

Opinion on screening for drug addiction at the workplace. Report.

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Opinion

The President of the *Mission Interministérielle de lutte contre les toxicomanies*, (Interministerial Mission to Combat Drug Addiction), Ms. Trautmann, requested an opinion from the National Consultative Ethics Committee for Health and Life Sciences (CCNE) on the subject of ethical issues in connection with companies practising systematic tests before recruitment and periodic tests for "high-risk" jobs in view of detecting illicit substance use leading to drug addiction. To this request for an opinion was appended a draft charter prepared by a group of experts in Lyons on the initiative of the Syva-bioMérieux laboratory and which was designed to ensure proper use of the test.

After scientific and legal consideration of the matter, and hearing an expert opinion from Professor Bourdon, in charge of the Laboratory of Biochemistry and Toxicology at the Fernand-Widal hospital in Paris, and President of the *Comité national d'information sur la drogue* (National Committee for Information on Drugs), the CCNE adopted the following conclusions :

1. Large scale commercial considerations seem to be the origin of the initiative on which the *Mission Interministérielle de lutte contre les toxicomanies* seeks further enlightenment.
2. Drug abuse is the result of addiction to a great many different substances, in much greater number than those which can be detected by tests included in the initiative under review. In fact, drug abuse must be considered from the broadest possible angle. Detection of addictive substances is an important aspect of the fight against abuse of these substances. It calls for and justifies adoption of a general policy.
3. Within each company, occupational physicians are required to examine each employee at the time of recruitment and later, periodically, to make sure that he is able to perform the task for which he is or was hired, and whether he could be a danger to himself or to others when he is accomplishing that task. At this time, the doctor's duties include finding out whether the person applying for work or already at work for the company is exposed to any such danger by abuse of illicit toxic substances. For that purpose, the doctor is at liberty to prescribe any test needed to detect a potentially dangerous condition.
4. Occupational medicine rules of deontology, and principles laid down by the jurisprudence of the *Cour de Cassation* (Supreme Court of Appeal), and also respect for individual liberties, rule out asking questions or demanding tests and examinations of a person who is either applying for work or already working, except insofar as they are directly connected and are necessary for the post concerned. Ethically and legally therefore, it is not permitted to make systematic examinations at the time of recruitment or periodically once an individual is employed if they are not relevant to the work to be done.
5. However, there are or there can be in certain companies, activities for which the use of drugs could be dangerous, either for those in that activity or for their fellow workers, or for others. It is both normal and desirable that candidates for those posts and workers already

on the job should take systematic tests with a view to detecting substance abuse which would be incompatible with the work concerned. To that extent, but to that extent only, systematic use of tests and examinations under review are justified.

The list of posts concerned must be established for each company by a public authority after consulting the employer, the staff representatives, the occupational physician, and if necessary, an Ethics Committee. General directives set by the *Conseil Supérieur de Prévention des Risques Professionnels* (Higher Council for the Prevention of Risks at Work) should be followed.

6. The worker must always be told individually about the test to be performed, which cannot take place without his knowledge. Inserting a clause about screening tests in the staff rules is not adequate.

7. In compliance with the principles of the medical profession as a whole, and those which are particular to occupational medicine, screening results come under the rule of medical confidentiality. The occupational physician must confine himself to stating that the applicant or employee is fit, or partly or completely unfit, to accomplish the work in question. Irrespective of the circumstances, he cannot disclose even to the employer any confidential information such as diagnosis, or the nature or origin of inability to work. Substance abuse as such, must never be revealed.

Scientific report

Ms. Catherine Trautmann, the President of the *Mission Interministérielle de lutte contre les toxicomanies*, requested the opinion of the National Consultative Ethics Committee on a project which was submitted by the Syva-bioMérieux laboratory. It concerns a urine screening test for drug abuse, offered to (I quote) "companies wishing to protect themselves from risk generated by drug abuse (illicit substances)". The charter was drafted at the request of Syva-bioMérieux by a group of experts in Lyons with a view to ensuring proper use of the test in individual companies.

In the introduction to this charter, we are told that "the group of experts structured their deliberation around four guidelines :

- a desire to maintain an atmosphere of frankness and sincerity;
- a determination to respect deontology and professional rules prescribed for occupational medicine;
- observance of rigorous rules;
- ensuring respect of individual liberties of workers in a company.

