



NORTH RISK PARTNERS™

Drug and Alcohol Testing

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TOPICS INCLUDE:

Drug and Alcohol Testing Laws vary by state

Reasonable Cause Drug and Alcohol Testing

Recognizing the Signs and Symptoms of Drugs and Alcohol

Redefining Safety Sensitive Positions

Employee Handbook Substance Abuse Policy

Substance Abuse Policy



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Minnesota Drug and Alcohol Testing



Minnesota Drug and Alcohol Testing

Minnesota allows employers to require applicants and employees to take drug tests, but only in certain circumstances. Minnesota law protects employees who test positive for the first time from termination, if the employee successfully completes a rehabilitation program.

Drug Testing for Minnesota Applicants

Employers may require applicants to take drug tests, but only after the applicant has received a job offer and a written notice of the testing policy. An employer may test an applicant only if it tests all applicants for the same position.



Drug Testing for Minnesota Applicants

If an applicant tests positive, the applicant has three days to explain the results and five days to request a confirmatory retest. If the employer has already made a job offer contingent on the applicant passing a drug test, the employer may not rescind the offer based on an initial positive test until it verifies the result in a confirmatory test.

Drug Testing for Minnesota Employees

Minnesota employers are not required to drug test employees, and they may not test on an arbitrary or capricious basis. Employers may require testing only according to a written testing policy, which must set forth the consequences of testing positive or refusing to take a test. The policy must be posted.



Drug Testing for Minnesota Employees

Employees may be required to take a drug test if the employer has a reasonable suspicion that:

- the employee is under the influence of drugs or alcohol
- the employee has violated the employer's drug policy
- the employee has been involved in an accident, or
- the employee has sustained or caused another employee to sustain a personal injury.

Drug Testing for Minnesota Employees

An employer may also require an employee to take a drug test as part of a routine physical exam taking place no more often than once a year, as long as the employee has at least two weeks' notice.

Drug Testing for Minnesota Employees

An employer may test an employee who has been referred by the employer to, or is participating in, a chemical dependency treatment program. These employees may be tested without notice during treatment and for two years afterward.

Drug Testing for Minnesota Employees

Random drug tests are permitted only for employees in safety-sensitive positions, and professional athletes.

Drug Testing for Minnesota Employees

If an employee tests positive, the employee may request a confirmatory retest within five days. An employer may not discharge an employee for a first-time positive test without offering counseling or rehabilitation. However, an employee who refuses treatment or does not complete the program successfully may be discharged.



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South Dakota Drug and Alcohol Testing

South Dakota Drug and Alcohol Testing

No Drug Testing Law in South Dakota

South Dakota Drug and Alcohol Testing

Although many states have passed laws regulating or restricting an employer's right to require drug testing, South Dakota has not. South Dakota law does not address drug testing in private employment. This means that private employers are not prohibited or restricted from drug testing applicants and employees.





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Wisconsin Drug and Alcohol Testing



Wisconsin Drug and Alcohol Testing

Wisconsin does not have a statute or regulation that generally prohibits or regulates workplace drug and alcohol testing by private employers. However, Wisconsin law requires private employers working on public works construction projects to have a written program in place for the prevention of substance abuse by their employees.



Wisconsin Drug and Alcohol Testing

Drug and Alcohol Testing for Public Works Contractors

Wisconsin's drug testing laws require all private employers working on public works construction projects to have a written program in place for the prevention of substance abuse by their employees.

The program must be in place before the employer starts work on a project, and must require that employees performing work on the project submit to:



Wisconsin Drug and Alcohol Testing

Drug and Alcohol Testing for Public Works Contractors (cont.)

- Drug and alcohol testing before starting work on a project;
- Random drug and alcohol testing;
- Reasonable suspicion drug and alcohol testing; and
- Post-accident drug and alcohol testing.

Wisconsin Drug and Alcohol Testing

Wisconsin law does not require or prohibit any particular kind of testing, does not regulate where testing may take place and does not regulate which substances employers can test for. However, all employer drug and alcohol testing must follow guidelines for laboratory testing and chain-of-custody procedures set by the Substance Abuse and Mental Health Services Administration of the federal Department of Health and Human Services (HHS).



Wisconsin Drug and Alcohol Testing

Following a positive test result, an employer must:

- Not permit the employee to perform work on a project; or
- Immediately remove an employee from work on a project.

Wisconsin Drug and Alcohol Testing

The employer's written program to prevent substance abuse among employees must include a procedure for notifying an employee who tests positive for a drug that they may not perform work on a project. The employee may return to work on the project if the employer provides documentation to the contracting agency (that is, the state or municipality) showing that the employee has:



Wisconsin Drug and Alcohol Testing

- Tested negative for the presence of drugs;
- Is not under the influence of alcohol; and
- Has been approved to return to work on the project under the employer's substance abuse.



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North Dakota Drug and Alcohol Testing



North Dakota Drug and Alcohol Testing

Although many states have passed laws regulating or restricting an employer's right to require drug testing, North Dakota is not one of them. North Dakota has no comprehensive law addressing drug testing in private employment.

