as an invasion of privacy and discriminatory, potentially resulting in the consequences discussed in the previous section.

The best written policy driving the company's drug testing program will be one that is clear, concise, well-organized, and thoughtful. It will be thorough, leaving virtually no room for misinterpretation. It is a solid practice for the company to involve corporate counsel or seek outside counsel to assist drafting the initial policy and assist in the review of any future changes to an already established policy. Additionally, documented education and training of supervisors and employees regarding the specific nuances of a policy will further insulate a company's program against future scrutiny, reducing potential for liability. One cannot successfully claim ignorance, surprise, or discrimination when he/she has been repeatedly informed and trained and the policy has been followed precisely.

3. Understand the state and federal laws that directly and indirectly regulate drug testing.

Let me preface this discussion by stating that I am in no way advocating that anyone reading this run to the local law library and memorize hundreds of pages of regulations. What I am preaching however, is that in order to design, implement, and execute a successful corporate drug testing program it is vital that, at a minimum, human resource personnel and other "powers that be" in the company have a workable understanding of the various laws that will directly and/or indirectly impact a new testing program.

Sure, most educated business professionals are capable of wrapping their hands around the Department of Transportation (D.O.T.) or the Substance Abuse and Mental Health Services Administration (S.A.M.H.S.A.) regulations, and saying 'yah...I get that - I know what I have to do.' Do they really, though? Do they understand how the Americans with Disabilities Act (ADA) applies in administering a pre-employment screening program? Better yet, do they understand how a failed test or refusal to test impacts an individual's right to Unemployment Compensation Benefits? Most likely they do not. The company's decision-makers must strive to obtain great familiarity with the applicable laws regulating drug testing in the workplace. This will prove to be extremely beneficial in order to make the right decision when faced

with the kinds of tough questions that frequently arise in the world of corporate drug testing, thus providing yet further insulation against the potential for litigation.

Conclusion

The above questions and discussion barely scratches the surface with regard to all of the steps a company must take before it is ready to begin drug testing employees. The questions posed, however, are three of the more important considerations that a company must take into account in developing and implementing a program. Yet even the most carefully drafted and precisely followed drug testing programs cannot take into account everything that may come a company's way once it has begun testing employees. Following my suggestions as well as listening to the candid advice of a local attorney will go far in best protecting the company from having to defend needless discrimination and wrongful termination claims.

About the author: Mr. Thorpe is a graduate of the University of Detroit-Mercy School of Law and is in the process of completing his Masters of Law (L.L.M.) in Labor and Employment Law at Wayne State University Law School. He currently serves as Vice President of Operations and Development and General Counsel for WorkRite Safety, PLLC, (www.workritesafety.com) an Occupational Consulting firm based in Fayetteville, NY.

NOMINATIONS FOR OFFICERS ~ SOLICITATION ~

The Nominations Committee of the ACA Council on Occupational Health welcomes nominations for Officers for 2008 - 2009.

Nominations must be postmarked no later than July 20, 2008. You may nominate others or yourself for an office. The candidate must submit his/her curriculum vitae along with the nomination.

Like a Council member, the nominee must be both an American Chiropractic Association (ACA) and ACA Council on Occupational Health (ACACOH) member in good standing.

Please send nominations and materials to:

**David Thorpe, DC, DACBOH
NOMINATIONS – ACACOH
7211 E. Genesee Street
Fayetteville, NY 13066**

THE NEW FACE OF THE AMERICAN CHIROPRACTIC ASSOCIATION (ACA): YOU WIN WHEN YOU JOIN!!

The challenges are huge for most chiropractors to either begin a practice, maintain a successful practice and grow it, or for some, staying in business at all. The obvious, managed care, along with imposed limitations to scope of practice in some states, and the general condition of the economy, all serve as setbacks to living out and enjoying the thriving practice you want.

Many doctors are trying to 'do it all' – practice what they love the most plus manage the front office. Time constraints natural to practicing and seeing patients hold many back from being able to find much less enjoy the support and resources available to them. Look no further, waste no time, read on!

The good news is that the American Chiropractic Association (ACA), the profession's national leadership entity, is available to you as a partner in practice and a support to your efforts. Take a look – you may not have really given too much attention in the recent past to exactly how the ACA comes into play on your behalf. If not, take this moment to set all else aside to review exactly what it is the ACA offers to members. The following information is the 'window' to the ACA. Once you've looked inside, you will be hard pressed to find significant enough reason why you have not yet joined the ACA. Please join today – for your sake, the Council's sake, and our profession's sake. (But really, make it mostly for the sake of your practice that you love!)

Member Benefits Summary

The ACA is Your Partner in Insurance Relations

As your advocate, ACA provides many benefits to the profession, including access to our online *Chiropractic Network Action Center* (C.N.A.C.), ERISA education and training, and sample HIPAA forms. ACA is in regular contact with insurance companies to improve the claims processing system and to educate insurers.