However, a certain number of points regarding the initiative taken by the laboratory and the text of the charter must be emphasised, in particular :

- the strong possibility of large scale commercial considerations being at the origin of the operation;
- the absence of any information on the composition of the group of experts who drafted the charter;
- the total absence of any scientific data concerning the screening test;
- the extremely vague designation of the at-risk companies or individuals;

- the gravity of the issue in the context of freedom of employment, and the danger of a possible extension of such screening methods to other groups besides drug abusers (with attendant risk of discrimination and exclusion).

On the other hand, the unceasing development of drug abuse, the risks ensuing to individuals, their relatives and friends, and society, together with the difficulties encountered to arrive at effective preventive measures, must also be considered.

All of these points led me to :

1. ask the Scientific Manager of the Syva-bioMérieux laboratory to supply further information;

2. ask for the opinion of a scientific expert. Professor Bourdon, in charge of the Laboratory of Biochemistry and Toxicology at the Fernand-Widal hospital, and President of the *Comité national d'information sur la drogue* , kindly accepted this task.

In this way, I was able to obtain the following information.

1. There is a considerable commercial stake in this screening proposal. As an example, in the United States, where this test is widely used in the private sector (about 60 to 70% of companies), for civil servants, the armed forces, etc. the total market is worth 100 million dollars, 60 of which go to Syva-bioMérieux. In France, the market is estimated at 0.5 million dollars, i.e. more than 3 million francs, on a preliminary evaluation. Each test makes a profit of 40 francs for the laboratory and the Fernand-Widal invoicing is 170 Francs. Furthermore, according to Professor Bourdon, other laboratories such as Abbott and Dupont de Nemours in particular, wish to take a share of this potential French market. A final point is that in the EEC, countries such as the Federal Republic of Germany, Spain, and Italy have adopted the same policy of systematic screening in companies as in the United States.

2. The composition of the group of experts who drafted the charter was supplied.

3. As Ms. Trautmann points out, the definition of at risk posts is vague, and I can confirm that it remains vague in the thinking of the laboratory. It says in the charter that is considered at risk "any post which entails particular danger for the worker concerned, his fellow-workers, the community". It goes on to say : "It is up to the company to decide (...) and the definition, as well as a list of high risk posts should be included in the staff rules or one of its annexes", etc. Professor Bourdon is also of the opinion that this list of high risk posts should be written by the Ministry of Labour.

4. The charter provides for safe medical supervision of screening throughout the operation : informing, testing, medical confidentiality of test results, followed by offers of withdrawal treatment and when this is successful, relocation to another post in the company.

5. In scientific terms, the screening test is a highly sensitive immuno-enzymatic method which tests for cannabis, cocaine, benzodiazepines, amphetamines, and of course the so-called "hard" drugs derived from opioids (with however some reservations, see hereunder); but it also tests for many other drugs used therapeutically, such as tricyclic antidepressants, analgesics, barbiturates, phencyclidine, or simply alcohol. Positive thresholds depend on scales calibrated according to the toxic effects specific to each substance. Any positive result is checked by mass spectrometry which does have the advantage that it restricts the number of centres where such a check can be performed. At present, this test is used in emergencies to identify an intoxicating substance, in clinics for the treatment of drug dependence to ascertain that a patient is truly weaned, and in a small number of companies. Air France is the first company to have adopted the method on a systematic basis three and a half years ago, both for air crews and ground staff. When hiring, ten positives a year were discovered. In June, 1986, a surprise test for ground staff revealed 18% positives, and one positive pilot. Other companies, in particular SNCF (national

railways), RATP (Paris metropolitan transport), and EDF-GDF (national electricity and gas), would also like to use such tests or have already begun to do so.

6. As regards the kind of drugs, it should be noted that :

There is a considerable expansion of the use of cannabis, mainly in the 15-20 year old category and amongst the deprived social classes, but very unevenly and with two major focus points : the Paris area, and Marseilles. In some schools in Paris, 50 - 70% of students use the drug, at least once in a while. The total number of users in France would be about 1 million. The main problem is that this substance, which is wrongly thought to be a soft drug, often induces social marginalisation which may lead, inter alia, to hard drugs.

Opioids are used by wealthier social classes. In the past eight years, the number of users has risen from 40/50,000 to 250,000. However the major problem with detecting opioids is that they are very quickly metabolised and that the antibody used for the immuno-enzymatic screening method is unable to distinguish morphine, codeine, codethyline, and pholcodine . In other words, it cannot differentiate between a dose of morphine and cough syrup.