North Dakota Drug and Alcohol Testing

Instead, North Dakota law provides only that:

- An employer who requires drug testing must pay the cost of the test.

North Dakota Drug and Alcohol Testing

- In workers' compensation cases, an employer may require an employee to take a drug test following an accident or injury, if the employer has a mandatory policy of testing under these circumstances or the employer or a physician has reasonable grounds to suspect that the incident was caused by impairment due to alcohol or drugs. An employee who tests positive or refuses to take a test in these circumstances forfeits the right to benefits.

North Dakota Drug and Alcohol Testing

Because North Dakota doesn't otherwise place limits on an employer's right to drug test, drug testing is not prohibited or restricted, unless it violates other legal provisions (such as a law prohibiting discrimination).



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Nebraska Drug and Alcohol Testing

Nebraska Drug and Alcohol Testing

- Does not state specific requirements / circumstances under which testing may occur
- Law does not apply to employers with less than six employees
- Law primarily outlines how testing must occur
- Refusal to test = positive result
- Confidentiality must be preserved – business need to know



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Iowa

Drug and Alcohol Testing

Iowa Drug and Alcohol Testing

- Requires written policy that includes specific elements
- Employment-related testing only in the following situations:
 - Pre-employment
 - Unannounced random
 - Reasonable suspicion
 - Post-accident (must meet specific criteria)
 - Required by federal law, regulation, or by law enforcement
 - During and after completion of rehabilitation
- Refusal to test = positive result
- Can only test urine, saliva, breath and blood
- Random testing – all employees or safety-sensitive roles



Iowa Drug and Alcohol Testing

- Can terminate upon confirmed, positive result, without rehab opportunity
- Written policy must state uniform disciplinary/rehab actions that will occur in the event of a confirmed, positive result
- Confidentiality must be preserved – business need to know
- Special rules for minors
- Requires management training upon policy implementation and then every two years
- Requires employer to have an EAP or resource file of programs to assist with personal or behavioral problems.

Iowa Drug and Alcohol Testing

- Criteria for Reasonable Suspicion drug or alcohol testing
 1. Observable phenomena while at work such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.
 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
 3. A report of alcohol or other drug use provided by a reliable and credible source.
 4. Evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the current employer.



Iowa Drug and Alcohol Testing

- Criteria for Reasonable Suspicion drug or alcohol testing (cont.)
 5. Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one thousand dollars.
 6. Evidence that an employee has manufactured, sold, distributed, solicited, possessed, used, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.





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Reasonable Cause Drug and Alcohol Testing

Introduction

Reasonable cause drug testing is one of the most valuable aids that a personnel department can have if it is properly used. There are very few reasonable cause drug tests being conducted. Perhaps too few.

Introduction

Many managers are afraid of drug and alcohol testing. It is natural to try to avoid the issue. Managers also have a responsibility to the company and other employees to remove those persons from the workplace who are suspected of being impaired.

Introduction

When a manager accuses an employee of being under the influence of illegal drugs or alcohol, they are subjecting themselves to accusations of unfairness. Most managers are not professionally trained to diagnose drug or alcohol impairment. By the time upper management looks into the issue the employee no longer appears impaired. As a result, the entire matter is one of differing stories and the only result is bad feelings on all sides.

Introduction

Being impaired doesnot always mean using illegal drugs or alcohol. Individuals can be impaired by common prescriptionpain medications or muscle relaxants. While this is notillegal use, company policy should address the legitimateuse of potentially impairingdrugs in the workplace.

Introduction

There are many other factors to consider when deciding if an employee is impaired. Is it possible that this employee is diabetic, perhaps undiagnosed? Does this employee have domestic or financial problems that are causing tremendous stress? Many of these types of problems will cause behavior that could be misunderstood as drug or alcohol impairment.



Introduction

Because of the reasons outlined above, no accusation of impairment should ever be made. The employee is observed (preferably by two managers) and in private they are told, as a result of these observations it is believed that there may be a problem that affects their ability to do their job. In cases like this, company policy requires you to send an employee for a reasonable cause drug and alcohol test and allow a doctor to examine them.



Introduction

The issue being discussed is the safety of the employee and their coworkers, not the tests or exam. Often employees will try to change the issue. Your company policy should include the fact that refusing to be tested has the same consequence as a positive result. Be sure to have the managers who witness the behavior document the facts leading to the decision to have the employee tested.

DOCUMENT ONLY THE FACTS!!!

NEVER DIAGNOSE ANY PHYSICAL CONDITION!!!



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Recognizing the Signs and Symptoms of Drugs and Alcohol

Introduction

- Signs and symptoms of drugs and alcohol are used in determining if an employee may be under the influence of drugs and/or alcohol that would warrant the employee to be tested.
- In most cases the employee's behavior will be inconsistent with their normal behavior due to the use of a controlled substance or alcohol.
- Abnormal behavior draws attention to the employee and, in most cases, establishes the opportunity for the supervisor to take proactive measures to determine drug/alcohol use.



