

BAY COUNTY
BOARD OF COUNTY COMMISSIONERS'
DRUG-FREE WORKPLACE POLICY



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I. STATEMENT OF POLICY

The Bay County Board of County Commissioners has a vital interest in maintaining safe, healthful and efficient working conditions for its employees. Being under the influence of drugs or alcohol on the job may pose serious safety and health risks not only to the user and to those who work with the user, but also to the public we serve. The possession, use or sale of an illegal drug or alcohol in the workplace also poses unacceptable risks for safe, healthful and efficient operation.

The Bay County Board of County Commissioners recognizes that its ability to provide a safe and satisfactory level of service to the citizens of Bay County is dependent upon the physical and psychological health of our employees. Accordingly, it is the intent of the Board of County Commissioners to maintain a safe working environment, protect County property and equipment, and facilitate efficient operations.

With these basic objectives in mind, the County has established a Drug Free Workplace Program to include drug and alcohol testing for County Commission employees. There is a **zero tolerance** for drug and alcohol abuse in the workplace. It is County policy that County employees will be subject to disciplinary action up to and including termination even for the first offense if they test positive for the presence of illegal drugs and/or alcohol in their system, or if they are found in possession of, using, selling, trading, offering for sale illegal drugs, or engaged in any illegal drug usage (whether on or off the job).

II. DEFINITIONS

(a) “Drug” means alcohol, including distilled spirits, wine, malt beverages, and intoxicating liquors; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens; methaqualone; opiates; barbiturates; benzodiazepines; synthetic narcotics; designer drugs; or a metabolite of any of the substances listed herein.

(b) “Drug test” or “test” means any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.

(c) “Initial drug test” means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens. All initial tests must use an immunoassay procedure or an equivalent, or must use a more accurate scientifically accepted method approved by the Agency for Health Care Administration as more accurate technology becomes available in a cost-effective form.

(d) “Confirmation test,” “confirmed test,” or “confirmed drug test” means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. This confirmation method must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

(e) “Chain of custody” refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, storing specimens, and reporting of test results.

(f) “Job applicant” means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test.

(g) “Employee” means a person who works for salary, wages, or other remuneration for an

employer.

(h) “Employer” means an agency within state government that employs individuals for salary, wages, or other remuneration.

(i) “Prescription or nonprescription medication” means a drug or medication obtained pursuant to a prescription as defined by s. [893.02](#) or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(j) “Random testing” means a drug test conducted on employees who are selected through the use of a computer-generated random sample of an employer’s employees.

(k) “Reasonable suspicion drug testing” means drug testing based on a belief that an employee is using or has used drugs in violation of the employer’s policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Reasonable suspicion drug testing may not be required except upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. Among other things, such facts and inferences may be based upon:

1. 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.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug use, provided by a reliable and credible source, which has been independently corroborated.
4. Evidence that an individual has tampered with a drug test during employment with the current employer.
5. Information that an employee has caused, or contributed to, an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer’s premises or while operating the employer’s vehicle, machinery, or equipment.

(l) “Specimen” means a tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites.

(m) “Employee assistance program” means an established program for employee assessment, counseling, and possible referral to an alcohol and drug rehabilitation program.

(n) “Special risk” means employees who are required as a condition of employment to be certified under chapter 633 or chapter 943.

III. TESTING CATEGORIES

The County has adopted screening practices to identify post-offer applicants and employees who use illegal drugs. It shall be a condition of employment for all employees to refrain from reporting to work, or working with the presence of drugs or alcohol in his or her body. It shall also be a condition of employment for all employees to submit to drug screening based on the following:

Pre-Employment

(1) all post-offer job applicants will undergo screening for the presence of illegal drugs as a condition of employment. Post-offer applicants will be required to submit to a urinalysis test at a laboratory chosen by the County. The employee may begin working pending the result of the drug test.

(2) any post-offer applicant with a confirmed positive test results will be denied employment at that time.

Reasonable Suspicion

Reasonable suspicion drug testing means drug testing based on a belief that an employee is using or has used drugs in violation of the County's policy 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:

- (1) 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.
- (2) abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- (3) a report of drug use, provided by a reliable and credible source.
- (4) evidence that an individual has tampered with a drug test during his employment with the County.
- (5) information that an employee has caused, contributed to, or been involved in an accident while at work.
- (6) evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the County's premises or while operating the County's vehicle, machinery, or equipment.

Post-Accident

- (1) When the County obtains information that an employee has caused, contributed to, or been involved in an incident/accident while at work or seeking medical treatment under the Workers' Compensation Program. **If testing has not occurred in a timely manner of the incident/accident, a written explanation by a Supervisor must accompany the incident/accident report.**

Questions regarding post-accident testing should be addressed to the Office of Risk Management.

