

HOW TO REVISE THIS SAMPLE DRUG-FREE POLICY

The following is a sample drug-free workplace policy designed to assist you in your safety efforts. This policy includes state of Florida requirements needed for you to be eligible to receive a workers' compensation premium credit. There are a few steps that you need to complete to make this program your own.

1. Copy the first page of the policy onto your company letterhead or add your company name and address at the top of the page.
2. Add the date you begin implementing your drug-free workplace policy.
3. In the fourth paragraph, add the 60-day general notice date (which is 60 days from the date you implement your program). ***This is a one-time general notice.***
4. Replace [Company] with the name of your company.
5. Select the appropriate paragraphs concerning your Employee Assistance Program (EAP) and delete the paragraphs that do not apply to your business in Section C Employee Assistance Program of the policy. If you do not offer an EAP, you must also create a resource file of local employee assistance providers to meet the requirements of this section. Your company is not required to pay for an employee assistance program for your employees; ***however, you are required to provide a resource file of employee assistance providers in your area.*** To find providers in your area, refer to the Yellow Pages and/or conduct an internet search of "substance abuse treatment facilities."

It is important that a copy of this policy be given to each of your employees of your company, along with a copy of the Drug-Free Workplace Policy Acknowledgement. Employees are required to sign this acknowledgement and return it to your Human Resources/Personnel representative to be placed in employee personnel files.

To receive the workers' compensation premium credit, please send (1) a complete copy of your drug-free workplace policy, (2) a completed Application for Drug-Free Workplace Premium Credit Program and (3) a copy of your list of employee assistance programs to:

Summit
ATTN: Loss Prevention
PO Box 988
Lakeland, FL 33802
or
Fax: 863-668-7566
Email: dfwspcreditadmin@summitholdings.com

UPDATING YOUR EXISTING DRUG-FREE POLICY

If you are using this sample drug-free policy to revise your current drug-free policy, please complete the steps above and add a current date to the top of page 1 with the word "**Revised**" beside the date. Please note, in paragraph four, you do not need to add a 60-day general notice date if it was already included in your existing policy (this is a one-time notice).

FLORIDA DRUG-FREE WORKPLACE PROGRAM

1. STATEMENT OF POLICY

[XX/XX/20XX] (Implementation Date)

As part of our commitment to safeguard the wellbeing of our employees and to provide a safe environment for everyone, [Company] has established a drug-free workplace policy.

The ultimate goal of this policy is to balance our respect for individual privacy with our need to keep a safe, productive, drug-free environment. We encourage those who use illegal drugs or abuse alcohol to seek help in overcoming their problem. Employees who do so will be able to retain their job positions in good standing.

While this company understands that employees and applicants under a physician's care are required to use prescription drugs, abuse of prescribed medications will be dealt with in the same manner as the abuse of illegal substances.

All employees are given a one-time notice as of the above date that it is a violation of company policy for any employee to report to work under the influence of illegal drugs and/or to possess in his or her body, illegal drugs in any detectable amount. Employees are subject to drug testing under the standards of this policy on [XX/XX/20XX] (Testing Date), which is 60 days from the above implementation date.

Thereafter, [Company] will include notice of drug testing on employment vacancy announcements for positions for which drug testing is required. A notice of the drug-testing policy will be posted in an appropriate and conspicuous location on [Company]'s premises, and copies of the policy must be made available for inspection by the employees or job applicants of the employer during regular business hours in the employer's personnel office or other suitable locations.

a. Types of drug/alcohol testing required.

i. **Job applicant drug testing.** [Company] requires job applicants to submit to a drug/alcohol test and may use a refusal to submit to a drug/alcohol test or a positive confirmed drug/alcohol test as a basis for rejecting to hire a job applicant. A job applicant is a person who has applied for a position with [Company] and has been offered employment conditioned upon successfully passing a drug/alcohol test, and may have begun work pending the results of the drug/alcohol test.