Some Causes of Abnormal Behavior

- q Stress
 - q Work?
 - q Home?
 - q Kids
 - q Family
 - q Financial matters
 - q Death in Family
 - q Divorce
- q New Medications/Medical Problems

Problems Caused in the Workplace

- q Accidents/ Injuries
 - q To himself / herself
 - q To other employees
 - q To members of the public
- q Lack of Productivity
 - q Reduced or poor output
 - q Increased workload on others
- q Theft
- q Violence
- q Increased liability to the Department



Know Your Employees

- Know when they are stressed about something.
- Take time to listen.
- Always look for the warning signs that could indicate something is wrong.

Warning Signs

- Change in behaviors
- Sudden swift mood changes
- Easily angered
- Absent from work
- Away from job site
- Inability to explain reasons for doing something
- Things turn up missing
- Frequent accidents / injuries
- Tired all the time



Drugs in the Workplace

The National Institute of Drug Abuse (NIDA) has identified the following drugs as the five drugs that are more commonly found in the workplace. These are referred to as the “NIDA 5”.

Alcohol, although not considered a drug, is also found in the workplace and is often the reason testing is ordered.

Drugs in the Workplace

NIDA 5

Marijuana



Cocaine



Amphetamines/
Methamphetamines



Opiates (Heroin)



Phencyclidine (PCP)



Methamphetamines

Street names:

Crank, Crystal, Speed

Looks like:

White powder, pills, rock resembling a block of paraffin

How taken:

Orally, injected, inhaled



Methamphetamines

- Manufactured in bathtubs, barns, motels, cars (driving down the road)
- Highly explosive and contain materials with a base of ephedrine (what Sudafed is made of)
- Also contains many of these ingredients:
 - Red Phosphorus
 - Lighter Fluid
 - Drano
 - Acetone
 - Ether
 - Freon

Methamphetamines

Signs and Symptoms:

- Edginess
- Nervous
- Restless
- Hard to sit still
- Twitching, jerking movements (loss of motor skills)
- Itching, scratching (they feel like bugs are crawling on them)
- Act very paranoid – feel people are out to get them and can make the individual very aggressive and violent
- Sweat a lot – even when it's cold



Methamphetamines

Signs and Symptoms:

- Rapid, irrational and slurred speech
- Grinding teeth
- Runny nose
- Sometimes bloody nose for no reason
- Sudden weight loss (no desire to eat)
- Sickly looking
- Skin sores on the arms and face
- Rotten teeth and gums
- Poor personal hygiene
- Extreme /bizarre behavior



Methamphetamines

Long-term effects of heavy use:

- Depression
- Permanent psychological problems
- Possible brain damage
- Disturbance of personality development
- Liver damage
- Fatal lung and kidney disorders
- Stroke or heart problems
- Death



Cocaine

Street names:

Coke, Snow, Nose Candy, Flake, Blow, Big C, Lady, White, and Snowbirds

Looks like:

White crystalline powder

How taken:

Inhaled, injected



Cocaine

Effects

- q Produces brief but intense feelings of euphoria
- q Stimulates the central nervous system
- q Increases pulse, blood pressure, body temperature, and respiratory rate
- q Causes extreme excitability and anxiety
- q Produces sleeplessness and chronic fatigue

Dangers

- q Bleeding and damage to nasal passages
- q Paranoid psychosis, hallucinations and mental abnormalities
- q Impaired driving ability
- q Death caused by heart or respiratory failure



Cocaine

Addiction

- q Cocaine users often become psychologically and physically dependent on the drug after relatively short periods of time
- q In many cases, crack use leads to virtual immediate addiction

Withdrawal

- q Withdrawal symptoms from cocaine are not as physically apparent as with many other drugs
- q The most profound symptom is an intense craving for the drug once use is discontinued
- q If the craving is not satisfied, the individual may experience irritability, depression and a loss of energy



Crack Cocaine

Street names:

Crack, Rock, Freebase

Looks like:

Crystalline rocks that look like soap

How taken:

Smoked



Crack Cocaine

- The high from the first hit is so intense that the user will do almost anything to try and get that feeling again.
- Many times this becomes a mission and everything else in life becomes secondary.
- Will have no interest in doing any work, and may become violent for any reason.



Marijuana

Street names:

Pot, Reefer, Grass, Weed, Dope, Ganja, Mary Jane, or Sinsemilla

Looks like:

Parsley, with stems and/or seeds; rolled into cigarettes or cigars

How taken:

Smoked or eaten in brownies, stews and other goodies

Marijuana

Effects

- q Euphoric feeling; increased sense of well-being
- q Lack of motivation
- q Lowered inhibitions, talkativeness
- q Dry mouth and throat
- q Increased appetite – “munchies”
- q Impaired coordination, concentration and memory
- q Increased heart rate

Dangers

- q Deteriorating performance at work
- q “Burn out” involving muddled thinking, acute frustration, depression and isolation
- q Impaired sexual development and fertility
- q Damage to lungs and pulmonary system (one joint is equal to 25 cigarettes)
- q Hallucinations and paranoia
- q Increased risk to safety and health as a result of impaired judgment and motor abilities



Marijuana

“I was at a concert next to some people who were smoking some marijuana and I inhaled enough of the smoke and that made me test positive.”