Extended Absence

- (1) upon return from extended absence of six (6) months or greater.

Routine Fitness for Duty

- (1) as part of a routinely scheduled fitness for duty medical exam that is required for all members of an employment classification or group (e.g. during a firefighter's "fitness for duty" physical).

Random Drug

- (1) At this time, random drug testing is not a part of the Bay County Drug Free Workplace Program. However, as required by the Department of Transportation Federal Highway Administration 49 CFR Parts 382, et al., all regular full-time and regular part-time employees required to hold a CDL and perform "safety sensitive functions" as related to the operation of a Commercial Motor Vehicle shall be randomly tested for drugs. A computer program or other independent, bias free method of name selection will be used to ensure that safety sensitive employees to be tested are randomly selected. **See the *Bay County Alcohol and Drug Abuse Policy for Safety Sensitive Functions.***

IV. GENERAL TESTING RULES

All testing will be done by a State licensed lab, positive and negative test results will be checked by a Medical Review Officer to assure accuracy. All testing, sample collection, storage, handling and chain of custody will be done in accordance with State rules and regulations.

Employees who have caused, contributed to, or been involved in an incident/accident while at work. At the discretion of management the employee shall be accompanied by his/her first-line supervisor or designee until such time that the test has been administered.

Failure to submit to a required drug and/or alcohol test is grounds for refusing to hire an applicant and or immediate termination.

Refusal to take a drug or alcohol test may result in the employee forfeiting his or her eligibility for medical and indemnity benefits under the State's Workers Compensation and denial of Unemployment Compensation.

Tampering with a drug test specimen, or a confirmed positive test may disqualify a claimant from unemployment benefits.

If a test is rejected because of tampering or purposeful adulteration, and a second test is requested by the employer, an observed collection may be required.

Florida state law provides for a possible denial of workers' compensation benefits for employees who are injured while working and subsequently test positive. {See W.C. Act 440.102}

An employee reporting for work visibly impaired is to be considered unable to properly and safely perform required duties and will not be allowed to work. If possible, the responsible supervisor should first seek another supervisor's opinion of the employee's status. Then the Supervisor should consult privately with the employee to determine the cause of the impairment, including whether substance abuse may have occurred.

If in the opinion of the supervisor, an employee is unfit for duty, the employee should be taken to a medical facility to be tested. An impaired employee will not be allowed to drive, but will be driven by the supervisor or a designated employee to the medical facility for testing and then home.

V. TESTING

Initial Test

The initial screen for all drugs except alcohol shall use an immunoassay. For alcohol the initial test may be the enzyme oxidation methodology. The following cutoff levels shall be used when first screening specimens to find whether they are negative or need to be tested further with the confirmation test. All levels equal to or exceeding the following shall be reported as positive:

Alcohol	0.04%
Amphetamines	1000 ng/ml
Cannabinoids	50 ng/ml
Cocaine	300 ng/ml
Phencyclidine	25 ng/ml
Opiates	2,000 ng/ml
Barbiturates	300 ng/ml
Benzodiazepine	300 ng/ml
Synthetic Narcotics:	
Methadone	300 ng/ml
Propoxyphene	300 ng/ml

Confirmation Test

A positive finding will generate a confirmation test through the GC/MS (gas chromatography /mass spectrometry) method and the results will be kept confidential. A copy of any positive can be received by the employee by submitting his/her request in writing. As drug testing technology is constantly improving and state and federal laws governing said testing are changing almost as rapidly, the company may change the cut off levels without notice. The cut-off levels in effect for the GC/MS at the time of this printing are as follows:

Alcohol	0.04%
Amphetamines	500 ng/ml
Cannabinoids	15 ng/ml
Cocaine	150 ng/ml
Phencyclidine	25 ng/ml
Opiates	2,000 ng/ml
Barbiturates	200 ng/ml
Benzodiazepine	300 ng/ml
Synthetic Narcotics:	
Methadone	300 ng/ml
Propoxyphene	300 ng/ml

NOTE: Initial and Confirmation test levels are subject to change by State or Federal statute or regulation. Refer to 59A-24.006, F.A.C. for hair specimen levels.

To review the brand names or common names of the eleven drugs for which an employee may be tested refer to page BCDFWP - ATCHMNT 1 of this policy.

VI. MEDICAL REVIEW OFFICER

Qualified medical personnel shall review with the employee/applicant all positive test results concerning that employee/applicant. An employee/applicant may consult with the M.R.O. before or after being tested in order to report any prescription or non-prescription drug use. When speaking by phone with the M.R.O., the employee/applicant may use the phone in any office or room to ensure privacy.