Finally, cocaine abuse is very efficiently managed by users who are members of a privileged, well educated social class, and who competently steer a course through their addiction. Urine testing is reliable, unlike morphine. A real threat is the recent development of a mixture of cocaine and bicarbonate, very easy to prepare, which produces a dry crackly powder (hence its name, crack). When powder is placed on an ordinary cigarette, the first puff produces a "high". Daily expenditure for this drug is 80 francs as compared to 100,000 francs for its equivalent in cocaine, which explains why it is so rampant in the United States. According to Professor Bourdon, our country is still untouched, but for how long ?

7. Clinically, disturbed vigilance and aggressiveness (against self or others) are the most troublesome symptoms of drug dependence and the reason why some companies have already begun to detect it. Concerning soft drugs, it must be made clear that the name is entirely misleading. Consumption on an occasional basis of cannabis or cocaine can lead to temporary psychosis and intense anxiety, panic, and depression. Effects on the user include mental confusion, loss of concentration, difficulty in formulating ideas, and in the short term, partial loss of memory. There is also a false impression of serenity and well-being, "magic" thoughts, loss of motivation, and ego disturbance which lead to paranoid hallucination.

In conclusion to this presentation, which is too lengthy and certainly incomplete, but which I felt to be necessary in view of the gravity of the issue raised, I wish to suggest that the question of urine testing for drug dependence be submitted again to the CCNE, but by Professor Bourdon himself and not in the form of this charter.

Professor Bourdon's approach, because of his considerable experience and the fact that his work is totally devoid of any element of self-interest, is in my opinion the only approach which will make it possible to circumscribe boundaries for use of the screening method, and possible effects of its use on preventing the drug abuse plague. Thus, we will be able to formulate the ethical opinion we have been asked for.

Béatrice Descamps-Latscha

Ethical report

The excellent scientific report above defines the problem perfectly. In ethical and legal terms, two problems arise :

firstly, is it acceptable that all applicants for any post in a company are systematically subjected to a screening test for drug dependence ?

secondly, are there some posts for which risks incurred by drug use are such as to constitute a justification for these screening tests ?

1. The answer to the first question which particularly worries the Ministry of Labour, is conditioned by the same kind of considerations which presided over the CCNE's response to the issue of HIV screening. As regards HIV positives, it was declared that no discrimination could be tolerated against them on recruitment. It followed that systematic screening of applicants for recruitment had to be banned, regardless of the post applied for.

The same must be said about drug addicts.

The principle set out by the jurisprudence of the *Cour de Cassation* , in particular in a judgment of principle of the *Chambre Sociale* , dated 17th October 1973, stated that an employer was only allowed to ask an applicant - through interviews, questionnaires, various tests - questions which bore a direct and necessary connection to the post for which he was applying. The employer cannot therefore enquire into the health of the applicant except insofar as it has any effect on whether he is fit to perform the duties required of him for that post.

All workers are examined medically before they are recruited. The first purpose of that examination is to discover whether he has a condition which could endanger his fellow workers. Another object is to discover whether the worker is physically fit to perform the work for which he would be recruited. The occupational physician may prescribe further tests to screen for conditions which would be a contra-indication for that post. The use of drugs is only considered to be an ailment if drug dependence is severe. Biological investigation requested by the occupational physician is only conceivable in exceptional circumstances when the specific constraints of the occupation are such that the use of drugs would make the incumbent unfit.

The report filed by the occupational physician after each medical examination must only mention that the applicant or employee is fit, or partially or totally unfit. It must not contain any confidential information such as diagnosis, nature or origin of inability. Substance abuse, as such, cannot be revealed.

These legal and ethical considerations argue in favour of a total ban on systematic screening of all applicants as regards drug use.

2. Nevertheless, for certain occupations, detection of fitness or inability may be justified by the risks that would be incurred by drug use while performing a given activity. In that case, but in that case alone, screening is justified and may be made mandatory.

However :

a) those concerned must always be told what they are being tested for, and cannot be tested without their knowledge. Inserting a clause about screening tests in the staff rules is not adequate. A worker must be informed individually about the test he is about to undergo;

b) it is essential that a precise list be drawn up of which occupations are so risky that screening is required. The decision cannot be left solely in the hands of the employer.

It must be for departments of the Ministry of Labour, and in particular, the *Conseil Supérieur de Prévention des Risques Professionnels* , to draw up a list, if required, of the occupations concerned, after seeking the advice of an ethics committee.

Pierre Laroque