While it is possible to produce levels of marijuana in a urine sample, cutoff levels were established in order to disallow a claim of passive inhalation.

To exceed the cutoff levels established by the United States Department of Health and Human Services, the individual would have to use marijuana in some manner (e.g., smoke, eat in food, etc.)



Heroin (Opiates)

Street names:

Smack, Horse, Mud, Brown Sugar, Junk, Black tar, Big H

Looks like:

White to dark-brown powder or tar-like substance

How taken:

Injected, smoked, or inhaled



Heroin (Opiates)

Effects

The physical effects of opiates depend on the opiate used, the dose, and how the drug is taken. Effects may include:

- q Short-lived state of euphoria, followed by drowsiness
- q Slowed heart rate, breathing, and brain activity
- q Depressed appetite, thirst, reflexes and sexual desire

Dangers

- q AIDS, blood poisoning, and hepatitis as a result of drug infection and use of unsterilized or “shared” needles
- q Death resulting from the injection of impure heroin
- q Death resulting from unexpectedly high purity or drug
- q Convulsions, coma, or death from overdose



Heroin (Opiates)

Addiction

q Opiates, particularly heroin, have an unusually high potential for abuse and addiction. Heroin addiction often leads to malnutrition, infection, and unattended injuries and diseases. Addicts tend to continue using the drug despite damaging physical and psychological consequences

Withdrawal

q Following long-time or heavy use, withdrawal symptoms generally appear 4-8 hours after the last dose. Symptoms include chills, sweating, runny nose, irritability, insomnia, and tremors. These symptoms are usually worse 24-72 hours after onset, and can last from 7-10 days



Heroin (Opiates)

“I had poppy seed muffins at breakfast before I went to take the drug test and the next thing I know the doctor informed me I had failed the test.”

Much like marijuana, eating poppy seed muffins may produce a positive test in the urine sample. However, the cutoff levels are set at a level designed to eliminate this claim.

An individual would not be able to consume enough muffins to exceed the cutoff levels established by the United States Department of Health and Human Services.

Alcohol

Prolonged, heavy use can lead to:

- q Isolation from family and friends
- q Difficulty handling daily problems
- q Learning and memory problems (users may remember less than those who don't use alcohol)
- q Depression
- q "Blackouts" – users may forget whole blocks of time (and what they did or said)

Alcohol

One drink can affect the:

Body

- q Alcohol enters the bloodstream almost instantly
- q It travels to the brain and all the body organs
- q It depresses the central nervous system and impairs
 - q thinking and reflexes
 - q balance and coordination
 - q vision

Mind

- q In small doses, it can impair judgment, leading to risk choices such as driving under the influence
- q In larger doses, users may feel confused and moody. Strong feelings such as anger, jealousy and depression can quickly lead to loss of self-control
- q Increasing the dose even more can cause alcohol poisoning, unconsciousness, coma, even death



PCP

Street names:

Angel dust, ozone, whack, rocket fuel, hog, love boat

Looks like:

Liquid, white crystalline powder, pills, capsules

How taken:

Orally, injected, smoked (sprayed on joints or cigarettes)



The effects of PCP are:

- q Altered states of consciousness
- q Disorientation, confusion, and memory loss
- q Highly unpredictable, and bizarre or violent behavior
- q Extreme agitation
- q Impaired driving ability, and
- q Increased tolerance for pain



PCP

Physical dependence on PCP has been documented and may be accompanied by memory loss, violence, weight loss, and paranoia. Symptoms of withdrawal include headaches, intense craving for the drug, increased need for sleep, and “flashbacks” for a period of years.

Even short-term use can be dangerous, causing mental changes resembling schizophrenia, severe depression, loss of learning abilities, and violent and other “intoxicated” behaviors resulting in bodily harm or death.



Knowing the Signs

The indicators listed below are “warning signs” of drug and / or alcohol abuse and may be observed by supervisors:

Knowing the Signs

Moods

- Depressed
- Anxious
- Irritable
- Suspicious
- Complains about others
- Emotional unsteadiness (e.g., outbursts of crying)
- Mood changes after lunch or break

Knowing the Signs

Actions

- Withdrawn or improperly talkative
- Spends excessive amount of time on the telephone
- Argumentative
- Has exaggerated sense of self-importance
- Displays violent behavior
- Avoids talking with supervisor regarding work issues

Knowing the Signs

Absenteeism

- Acceleration of absenteeism and tardiness, especially Mondays, Friday, before and after holidays
- Frequent unreported absences, later explained as "emergencies"
- Unusually high incidence of colds, flus, upset stomach, headaches
- Frequent use of unscheduled vacation time
- Leaving work area more than necessary (e.g., frequent trips to water fountain and bathroom)
- Unexplained disappearances from the job with difficulty in locating employee
- Requesting to leave work early for various reasons