VII. EMPLOYEE ASSISTANCE PROGRAM

The County offers an Employee Assistance Program (EAP) for evaluation to determine what assistance the employee needs in resolving problems associated with substance abuse and rehabilitation. This program is administered by the Human Resources Office.

Employees may be provided a one-time opportunity to participate in the County EAP after testing positive on a drug/alcohol test. Employees given this one-time opportunity to participate in the County EAP will do so at their own expense or pursuant to coverage under a health care insurance plan, an employee assistance program, or an alcohol and drug rehabilitation program, which shall be monitored by the County EAP and the Human Resources Office. Employees will be allowed to take sick and vacation leave to participate in a prescribed program approved by the County. The employee shall be discharged if the employee either refuses to participate in the employee assistance program or the alcohol and drug rehabilitation program after initially testing positive on a drug/alcohol test, or fails to successfully complete such program as evidenced by withdrawal from the program before its completion, or a report from the program indicates unsatisfactory compliance, or tests positive on a verified test or random test at a later date.

a. Rehabilitative Drug-Testing

Employees who enter a Rehabilitative Drug and/or Alcohol Program must sign and agree to a Rehabilitation Commitment Letter (ATTACHMENT 7). Employees who successfully complete a rehabilitation program, or as part of their rehabilitation program may return to work. The employee must agree to follow-up drug testing for up to two years following a return to duty and/or completion of a rehabilitation program if he/she continued to work. Testing will consist of a return-to-duty test, then testing of a minimum of six tests per year (all post rehabilitative testing will be unannounced). Employees not complying with these conditions, or testing positive at any time during or following rehabilitation, will be terminated from employment.

VIII. DOCUMENTATION/CONFIDENTIALITY

All information received regarding an employee's/applicant's drug test results will be maintained in separate confidential files and will be used only for the purposes indicated in this Policy.

The County shall place documentation of a positive drug test result in the employee/applicant's confidential file within five working days of receipt of the positive result.

If drug testing is conducted based on reasonable suspicion, the County shall prepare a written report within seven days of the testing detailing the circumstances which form the basis of the determination that reasonable suspicion existed to warrant the testing. The signed original will be maintained in the employee's confidential file for at least one year. A copy of this document detailing the circumstances which form the basis of the reasonable suspicion will be provided to the employee upon request.

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by Bay County through its drug and alcohol testing program shall be treated as confidential communications.

Access to positive drug test results shall be restricted to the Office of Human Resources, the Division of Risk Management, the employee, and those authorized in writing by the employee.

IX. GROUNDS FOR TERMINATION

An employee bringing onto the County's premises or property, having possession of, being under the influence of, possessing in the employee's body, blood, or urine in the amount set forth in Section V, purposely tampering or adulterating a specimen, or using, consuming, transferring, selling, attempting to sell or transfer any form of illegal drug as defined above while on county business or at any time during the hours between the beginning and ending of the employee's working day, whether on duty or not, whether on county property or not, is guilty of misconduct and subject to discipline up to and including discharge or suspension without pay from employment, even for the first offense. Failure to submit to the required medical and physical examinations or tests is considered refusal to test and is grounds for discharge from employment.

1. The Employer will use the Federal Department of Transportation guidelines to determine a refusal to test in the case of shy bladder or shy lung.
2. In the case of shy bladder or shy lung, the employee will have 7 working days to secure documentation from their physician establishing the physical condition.
3. In the case of psychological cause, the diagnosis must have been made prior to the test. Diagnosis such as typical anxiety is not acceptable.

Employees tested for reasonable suspicion may be suspended without pay or placed in non-safety sensitive jobs pending the results of the required test and/or investigation. An employee with a negative result will be reinstated if suspended (with full back-pay and/or return to previous duties). A positive test will result in immediate action up to and including termination of employment.

An employee that enters into a Drug Rehabilitation Program can not return to a Special Risk or a Safety Sensitive duty until testing negative within minimum of 30 days of the first positive test.

An employee in a safety-sensitive position may be placed in a non-safety sensitive position, or if such position is unavailable, on leave status while participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave status without pay, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay.

A special risk employee may be discharged or disciplined for the first positive confirmed drug test result when illicit drugs, pursuant to s.893.13, are confirmed.

No special risk employee shall be permitted to continue work in a safety sensitive position, and may be placed either in a non-safety sensitive position or on leave status while participating in an employee assistance program or an alcohol and drug rehabilitation program.