ii. **Reasonable-suspicion drug testing.** [Company] requires an employee to submit to reasonable-suspicion drug testing. Reasonable-suspicion drug testing is drug testing based on a belief that an employee is using or has used drugs/alcohol in violation of the drug-free workplace policy. Reasonable suspicion may be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- A. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
- B. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- C. A report of drug use, provided by a reliable and credible source.
- D. Evidence that an individual has tampered with a drug test during his or her employment with the current employer.
- E. *Information that an employee has caused, contributed to, or been involved in an accident while at work.*
- F. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on [Company]'s premises or while operating [Company]'s vehicle, machinery, or equipment.

iii. **Routine fitness-for-duty drug testing.** [Company] requires an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the established policy or that is scheduled routinely for all members of an employment classification or group.

iv. **Follow-up drug testing.** If the employee in the course of employment enters an employee assistance program for drug/alcohol-related problems, or a drug/alcohol rehabilitation program, [Company] requires the employee to submit to a drug/alcohol test as a follow-up to the program, unless the employee voluntarily entered the program. In those cases, [Company] has the option to not require follow-up testing. If follow-up testing is required, it must be conducted at least once a year for a 2-year period after completion of the program. Advance notice of a follow-up testing date must not be given to the employee to be tested.

b. The actions that [Company] may take against an employee or job applicant on the basis of a positive confirmed drug/alcohol test result.

i. **Positive Test - Denial of Florida workers' compensation benefits.** Upon a positive confirmed drug/alcohol test result, [Company] will deny an employee workers' compensation medical or indemnity benefits under Florida Chapter 440.

ii. **Refusal of Test - Denial of Florida workers' compensation benefits.** If an injured employee refuses to submit to a drug/alcohol test, the employee forfeits eligibility for Florida workers' compensation medical and indemnity benefits.

iii. **Positive Test – Termination of employment.** Upon a positive confirmed drug/alcohol test result, [Company] may terminate the employee's employment.

2. EXISTANCE OF 440.102

This policy is implemented pursuant to the drug-free workplace program requirements under Florida Statute 440.102 and Administrative Rule 59A-24 of the State of Florida Agency for Health Care Administration.

3. CONFIDENTIALITY

a. Except as otherwise provided in this section, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section or in determining compensability under Florida Chapter 440 (workers' compensation).

b. Company, laboratories, medical review officers, employee assistance programs, drug rehabilitation programs, and their agents may not release any information concerning drug test results obtained pursuant to this section without a written consent form signed voluntarily by the person tested, unless such release is compelled by an administrative law judge, a hearing officer, or a court of competent jurisdiction pursuant to an appeal taken under this section or is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information.
2. The purpose of the disclosure.
3. The precise information to be disclosed.
4. The duration of the consent.
5. The signature of the person authorizing release of the information.

c. Information on drug test results shall not be used in any criminal proceeding against the employee or job applicant. Information released contrary to this section is inadmissible as evidence in any such criminal proceeding.

d. This subsection does not prohibit [Company], agent of [Company], or laboratory conducting a drug test from having access to employee drug test information or using the information when consulting with legal counsel in connection with actions brought under, or related to this section, or when the information is relevant to its defense in a civil or administrative matter.

4. REPORTING USE OF PRESCRIPTION OR NONPRESCRIPTION MEDICATIONS

a. An employee or job applicant may confidentially report the use of prescription or nonprescription medications to a medical review officer, both before and after a drug/alcohol test, by contacting the medical review officer directly; [Company] will provide the contact information.

b. Prescription or nonprescription medication is a drug or medication obtained with a prescription from an authorized health care provider or a medication that is authorized by federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

c. A medical review officer (MRO) is a licensed physician employed with or contracted with [Company], who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has

the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

5. LIST OF COMMON MEDICATIONS THAT MAY AFFECT A DRUG/ALCOHOL TEST

The following is a list of the most common medications, which may alter or affect a drug test, and is not intended to be all-inclusive:

Alcohol	All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).
Amphetamines	Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin.
Cannabinoids	Marinol (Dronabinol, THC).
Cocaine	Cocaine HCl topical solution (Roxanne).
Phencyclidine	Not legal by prescription.
Methaqualone	Not legal by prescription.
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, etc.
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.
Methadone	Dolophine, Metadose.
Propoxyphene	Darvocet, Darvon N, Dolene, etc.