Knowing the Signs

Accidents

- Taking of needless risks
- Disregard for safety of others
- Higher than average accident rate on and off the job

Knowing the Signs

Work Patterns

- Inconsistency in quality of work
- High and low periods of productivity
- Poor judgment/more mistakes than usual and general carelessness
- Lapses in concentration
- Difficulty in recalling instructions
- Difficulty in remembering own mistakes
- Using more time to complete work/missing deadlines
- Increased difficulty in handling complex situations



Knowing the Signs

Relationship to Others on the Job

- Overreaction to real or imagined criticism (paranoid)
- Avoiding and withdrawing from peers
- Complaints from co-workers
- Borrowing money from fellow employees
- Persistent job transfer requests
- Complaints of problems at home such as separation, divorce and child discipline problems



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Redefining Safety Sensitive Positions



Redefining Safety Sensitive Positions

In previous webinars, we examined how a strong, well-written job description and job task analysis can assist your defense of disciplinary action taken against a current employee or a claim of discrimination by a prospective employee who tests positive for marijuana. An employer has more latitude in asking about drug use and requiring drug testing of employees and prospective employees in safety-sensitive positions. In order to determine if a position is a safety-sensitive one, an employer must examine the job description and job task analysis of an occupation.



What Determines if a Position is Safety Sensitive?

It is important to know which positions can legitimately be classified as safety-sensitive in order to remain in full compliance with the Americans with Disabilities Act of 1990 (the “ADA”) as well as with guidance from the Equal Employment Opportunity Commission (EEOC).

What Determines if a Position is Safety Sensitive?

Safety-sensitive positions constitute not only the ones that immediately come to mind— truck driver, equipment operator, etc., but others where failure to perform can cause harm. A safety-sensitive position is one in which job performance can affect the safety of the employee and others.

What Determines if a Position is Safety Sensitive?

An employer must be able to demonstrate that the employee's inability or impaired ability to perform job-related tasks could result in a direct threat to their safety and/or the safety of others. In the past, the EEOC has issued an informal guidance letter which concluded that municipal bus drivers were not in safety sensitive positions. Some states have taken action to address this seemingly misguided guidance from the EEOC with regulations of their own.

Why is the Designation of a Position as Safety Sensitive Important?

Individual employers and industry associations should consider the EEOC's narrow view of safety-sensitive and consider lobbying their State Legislature to enact regulations which would broaden the scope of occupations that are considered safety-sensitive. With the advent of legal medical marijuana in 31 US States and the District of Columbia, as well as legal recreational marijuana in 8 states and the District of Columbia, this designation can provide a layer of protection against negligent employment practices claims.

Why is the Designation of a Position as Safety Sensitive Important?

When an employee injures a coworker, customer, or member of the public and then tests positive for medical marijuana or even a legally prescribed opioid, an employer can find themselves facing a claim for negligent employment practices. When an occupation is designated as safety-sensitive, you have more latitude to ask questions about drug use and to test more frequently. These questions and testing can help you maintain a safer work environment and protect you better from liability.

Why is the Designation of a Position as Safety Sensitive Important?

When an occupation is designated as safety-sensitive, inquiries regarding whether an employee is currently taking any prescription drugs or medications, whether the employee has taken any such drugs or medications in the past, or monitoring an employee's taking of such drugs or medications are permissible. You may also require a blood, urine, and breath analyses to check for alcohol use as well as tests to determine the current illegal use of drugs.



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Substance Abuse Policy for Employee Handbook

Substance Abuse Policy for Employee Handbook

SUBSTANCE ABUSE

[COMPANY]'s substance abuse policy complies with federal and state laws and regulations. [COMPANY] believes every employee has the right to work in an environment free of hazards and our clients deserve reliable employees who will not introduce hazards to their workplace. [COMPANY] recognizes alcohol and drug abuse as potential health, safety and security problems.

[COMPANY] expects all employees to assist in maintaining a work environment free from the effects of alcohol, drugs or other intoxicating substances. Compliance with this substance abuse policy is a condition of employment.

Substance Abuse Policy for Employee Handbook

[COMPANY] prohibits employees from the possession, use, impairment by, sale, dispensation, distribution, purchase, or unlawful manufacture of un-prescribed drugs and intoxicants on [COMPANY] premises and from working under the influence of alcohol, illegal drugs or intoxicants during working hours.

Any violator of this substance abuse policy will be subject to appropriate corrective action, up to and including termination of employment.

When work performance is impaired, admission to or use of a treatment or other program does not preclude appropriate action by [COMPANY].



Substance Abuse Policy for Employee Handbook

Required Testing

Reasonable Suspicion: Employees are subject to testing based upon (but not limited to) observations of an individual being under the influence of alcohol, illegal drugs or intoxicants while at work. Human Resources or a Department Manager shall be consulted before sending an employee for testing. All levels of supervision making this decision must utilize the “Reasonable Suspicion Documentation” to document specific observations and behaviors that create a reasonable suspicion that the person is under the influence of illegal drugs and/or alcohol. If the results of the “Reasonable Suspicion Documentation” indicate further action is justified, the manager/supervisor should confront the employee with the documentation and with another member of management.



