

# ***WORKPLACE SUBSTANCE ABUSE PROGRAM OUTLINE***

**Scott Warrick, JD, MLHR, CEQC, SPHR  
Scott Warrick's Consulting & Employment Law Services  
(614) 367-0842: Office ♣ (614) 738-8317: Cell**

**[www.scottwarrick.com](http://www.scottwarrick.com)**

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# COLOR CODES

**Bureau of Workers' Compensation, or "BWC,"  
Rate Reduction Program Requirement**

Ohio BWC "Reasonable Cause" Testing Requirement

Department of Transportation Requirement

UNION CONSIDERATION

Special Comments To Consider

# ABC COMPANY

## WORKPLACE SUBSTANCE ABUSE PROGRAM

### I. STATEMENT OF POLICY

### II. PROGRAM PROTECTIONS AND TESTING PROCEDURES

### III. SUPERVISOR & EMPLOYEE AWARENESS EDUCATION **(REQUIRED UNDER BWC RATE REDUCTION PROGRAM)**

### IV. DRUG AND ALCOHOL TESTING CUTOFF LEVELS

NOTE: Effective October 1, 2010, the Department of Health and Human Services (HHS) implemented changes to its Mandatory Guidelines for the Federal Workplace Drug Testing Programs. These changes included new mandatory guidelines regarding the collection and testing of urine specimens, as well as the role of and standards for collectors.

Participants in federal and federally regulated workplace drug-testing programs are required to implement these revisions by October 1, 2010. Although these Guidelines apply to federal employer drug testing, many private sector employers opt to follow the Guidelines' procedures for how testing is conducted and for the cutoff levels.

Cutoff concentration levels have decreased in certain drug categories and two new drugs have been adopted for additional testing: Ecstasy and Heroin.

**NOTE: The BWC's Drug-Free Safety Program requires employers to include "Ecstasy" on this list. Basic and Advanced levels will both use the 0.04 BAC as the cut-off level for a positive test for alcohol.**

### V. EMPLOYEE ASSISTANCE

### VI. BUREAU OF WORKERS' COMPENSATION'S 10 STEP BUSINESS PLAN

### VII. TYPES OF TESTING

NOTE: As a general rule, due to the 5<sup>th</sup> Amendment's "Unreasonable Search and Seizure" provision, public sector employers are not permitted to test their employees for substance abuse without also having a reasonable suspicion of such abuse. Therefore, for public sector employers, all types of testing for employees must be accompanied by "Reasonable Suspicion Testing," which means someone in the organization must complete the "Reasonable Suspicion Checklist Form" before testing employees, which is included in this packet. Therefore, as a general rule, public sector

employers are not permitted to conduct “Random Test,” “Annual Testing,” “Promotion or Transfer Testing” or Customer Required Testing.”

However, if a public sector employer wants to conduct “Post Accident” testing, it should also be accompanied by “Reasonable Suspicion” testing.

Also, conducting “Follow Up Testing After Return To Work From Assessment Or Treatment” is permitted for public sector employers because this type of testing is based upon “reasonable suspicion.” Since people subject to this type of testing have already tested positive on a substance abuse test, or they have voluntarily come forward and admitted a substance abuse problem, there is a reasonable basis for testing the person. (See the “Conditional Return To Work Agreement” included in this packet.)

Public sector employers are allowed to conduct “Safety-Sensitive-Position Testing” in certain instances. Under this type of testing, positions that are classified as being “Safety Sensitive” are typically tested at random on a regular basis without any showing of a “reasonable basis” for the testing.

However, unlike private sector employers who can pick and choose whatever positions they want to classify as being “Safety Sensitive,” the public sector has very strict restrictions on which positions can be classified as “Safety Sensitive.” In the public sector, “Safety Sensitive” positions must directly relate to “public safety,” such as police officers, firefighters, life guards, and so on. Before a public sector employer classifies any position as being “Safety Sensitive,” it would want to research the position to see if a court has classified the position as being “Safety Sensitive.”

Public sector employers can conduct “Pre-Employment Testing” because the person is not an employee yet, so they do not enjoy these same protections.

Individuals or employees will be tested for the presence of drugs and/or alcohol under any and/or all of the conditions outlined as follows:

- A. Pre-Employment Drug Testing**
- B. Reasonable Suspicion Testing (Ohio BWC “Reasonable Cause” Testing Requirement)**
- C. Post-Accident Testing**
- D. Follow Up Testing After Return To Work From Assessment Or Treatment**
- E. Random Drug Testing**
- F. Transfers or Promotions**

- G. Annual or Biennial Testing**
- H. Safety-Sensitive-Position Testing**
- I. Customer-Required Substance Abuse Testing**
- J. Other Testing Programs**

**VIII. USE OF LEGAL DRUGS**

**IX. TAMPERING WITH A SPECIMEN OR FAILURE TO PROVIDE A SAMPLE**

**X. DISCIPLINARY PROVISIONS FOR RECEIVING A POSITIVE DRUG AND/OR ALCOHOL TEST RESULT: EMPLOYEES**

**XI. ODOR OF ALCOHOL**

**XII. VOLUNTARY SELF DISCLOSURE, ASSESSMENT AND REHABILITATION UNDER THE EMPLOYEE ASSISTANCE PROGRAM**

**XIII. DOT PROHIBITED CONDUCT (49 CFR Section 382)**

**XIV. DOT MINIMUM REQUIREMENTS FOR A POSITIVE DRUG AND/OR ALCOHOL TEST**

**XV. NOTICE TO EMPLOYER OF ILLEGAL ACTIVITY**

**XVI. DRUG-FREE WORKPLACE ACT (Contracts of \$10,000.00 or more with the government.)**

**XVII. SEARCHES**