6. CONSEQUENCES OF REFUSING DRUG/ALCOHOL TESTING

a. Job applicant drug/alcohol testing. [Company] may refuse to hire a job applicant who refuses to submit to a drug/alcohol test.

b. Employee drug/alcohol testing.

- i. If an injured employee refuses to submit to a drug/alcohol test, the employee forfeits eligibility for Florida workers' compensation medical and indemnity benefits.
- ii. If an injured employee refuses to submit to a drug/alcohol test, the employee may be terminated from employment with [Company].

7. EMPLOYEE ASSISTANCE PROGRAM

If your company does not offer an Employee Assistance Program, delete this section and use the version of section 7 below.

[Company] maintains an Employee Assistance Program ("EAP"). The purpose of an EAP is to provide help to employees and their families who suffer from alcohol abuse, drug abuse or other mental health issues. Employees may access these services without Company's involvement.

It is the responsibility of an employee to seek assistance from an EAP before alcohol and drug problems lead to disciplinary actions. Once a violation of this policy occurs, subsequently seeking treatment through an EAP on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action.

[Company]'s EAP will provide appropriate assessment, evaluation and counseling and/or referral for treatment of drug and/or alcohol abuse. Employees may be granted leave with a conditional return to work, contingent upon successful completion of the agreed-upon treatment regimen, which may include follow-up testing.

The cost of seeking assistance from the program will be the responsibility of the employee and subject to provisions of Company's health insurance plan, if any. Please consult the provider concerning any costs that may be your responsibility.

7. DRUG REHABILITATION PROGRAMS

If your company offers an Employee Assistance Program, delete this section and use the version of section 7 above.

Although [Company] does **not** maintain an Employee Assistance Program (EAP), [Company] does have a list of local providers of drug and alcohol treatment and family services that an employee may access without [Company]'s involvement.

It is the responsibility of an employee to seek assistance **before** alcohol and drug problems lead to disciplinary actions. Once a violation of this policy occurs, subsequently seeking treatment on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of disciplinary action.

A medical provider can give an appropriate assessment, evaluation and counseling and/or referral for treatment of drug and alcohol abuse. Employees may be granted leave with a conditional return to work, depending on successful completion of the agreed-upon treatment regimen, which may include follow-up testing.

The cost of seeking assistance will be the responsibility of the employee and is subject to provisions of Company's health insurance plan, if any. Please consult the provider for specifics concerning this issue.

8. CHALLENGES TO TEST RESULTS

- a. An employee or job applicant who receives a positive confirmed test result may contest or explain the result to [Company]'s designated medical review officer (MRO) within five (5) working days after receiving written notification of the test result. If an employee's or job applicant's explanation or challenge of the positive test is unsatisfactory to the MRO, the MRO shall report a positive test result back to the employer; and that a person may contest the drug test result according to the law/rules adopted by the Florida Agency for Health Care Administration.
- b. The terms "confirmation test," "confirmed test," or "confirmed drug test" mean a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.
- c. Confirmation testing shall be done in accordance with the following:
 - (i) If an initial drug test is negative, [Company] may in its sole discretion seek a confirmation test.
 - (ii) Only licensed or certified laboratories may conduct confirmation drug tests.
 - (iii) All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the Florida Agency for Health Care Administration or the United States Food and Drug Administration as such technology becomes available in a cost-effective form.
 - (iv) If an initial drug test of an employee or job applicant is confirmed as positive, [Company]'s designated medical review officer shall provide technical assistance to the [Company] and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

9. EMPLOYEE RESPONSIBILITY TO NOTIFY LABORATORY

An employee or job applicant is responsible for notifying the testing laboratory of any administrative or civil action brought pursuant to Florida Statute 440.102 (West 2015).