All DCs benefit from our litigation against ACN and Group, our Insurance Appeals Initiative, and our Insurance Local Liaison program. We have representation on AMA CPT and RUC (committees that create and value CPT codes) and at workers compensation research meetings. We offer online educational materials for insurance professionals.

As your partner in practice, [ACA members also receive exclusive access to our online Insurance Coding Resource Center](#), where we answer all member questions sent to insinfo@acatoday.org. This online center also includes Practice Partners articles and our new legal toolkit. Only [ACA member doctors receive](#)

direct contact by [ACA](#) on their behalf with insurers to resolve reimbursement issues.

The ACA is Your Partner in Government Relations

As your advocate, ACA provides many benefits to the profession, including our efforts on National Healthcare Reform. The entire profession gains by our participation in the Medicare Demonstration project and our coding, regulatory and legislative alerts. All DCs can use our online Chiropractic (Legislative) Action Center.

ACA's grassroots lobbying successes for the benefit of all DCs include the defeat of S 1955 (which would have eliminated state-enacted patient protection laws allowing chiropractic care), victory in HR 1470 (that would expand chiropractic care to members of the military in all major VA medical facilities). We continue to support HR 1554 (that would ensure chiropractic care in all DoD medical facilities to retired members of the armed forces and their families).

As your partner in practice, [ACA members also receive exclusive access to our online Medicare Information Page](#), with program summaries and members-only tips. Only [ACA member doctors can access our Medicare Appeals information page and use our Medicare Fee Calculator](#).

The ACA is Your Partner in Clinic Bottom Line

As your advocate, ACA supports the profession and all DCs with our sample practice management forms.

As your partner in practice, [ACA members also exclusively receive participation in our online "Find-A-Doc" referral listing](#), complimentary online classified ads, and 40 professional staff members to help w/questions you cannot answer for yourself. Only ACA member doctors earn a 30% discount on ACA products & services, including our popular *Coding Solutions Manual and Clinical Documentation Manual*. Our members also receive discounts on endorsed products & services and affinity marketing partners.

ACA members also get access to many discounts through the ACA Endorsement program and through ACA's Affinity Marketing Partners who can be found in [ACA's MemberAdvantage Program Page](#).

The ACA is Your Partner in Doctor Education

As your advocate, ACA supports the profession and all DCs with complimentary subscriptions to *ACA News*.

As your partner in practice, [ACA members also exclusively receive access to JACA Online](#) and can

receive subscriptions to *JMPT* and *Week In Review*. Only [ACA member doctors earn discounted rates](#) for our bi-weekly teleseminars and all other educational seminars.

The ACA is Your Partner in Patient Education

As your advocate, [ACA supports the profession through use of our online Patient Advocacy Network](#) and the benefit of our formal responses to negative media stories and placement of positive media stories. All DCs gain by our representation at national anti-fraud meetings that educate the public and through our online information on health and chiropractic for consumers/patients. As your partner in practice, ACA members also exclusively receive access to complimentary "*Healthy Living*" *Fact Sheet* handouts for patients and complimentary PR tools and tips to use in your community and with media. Only ACA member doctors earn a membership certificate with your professional pledge for your patients to view.

The ACA is Your Partner in the Chiropractic Community

As your advocate, [ACA supports the profession with consistent funding of healthcare research](#), chiropractic promotion and student scholarships. We are a proud supporter of FCER, F4CP and WFC and also support activities of state chiropractic associations.

As your partner in practice, [ACA members also exclusively receive access to our member doctors-only listservs](#) and discounted registration at all ACA meetings. [ACA member doctors can participate in any of numerous specialty councils](#): Sports Injuries & Physical Fitness, Physiological Therapeutics & Rehab, Orthopedics, Neurology, Diagnosis & Internal Disorders, Nutrition, Diagnostic Imaging, Occupational Health, and Pediatrics.

(The above content is copied with permission from the ACA, and including the membership application.)

When you join the ACA, you have so much support available to you. Join the network of your colleagues today. Membership lapsed? Please renew today. You will be glad you did!

To join the ACA today, please see the application form (next page) and visit the web site of the ACA at www.amerchiro.org. Please be sure to indicate in writing on your application that you saw the application in the Council on Occupational Health's newsletter. Thank you!