Substance Abuse Policy for Employee Handbook

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management must escort the employee; the supervisor/manager will make arrangements for the employee to be transported home.

Substance Abuse Policy for Employee Handbook

Post-accident: Employees are subject to testing when they cause or contribute to accidents that seriously damage a [COMPANY] vehicle, machinery, equipment, or property and/or result in an injury to themselves or another employee requiring off-site medical attention. A probable belief circumstance will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including, but not limited to, forklift, [COMPANY] vehicle, overhead cranes, aerial/man-lifts) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two (2) hours following the accident, if not sooner.



Substance Abuse Policy for Employee Handbook

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.

Failure to submit to the test is grounds for dismissal.



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Substance Abuse Policy



Substance Abuse Policy

[COMPANY] SUBSTANCE ABUSE POLICY

[COMPANY] has a vital interest in maintaining a safe, healthy and efficient workplace for the benefit of its employees, clients and the public. The use of alcohol and performance impairing drugs can cause avoidable injuries to employees, damage to property and productivity losses.

[COMPANY]'s substance abuse policy complies with federal and state laws and regulations, including the Minnesota medical marijuana law. [COMPANY] expects all employees to assist in maintaining a work environment free from the effects of alcohol, drugs or other intoxicating substances. Compliance with this substance abuse policy is a condition of employment.



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Substance Abuse Policy

Definitions

- Drug:** Any substance that has known mind or function altering effects on a person, including psychoactive substances prohibited or controlled by Federal or State controlled substance law.
- Prescribed Drugs:** Any substance prescribed for use by the employee by a licensed medical practitioner.
- Sample:** Oral fluid, urine, hair or blood.

Substance Abuse Policy

To ensure a safe and productive work environment, employees are prohibited from:

- A. The possession, use, impairment by, sale, dispensation, distribution, purchase, or unlawful manufacture of un-prescribed drugs and intoxicants on [COMPANY] premises.
- B. Working impaired under the influence of alcohol, illegal drugs or intoxicants during working hours.
- C. Violating any Federal or State law relating to drugs or alcohol.
- D. The exception to this policy is the authorized possession, use and transportation of drugs prescribed by a physician and used according to prescription instructions unless such use would pose a safety risk to the employee, other employees or the public.



Substance Abuse Policy

Employee Responsibilities

As a condition of employment each employee must:

- A. Abide by this Substance Abuse Policy.
- B. Notify [COMPANY] of any criminal drug statute conviction for a violation of Federal or State law relating to drug use, possession or dealing no later than five (5) days after such conviction.
- C. Employees who are required to submit to post accident testing agree to accept, at [COMPANY]'s discretion, transportation to a location where the test will be conducted and to their residence.



Substance Abuse Policy

Use of Prescription Drugs : In the event an employee is under the care of a physician and is taking prescribed medication, including medical marijuana, that might impair their ability to perform a job safely, the employee must notify management immediately in advance of starting work. It is at management's discretion as to whether the employee may continue to perform the normal assigned duties or be designated non-safety sensitive duties (if available).

Any violator of this substance abuse policy will be subject to appropriate corrective action, up to and including termination of employment. Nothing in this policy changes the at-will employment relationship.

When work performance is impaired, admission to or use of a treatment or other program does not preclude appropriate action (discipline up to and including termination of employment) by [COMPANY].



Substance Abuse Policy

Required Testing

Pre-employment: Contingent upon a job offer, applicants will be required to pass a pre-employment drug test to be eligible for employment with [COMPANY].

Substance Abuse Policy

Required Testing (cont.)

Reasonable Suspicion: Employees are subject to testing based upon (but not limited to) observations of an individual being under the influence of alcohol, illegal drugs or intoxicants while at work. Human Resources or a Manager shall be consulted before sending an employee for testing. All levels of supervision making this decision must utilize the “Reasonable Suspicion Documentation” (attached) to document specific observations and behaviors that create a reasonable suspicion that the person is under the influence of illegal drugs and/or alcohol. If the results of the “Reasonable Suspicion Documentation” indicate further action is justified, the manager/supervisor should confront the employee with the documentation and with another member of management.



Substance Abuse Policy

Random Testing

[COMPANY] will randomly test employees in “safety sensitive” designated positions for compliance with its drug-free workplace policy. As used in this Policy, “random testing” means a method of selection of employees for testing, performed by an outside third party. The selection will result in an equal probability that any employee performing a “safety sensitive” position will be tested. A “safety sensitive” position is defined as, “a job or position where the employee holding this position has the responsibility for his/her own safety or other people’s safety.”



Substance Abuse Policy

Random Testing (cont.)

“Safety sensitive” positions at [COMPANY] have been identified as follows: any personnel that work in [COMPANY]’s production, R&D and warehouse operations and either work around and/or directly operate or co-operate equipment including but not limited to manufacturing equipment, printing presses, conveyors, packaging equipment, pallet jacks, forklifts or [COMPANY]’s vehicles.

