

EDUCATING THE WORKFORCE IN SUBSTANCE ABUSE PROGRAM MANAGEMENT

Alcohol Testing Procedures

Breath alcohol tests are performed at DATCS by having the donor blow forcefully into the Evidential Breath Testing (EBT) device's mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been attained. If the result is less than 0.02, the test is considered negative.

If the result is 0.02 or greater, a confirmation test must be performed after a waiting period of at least 15 minutes. The confirmation test must be completed within 30 minutes from the completion of the original screening test. A new mouthpiece must be used and the EBT must be tested to assure proper registering.

The BAT (Breath Alcohol Technician) shall report all results to the employer in

a confidential manner. This report may be in writing, in person, by telephone or electronic means. If the result is positive, the BAT must ensure immediate reporting of the results to the employer to prevent the employee from performing a safety-sensitive function.

A test is considered positive under any of the following situations:

- A confirmation result of 0.04 or greater
- Refusal to complete and sign the breath alcohol testing form
- Refusal to provide breath
- Refusal to provide an adequate amount of breath
- Refusal to otherwise cooperate with the testing process

Safety-sensitive employees testing positive for any of the above reasons could be subject to the following disciplinary action(s):

- If the company policy requires termination, the employee may be terminated but must still be referred to a Substance Abuse Professional (SAP).
- If the company wishes to continue an employment relationship with the employee, the employee must be removed from safety-sensitive functions and referred to a SAP for evaluation and treatment. If there is a non-safety-sensitive job available, the employee may be allowed to work in that function until evaluation, treatment, and return-to-duty test have been completed.

Changes to the MRO Verification Process

MROs are required to verify a confirmed positive test result for marijuana, cocaine, amphetamines, semi-synthetic, and/or PCP unless the employee presents a legitimate medical explanation for the presence of the drug(s)/metabolite(s) in their system. MROs will continue to follow §40.141 when obtaining information for the verification process to determine if an employee

has a legally valid prescription consistent with the Controlled Substance Act. MROs still have a responsibility to report, despite the valid prescription, if the employee is medically unqualified or would pose a significant safety risk. With the addition of the semi-synthetic opioids, there could potentially be an increase in verified negative results reported with a safety concern.

§40.135(e) was amended to give the employee the opportunity to work with the MRO and their prescribing physician to change medication prior to the MRO reporting the employee poses a significant safety risk. With this change, employees have five days to have their prescribing physician contact the MRO to discuss an alternative medication.

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Collector Errors and Affidavits

Designated Employer Representatives (DERs) who review drug and alcohol paperwork will occasionally notice errors on Custody and Control Forms (CCFs) and Alcohol Testing Forms (ATFs). Some need to be corrected by affidavit from the collector or technician who committed the error, or the test must be cancelled, per §40.203 and §40.269.

The following errors require correction by affidavit.

1. The collector's signature is omitted on Step 4 of the CCF.
2. The technician does not sign the ATF.
3. The employee's signature is omitted on Step 5 of the CCF, unless the reason for the missing signature is noted on the remarks line of the CCF.
4. The employee's signature is omitted from

Step 4 of the ATF for an alcohol test with a confirmed result of 0.02 or greater, and the technician did not make a remark to explain why the signature is missing.

5. A Non-Federal or expired form is used.

For the first four items above, the person responsible for omitting the required information must correct the error by supplying the missing information in writing, along with a statement affirming it is true and accurate. In cases where the collector's or technician's signature is omitted, and the individual is unavailable, a supervisor may supply the affidavit.

If the problem is the use of a non-Federal or expired form, the collector (or a supervisor, if the collector is unavailable) must submit a signed statement affirming the incorrect form contains all

information needed for a valid DOT test. It must state the incorrect form was used inadvertently, or it was used as the only means of conducting a test. The statement must also list the steps taken to prevent future use of incorrect forms. For a drug test to be successfully corrected, the specimen must have been tested at an HHS-certified laboratory following Part 40's procedures.

Affidavits must be maintained along with the testing forms. The faces of the forms must be marked to ensure it is obvious correction has occurred, such as by stamping and initialing a form to note the correction. In all instances, collection sites must issue corrections on the same business day they become aware of the problem.

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FATIGUED DRIVING BASIC

Carriers and drivers tend to believe that Hours-of-Service (HOS) regulations are stacked against them and, in some cases, make fatigue and speeding problems worse. It takes effort for drivers and dispatchers to track hours on and off the road and appropriately

schedule trips. What benefit is there to the carrier to comply with these regulations?

Reduced costs

Getting caught with HOS violations at a roadside inspection is expensive. The carrier is not only subject to fines, but also can lose

revenue by having drivers placed out-of-service.

Improved driver retention

Drivers dislike driving tired. They don't like being placed out-of-service—especially when this impacts their

income. This can lead to a lack of job satisfaction and eventually increased driver turnover.

Crashes avoided

Fatigue is believed to be a top contributing factor to crashes.

Prescription Misuse Epidemic

As one of the nation's leading safety advocates, the National Safety Council (NSC) spotlights issues in an effort to "eliminate preventable deaths at work, in homes and communities, and on the road through leadership, research, education and advocacy." The organization has identified prescription drug misuse as one of its key safety issues because of the alarming rise in addiction rates, ER visits, overdoses, and fatalities. Dr. Don Teater, Medical Advisor for the National Safety Council, has emphatically stated, "Painkillers don't kill pain. They kill people."

This public safety issue also weighs heavily on the workplace, impacting more than 70 percent of U.S. employers. According to research published in *The Clinical Journal of Pain*, the non-medical use of prescription opioids cost the United States approximately \$42 billion dollars in lost productivity in 2006. Five drugs in particular, OxyContin®,

oxycodone, hydrocodone, propoxyphene, and methadone, accounted for two-thirds of the total economic burden.

The [NSC reported results from its recent survey](#), which examined employers' perceptions and experiences with prescription drugs. Because of substance misuse, employers face challenges with absenteeism, decreased job performance, injuries, positive drug test results, co-workers using, borrowing, or selling prescription drugs at work, and a negative impact on employee morale. In addition, the NSC survey data shows:

- 81 percent of employers lack a drug-free workplace policy
- 76 percent of employers do not offer training to identify drug misuse
- 41 percent of employers do not drug test for synthetic opioids

Employers want to help employees, yet only 19 percent of employers answered that they were "extremely prepared" to deal with the misuse or abuse of prescription medications. Managers cited that they need additional clarification regarding policy, benefits, insurance, treatment options, and simply identifying warning signs of a potential problem. How can the remaining 81 percent of employers get informed and gain confidence when facing this challenge? Survey authors suggest that companies add specialized workplace training for supervisors, implement drug testing programs, and strengthen their policies with more precise language about drug use without a prescription, employee impairment, and return-to-work protocols.

<https://blog.employersolutions.com/prescription-misuse-epidemic-affects-7-in-10-employers/>



No "Expiration" on Return-To-Duty Requirements

An employee/applicant who has violated a DOT regulation is prohibited from returning to the performance of safety-sensitive functions for any DOT-covered employer until the individual successfully completes the return-to-duty process described in Part 40, Subpart O.

The date of the violation has no impact on this requirement. For example, an employer, interviewing an applicant in 2017 who had a positive DOT test in 2012, may assume since the positive test was five years ago, this individual can be hired without ensuring he or she

completed the return-to-duty process. This assumption is false; the applicant must still be able to demonstrate successful completion of the return-to-duty requirements of Part 40.

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