'08 COUNCIL SPECIAL MEMBERSHIP APPLICATION

First Name	Middle Initial	Last Name	Suffix
Email (for ACA correspondence only)		Phone	Fax
Clinic Name (if applicable)		Clinic Web Site (if applicable)	
Street Address	Ste #	City	ST Zip
Date of Birth	Chiropractic College(s)	Degree(s) with Graduation Date(s)	

OCCUPATIONAL HEALTH

YOUR SPECIALTY COUNCIL NAME HERE _____ Name of member who encouraged me to join _____

MEMBERSHIP CATEGORIES DUES (INCLUDES COUNCIL DUES)

Per Year / Per Month**

- .. **Governor's Advisory Cabinet*** - Licensed DC/*General* member who receives enhanced "GAC" benefits \$1200 / \$100
- General*** - Licensed DC practicing full-time in a chiropractic clinic in the U.S. **\$600 / \$50**
- .. **Family*** - Licensed DC practicing full-time in a chiropractic clinic with an immediate family member/*General* member \$300 / \$25
ACA membership # of family member: _____
- .. **New Practitioner*** - Licensed DC who is 2-4 years from graduation date \$120 / \$10
- .. **New Graduate*** - Recent graduate (within 1 year from graduation date) of a chiropractic college (one year FREE)
- .. **Sustaining** - Licensed DC practicing part-time ~OR~ practicing full time at a military or VA facility \$300 / \$25
- .. **Associate** - Non-practicing licensed DC or non-DC \$150 / \$12.50
() Faculty member at a chiropractic college () Currently serving in the US armed forces () Other
- .. **International** - Licensed DC practicing outside of the U.S. \$150 / \$12.50

ACA voting rights (*) are granted to licensed DCs in active practice in the U.S.; Retired or disabled DCs - contact us about reduced dues

PAYMENT OPTIONS

- .. EZ Pay** - Automatic debit for monthly dues (complete credit card information below)
- .. Pay in full - Check enclosed for annual dues
- .. Pay in full - Charge credit card for annual dues
Credit Card: | Visa | MasterCard | Discover | American Express

Full Billing Address (if different from above) _____

Name as it Appears on Card	Card Number	CVV#/CID#	Exp. Date
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****MONTHLY "EZ PAY" APPLICANTS:** I authorize ACA to initiate on or about the 15th of each month debit entries to my credit card account. I hereby authorize the depository institution named above to debit the same from my account. These debits shall be for the amount of my monthly dues payments. I understand the amount will change if there are changes to my ACA membership category. This agreement will remain in affect unless I notify ACA in writing to cancel it.

DOCTOR APPLICANTS: I certify that I am currently a Doctor of Chiropractic. I pledge to abide by the ACA Code of Ethics. I understand that my continued membership is contingent upon my adherence to this code.

ALL APPLICANTS: I certify that the information provided herein is complete and accurate. I pledge to support ACA bylaws and policies, as they are now and as they may be amended. I understand that my application is subject to ACA approval and that I will be notified of this action.

[ACA CODE: 3205] [ACA— By Mail: 1701 Clarendon Blvd., Arlington, VA, 22209; By Phone: 703.276.8800; By Fax: 703.243.2593]

Applicant Signature _____

Date _____

Contributions (or gifts), dues and fees to ACA are not tax deductible as charitable contributions for federal income tax purposes. To the extent that ACA does engage in lobbying activities, 94% of ACA membership dues in 2007 may be deductible as an ordinary and necessary business expense.



NORTHWESTERN HEALTH SCIENCES UNIVERSITY CONTINUING EDUCATION

Occupational Health and Applied Ergonomics Diplomate Program DVD Order Form

36-Hour Introductory Module* \$275 for each 12-hour Session

Session 1: The Role of Chiropractic in Occupational Health Current statistics show that most of the injuries that occur on the job involve the neuromusculoskeletal system. Who knows how to prevent and treat these conditions better than anyone else? You, the chiropractor. Find out how you can translate your chiropractic skills into prevention and improved clinical case management of work and non-work related disorders. Discover how corporations are rapidly expanding a more conservative, prevention-driven approach to workplace health and wellness. **Joseph J. Sweere, DC, DABCO, DACBOH, FICC**

Session 2: Learn How to Promote Services with an Emphasis on Industrial Relations Discover what it takes to create profitable relationships with business and corporate employers. Real-world examples and proven techniques will be explored. **Scott Bautch, DC, DACBOH**

Session 3: DOT Drug Testing and Alcohol Screening Certification and DOT Physical Exams. You will become certified for official recognition to perform U.S. Department of Transportation screenings for your industrial clients and the general public. Discover how quickly and easily you and your staff can add this service to your practice and how by providing one of these services opens the doors for providing a host of services to industrial clients. **Elizabeth L. Auppl, CDSP/T, CASP/T; and Joseph J. Sweere, DC, DABCO, DACBOH, FICC**

First Name Middle Initial Last Name

Address

City: State: Zip:

Office Phone: Email Address:

States of License: License #

Payment Options:

Amount Paid \$ _____ Check #: _____

_____ VISA _____ MC Card #: _____

Exp. Date: _____ Signature (required): _____

Check with your state licensing board(s) for approval of distance learning toward license renewal credits. The DVD format is approved by the ACBOH so you can earn hours toward the diplomate.

* To order the complete Phase 1 package – contact Diana Berg or Jennifer Bell at 952-888-4777 ext 249. Diana or Jennifer can give you the details as well as the pricing for the package.

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