It would be particularly dangerous if such an employee is using drugs or alcohol on the job. An employee has to be with clear mind and diligent while occupying such positions. Furthermore, [COMPANY] has no discretion to waive the selection of an employee selected by this random selection method.



Substance Abuse Policy

Random Testing (cont.)

Post-accident: Employees are subject to testing when they cause or contribute to an accident that damages a [COMPANY] vehicle, machinery, equipment, or property and/or result in an injury to themselves or another employee requiring off-site medical attention. A probable belief circumstance will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including, but not limited to, forklift, [COMPANY] vehicle, overhead cranes, aerial/man-lifts) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two (2) hours following the accident, if not sooner.



Substance Abuse Policy

Random Testing (cont.)

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.

Substance Abuse Policy

Substances Covered by Drug / Alcohol Testing

Employees will be tested for their use of commonly-abused controlled substances, which include: Amphetamines, Barbiturates, Benzodiazepines, Opiates, Cannabinoids, Cocaine, Methadone, Methaqualone, Phencyclidine (PCP), Propoxyphene, and chemical derivatives of these substances.

Employees must advise testing lab employees of all prescription drugs taken in the past month before the test, and to be prepared to show proof of such prescription(s) to testing lab personnel.



Substance Abuse Policy

Testing Methods and Procedure

All testing will be conducted by a licensed independent medical laboratory, which will follow testing standards established by the State or Federal government. Testing will be conducted on a urine sample provided by the employee to the testing laboratory under procedures established by the laboratory to ensure privacy of the employee, while protecting against tampering/alteration of the test results.

Employees will be considered to be engaged at work for the time spent in taking any tests, and will be compensated for such time at their regular rate.



Substance Abuse Policy

Testing Methods and Procedure (cont.)

[COMPANY] will pay for the cost of the testing, including the confirmation of any positive test result by gas chromatography. The testing lab will retain samples in accordance with State law, so that an employee may request a retest of the sample at his/her own expense if the employee disagrees with the test result.

Substance Abuse Policy

Refusal to Undergo Testing

Employees who refuse to submit to a test are subject to immediate discharge.

Substance Abuse Policy

Right to Review Records

Employees have a right to obtain copies of all test results from the testing laboratory or from [COMPANY]. When the individual disagrees with the test results, the individual may request that the testing laboratory repeat the test. Such repeat test shall be at the expense of the individual, unless the repeat test overturns the original report of the Lab, in which case [COMPANY] will reimburse the employee for the costs incurred for the retest.



Substance Abuse Policy

Confidentiality

Only those persons authorized to receive results from the laboratory will be allowed to discuss these results with the supervisor or the employee.

All records concerning test results will be kept in medical files which are maintained separately from the personnel file of the employee.

Testing laboratories may conduct testing only for substances included on the disclosure list provided to the individual, and may not conduct general testing related to the medical conditions of the individual which are unrelated to drug usage.



Substance Abuse Policy

Confidentiality (cont.)

Drug test results will be released to a decision maker in a lawsuit, grievance or other processing (such as for a Worker's Compensation or Unemployment Insurance Claim) initiated by or on behalf of the donor.

Substance Abuse Policy

Positive Test

If an employee tests positive on an initial screening test, the employee will be temporarily suspended while the confirmation test is being conducted. On receipt of the positive confirmation test, the employee will be required to enter an authorized treatment program approved by [COMPANY] and agree to subsequent retesting for a period of up to two years after returning from treatment.



Substance Abuse Policy

Positive Test (cont.)

If the employee refuses to enter the treatment program, he/she will be subject to disciplinary action, up to and including discharge. Discipline selected by [COMPANY] will depend upon a variety of factors, including the prior work record of the employee; the length of prior employment; the prior accident and attendance record of the employee; the circumstances which led to the testing; and the proposals by the employee to address the problem.



Substance Abuse Policy

Right to Explain Test Results

All employees and applicants have the right to meet with the testing laboratory personnel and with [COMPANY], to explain their test results. These discussions shall be considered confidential except that information disclosed in such tests will be communicated to personnel within [COMPANY] or within the Lab who need to know such information in order to make proper decisions regarding the test results or regarding the employment of the individual.



Substance Abuse Policy

Retesting

Employees may request a retest of their positive test results within five (5) working days after notification by [COMPANY] of such positive test result. This retest is at the expense of the individual, unless the original test result is called into question by the retest. Once [COMPANY] has determined whether or not there is evidence to indicate that the test results are incorrect, [COMPANY] will advise the individual of its decision.



Substance Abuse Policy

Treatment, Termination and Rehire

Where the employee/applicant believes that the positive test result was affected by taking of lawful or prescribed substances, the individual may be suspended without pay pending receipt of confirming information to substantiate the claims of the individual. Normally, the individual will be provided no more than five (5) business days in which to provide this additional information.



Substance Abuse Policy

Treatment, Termination and Rehire (cont.)