10. DRUGS THAT MAY BE TESTED

[Company] may test for any or all of the following drugs and alcohol:

- Alcohol
- Amphetamines
- Cannabinoids
- Cocaine
- Phencyclidine HCl
- Methaqualone HCl

Opiates
Barbiturates
Benzodiazepines
Synthetic Narcotic

11. COLLECTIVE BARGAINING AGREEMENTS

[Company]'s employees are not subject to any collective bargaining agreement; however, if one becomes applicable, there may be a right to appeal actions taken by [Company] due to an employee's confirmed drug test or refusal to take a drug/alcohol test with the Public Employees Relations Commission or applicable court.

12. MEDICAL REVIEW OFFICER CONSULTATIONS

Employees and job applicants may consult with a medical review officer for technical information, regarding prescription or nonprescription medication.

Company's medical review officer contact information is as follows:

Name:
Address:
Telephone:
Email:

Drug-Free Workplace Program Acknowledgement

I hereby acknowledge that I have received and read [Company's] Florida Drug-Free Workplace Program, a summary of the drugs which may alter or affect a drug test and a list of local Employee Assistance Program providers or local drug and alcohol treatment programs. I have had an opportunity to have all aspects of this material fully explained. I also understand that I must abide by the Program as a condition of initial and/or continued employment, and any violation may result in disciplinary action up to and including termination.

I also understand that during my employment I may be required to submit to testing for the presence of drugs or alcohol in my body. I understand that submission to such testing is a condition of employment with [Company], and disciplinary action up to and including termination may result if:

- 1) I refuse to consent to testing.
- 2) I refuse to execute all forms of consent and release of liability that are usually and reasonably associated with such examinations.
- 3) I refuse to authorize release of the test results to the company.
- 4) The tests establish a violation of [Company]'s Drug-Free Workplace Policy.
- 5) I otherwise violate the policy.

I understand that if I am injured in the course and scope of my employment and test positive or refuse to be tested, I forfeit my eligibility for medical and indemnity benefits under the Workers' Compensation Act upon exhaustion of the remedies provided in Florida Statute 440.102(5).

I also recognize that the Drug-Free Workplace Policy and related documents are not intended to constitute a contract between [Company] and me.

The undersigned further states that he/she has read and understands the above acknowledgement and signs below of his/her own free will.

SIGNATURE

DATE

WITNESS

DATE

NOTIFICATION OF POSITIVE DRUG TEST

Dear _____:

On [Date] you were drug tested according to requirements in [Company's] drug-free workplace program. Based on the State of Florida drug testing standards, your urine/blood specimen was tested twice in a controlled laboratory environment, which includes confirmation testing.

We have received the drug test result from our company's medical review officer (MRO), and the result indicates that you have tested positive (failed the test) for the following substance(s):

_____ Cannabinoids (marijuana)	_____ Alcohol
_____ Amphetamines	_____ Cocaine
_____ Phencyclidine (PCP)	_____ Methaqualone
_____ Opiates	_____ Barbiturates
_____ Benzodiazepines	_____ Synthetic Narcotics

In keeping with our company drug-free workplace policy, the following disciplinary procedure(s) will take place immediately:

If you disagree with the test result or have some other related concern, you have the right to submit information explaining or contesting the test result, and explaining why the positive test result does not constitute a violation of our drug-free workplace policy, within five working days after receiving this notice. You also have the right, within 180 days of your challenge, to have your original specimen retested at another Agency for Health Care Administration certified laboratory. Arrangements and cost will be your responsibility. Other challenge rights to which you may be entitled are included in your copy of our drug-free workplace policy previously distributed to you.

Our company Medical Review Officer (MRO) is _____, M.D.

Phone: _____. You may contact the MRO to ask questions or discuss your drug test result.

Sincerely,