X. RESPONSIBILITY OF THE EMPLOYEE

- (1) As a condition of employment, employees must abide by the terms of this policy and must notify the County in writing of any conviction of a violation of a criminal drug statute no later than five calendar days after such a conviction.
- (2) The employee must notify his/her supervisor that his/her drug or medication may affect or impair his/her judgment or job performance or safety.
- (3) The employee or job applicant must notify the laboratory of any administrative or civil action planned as a result of a positive test within five working days from receipt of notification.
- (4) The Employee has the right to contest the result of a positive drug test, in writing, within five (5) working days of being notified in writing of the positive test result. The employee has a right to a copy of the test result, upon request, and to have the sample sent to a certified lab to be re-tested at the employee's expense.

XI. RIGHTS OF THE EMPLOYEE/JOB APPLICANT

An employee or job applicant shall be allowed to provide notice to Bay County of currently or recently used prescription or non-prescription drugs at the time of the taking of the specimen to be tested, and such information shall be placed in writing upon the employer's drug and alcohol testing custody form prior to initial testing. However, this does not preclude the applicant/employee's responsibility of notifying the responsible Supervisor that the medication may affect his/her performance.

The employee or job applicant has the right to consult the Medical Review Officer for technical information regarding the effects of prescription medication on the drug test.

The employee may request, in writing, a written report regarding the circumstances that formed the basis for a reasonable suspicion test.

The employee/applicant has the right to contest the result of a positive drug test, in writing, within five (5) working days of being notified in writing of the positive test result.

If the County determines that the employee's/applicant's explanation or challenge of the positive test results is unsatisfactory, within fifteen (15) days of receipt of the explanation or challenge, a written explanation as to why the employee's explanation is unsatisfactory, along with the report of positive results shall be provided by Bay County to the employee.

The employee/applicant has a right to a copy of the test result, upon request, and within 180 days of written notification of a positive test result to have the split sample taken to a different laboratory which is licensed and approved by the Agency for Health Care Administration, to be retested at the employee's/applicant's expense.

XII. SUBCONTRACTOR, VENDOR, CONSULTANT REQUIREMENTS

In all future contracts with individuals or organizations that wish to do business with the Bay County Board of Commissioners, a stipulation is to be made in the contract or purchase order that requires the subcontractor, vendor, or consultant to have a substance abuse policy. The employees of such subcontractors, vendors, or consultant will be subject to the same rules of conduct and tests as the employees of the Bay County Commission. In the event of an employee of a supplier of goods or services is found to have violated the Substance Abuse Policy, that employee will be denied access to the county's premises and job sites. In addition, if

the violation (s) is/are considered flagrant, or the County is not satisfied with the actions of the subcontractor, vendor, or consultant, the County can exercise its right to bar all of the subcontractor's employees from its premises or decline to do business with the subcontractor in the future. All expenses and penalties incurred by a subcontractor, vendor, or consultant as a result of a violation of the County's substance abuse policy shall be borne by the subcontractor, vendor, or consultant.

XIII. CONCLUSION

The County's Drug Free Workplace Policy is not intended to be abusive or discriminatory or to come into conflict with any public policy. The County considers drug testing to be only one of several steps to achieve a safe, healthy, and productive atmosphere for its employees. This policy is available for inspection by the job applicant or employees during regular business hours. This policy supersedes any information provided to applicants and/or employees either written or oral and reserves the right to change the provisions of this policy and testing program at any time in the future without prior notice and does not constitute a contract for employment.

OVER-THE-COUNTER AND PRESCRIPTION DRUGS WHICH COULD
ALTER OR AFFECT THE OUTCOME OF A DRUG TEST

This sheet is for your information only.

**OVER-THE-COUNTER AND PRESCRIPTION DRUGS
THAT COULD ALTER OR AFFECT THE OUTCOME OF A DRUG TEST**

ALCOHOL

All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. For example, Vick's Nyquil is 25% (50 proof) ethyl alcohol; Comtrex, 20% (40 proof); Listerine, 26.9% (54 proof).

AMPHETAMINES

Obetral, Biphetimine, Desoxyn, Dexedrine, Didrex.

CANNABINOIDS

Marinol (Dronabinol, THC).

COCAINE

Cocaine HCl topical solution (Roxanne).

PHENCYCLIDINE

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 Roxinol (morphone sulfate), Percodan, Vicodin, etc.

BARBITURATES

Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fiorecet, Esgic, Butisol, Mebarbal, Butabarbital, Phrenilin, Triad, etc.

BENZODIAZEPHINES

Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.

METHADONE

Dolophine, Methadose.

PROPOXYPHENE

Darvocet, Darvon N, Dolene, etc.

Synthetic narcotics; designer drugs; or a metabolite of any of the substances listed herein.