

# Legal Review for Testing of Drugs in Hair

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**REFERENCE:** Chamberlain RT: Legal review for testing of drugs in hair; *Forensic Sci Rev* 19:85–94; 2007.

**ABSTRACT:** The legal issues associated with hair drug testing in general have significant differences from issues associated with urine drug testing. Discussed are cases that illuminate these differences. The issues in hair testing are not yet settled and legal precedent has not been forthcoming. Among the issues discussed is the admissibility of hair testing results based on its acceptance as scientific evidence. Some state jurisdictions still require that scientific evidence must be generally accepted in the scientific discipline where it belongs. The federal courts and an increasing number of state courts are using a less stringent standard and do not require majority acceptance by the scientific community. In some cases hair testing has been shown to be less intrusive than the use of other body samples, thus avoiding Fourth Amendment issues. However, a racial bias issue still exists based on the higher melanin content in the hair of African-Americans. A substantial issue is also whether environmental contamination of hair can be differentiated from the internal administration of a drug. The courts are also increasingly utilizing the differences between the time required for a drug or its metabolite to appear in a hair sample or urine sample in adjudicating cases.

**KEY WORDS:** Daubert standard, Frye standard, hair drug testing, legal issues.

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