If the positive test is due to medically prescribed marijuana by a licensed physician and the test was for reason of:

1. Pre-employment, the candidate will be allowed to move forward with the hiring process provided the position applied for is not designated as “safety sensitive” as defined herein. If the position was designated as “safety sensitive” in the application process, further consideration for hire will be discontinued and the applicant will be disqualified.
2. Reasonable Suspicion, the employee will be subject to immediate discharge.



Substance Abuse Policy

Treatment, Termination and Rehire (cont.)

3. Random Testing, and the position is designated as “safety sensitive”, the employee will be subject to immediate discharge. If the position is not designated as “safety sensitive”, the employee will be allowed to continue employment.
4. Post-accident, and the position is designated as “safety sensitive”, the employee will be subject to immediate discharge. If the position is not designated as “safety sensitive”, management will review all relevant facts and circumstances and will determine in its discretion whether the employee will be allowed to continue employment.



Substance Abuse Policy

Treatment, Termination and Rehire

Employees who test positive for any drug(s) other than medically-prescribed marijuana have two choices. The first option is for the employee to enter an authorized treatment program. The treatment program would be based on a state licensed drug and alcohol assessment with the resulting recommendation and referral to an accredited treatment program, either outpatient or inpatient, at the employee's expense. There may be coverage through [COMPANY]'s Health Benefits plan for in/out treatment plans.



Substance Abuse Policy

Treatment, Termination and Rehire (cont.)

In addition, upon completion of the treatment program the employee would be required to submit to subsequent retesting for a period of two years after returning from treatment.

The second option, if the employee chooses not to enter the treatment program, would be immediate termination of employment. The individual will not be considered for rehire until he/she can show that he/she has remained drug free for a period of two years or more.



Substance Abuse Policy

Post-Rehabilitation Testing

[COMPANY], as a condition of continued employment, will require the taking and passing by the employee of follow-up drug tests during a probationary period within the two year period after the employee's return to work after successful completion of a treatment program.

Substance Abuse Policy

Consent and Release of Liability for Drug and Alcohol Testing

I understand that as a condition of employment with [COMPANY], I may be required to submit a sample of my urine and/or blood for chemical analysis. I understand that the analysis will be conducted by a certified laboratory. The purpose of this analysis is to check for the presence of non-prescription drugs or alcohol in my system.

I hereby give permission for any certified laboratory to release the results of these tests to [COMPANY]. I consent freely and voluntarily to this request for a urine and/or blood specimen. I hereby release [COMPANY] from any liability arising from this request to furnish urine and/or blood samples, the testing of the urine and/or blood samples and any decision made concerning my application for employment or employment which may be based in whole or in part upon the result of the test analysis.



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Substance Abuse Policy

Consent and Release of Liability for Drug and Alcohol Testing (cont.)

I understand that the presence of any non-prescription drug or alcohol in my system may result in the denial of employment with [COMPANY] or the termination of that employment. I further understand that employment with [COMPANY] may be conditioned upon my willingness to submit to and the results of periodic drug and/or alcohol testing required by the Company. Likewise, I understand that refusal to submit to or cooperate with any such testing may result in termination of my employment.

Signature of Applicant/Employee

Date



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Substance Abuse Policy

Reasonable Suspicion Documentation

Date: _____

Name of Employee: _____

Job Title: _____

Location / Department: _____

Prior to sending any employee for drug or alcohol testing due to a reasonable suspicion, this form must be completed by two members of management who have had a first-hand observation or conversation with the employee. In rare situations, a second member of management may not be available to witness the behavior. If the employee is in a safety sensitive area, remove them from work immediately until a second observer can talk with the employee and/or a decision can be made on whether testing is necessary.



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Substance Abuse Policy

Reasonable Suspicion Documentation (cont.)

When completing the following document, list all observations you noticed. Be as specific as possible including names of employees/witnesses, when and where you noticed these behaviors occurring, what the employee was doing at the time and any witnesses of these events. Include any observations or changes in appearance, smell, speech, movement or actions of the employee; direct observation of drug use or its physical symptoms, including slurred speech, agitated or lethargic demeanor, uncoordinated movement and inappropriate responses to questions; and abnormal conduct or erratic behavior while at work, or significant deterioration in work performance.



Substance Abuse Policy

Reasonable Suspicion Documentation (cont.)

First Observer Name: _____

Job Title: _____

Observations: _____

Signature: _____

Date: _____

Second Observer Name: _____

Job Title: _____

Observations: _____

Signature: _____

Date: _____



Substance Abuse Policy

Reasonable Suspicion Documentation (cont.)

Once the observations are documented, the involved management should immediately meet with HR, if available, and make a decision as soon as possible on whether or not to send the employee for reasonable suspicion testing to rule out the possibility that they may be under the influence of drugs or alcohol at work. This decision should be made and handled in accordance with the Company's drug and alcohol policy and procedure.

Describe Action Taken: _____



Questions?



NEW!

North Risk Partners Value-Added Services Hotline **(888) 667-4135**

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*You may also reach Synergy Human Resources by emailing hr@northriskpartners.com



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