



## Drug-Free Workplace and Workforce

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2.01.0302

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Related Policies:

### PURPOSE

This policy provides guidelines to follow the drug-free workplace and workforce.

### DEFINITION(S)

**Alcohol** means ethyl alcohol, the intoxicating agent in beverage alcohol.

**Alcohol Abuse** means any alcohol consumption prohibited by the Drug-Free Workplace and Workforce program.

**AAMRO** means American Association of Medical Review Officers.

**Authorized Collection Site Person** means a person employed by a medical facility who assists and instructs members with specimen collection at a collection site. Authorized collection site persons will be contracted through the State Patrol's drug testing laboratory vendor. The collection site person is authorized to carry out functions that include receiving and making an initial examination of the provided specimen, proper packaging, and sealing the specimen in the presence of the Patrol member.

**CDPHE** means the Colorado Department of Public Health and Environment.

**Chain of Custody** means the method of documenting the handling of a specimen, from collection, through final testing procedures, to suitable storage of the specimen. Signed and dated forms and sealed containers are used in the process.

**Chain of Custody for Breath Alcohol Testing** means the breath alcohol determination printed by the breath testing instrument upon test completion. Whenever a positive breath alcohol determination is obtained, the printed test result will be submitted to the program coordinator of the Drug-Free Workplace Program. The program coordinator will forward the printed test result to the member's immediate supervisor who will provide written notification of the test result to the Chief.

**Collection Site** means a medical facility, doctor's office or hospital, authorized by the Patrol to collect a member's urine, breath or blood specimens to be used in laboratory analysis or alcohol testing. Collection sites will be authorized through the drug testing laboratory contract and certified by SAMHSA and USDHHS.

**Contract Laboratory** means a State Patrol contracted and independent laboratory that meets SAMHSA and USDHHS guidelines for drug/metabolite testing.

**Controlled Substance**, for the purpose of this policy means a drug, substance, or immediate precursor included in schedules I to V of Section 202 of the Controlled Substance Act (21 U.S.C. 812). Generally, these are drugs which have a high potential for abuse. Such drugs include, but are not limited to, heroin, cocaine, PCP, and amphetamines. They

include “legal” drugs which are not prescribed by a licensed medical practitioner, or are prescribed legally but used illegally. This excludes marijuana. For the purpose of this policy, the marijuana definition can be found below.

**Confirmatory Test** means a second laboratory test of the original sample, used to confirm positive test results above the cut-off levels obtained in an initial screening test. Gas chromatography/ mass spectrometry will be the technique used for the confirmatory test.

**Cut-Off Level** means a SAMHSA/USDHHS established concentration, usually in nanograms per milliliter (ng/ml), used to determine whether a specimen is positive (at or above the cutoff level) or negative (below the cut-off level) for the target drug.

**Drug Panel** means, for the purpose of random selection drug testing, amphetamines, barbiturates, benzodiazepines, and narcotics or a metabolite of those drugs (See Appendix A for the full drug panel).

**Drug Testing Protocol** means the standard practice to be followed by a contract laboratory. The laboratory will conduct a two-step process where a specimen is initially analyzed using a screening or presumptive test. If the results indicate the presence of one or more drugs and/or metabolites, a second, or confirmatory test will be used by the laboratory. Positive identification of controlled substance and/or metabolite in the confirmatory test will be considered a positive drug test result.

**For Cause (Reasonable Suspicion) Drug and Alcohol Testing** means testing based on specific, objective, and articulated facts and any rational inferences from those facts that would lead a reasonable person to suspect an individual is under the influence of drugs or alcohol. Reasonable suspicion need not rise to the level of the more familiar standard of probable cause, but it must be substantially more than a hunch. Good cause is required for reasonable suspicion and a supervisor will document the suspicion on the [CDPS Reasonable Suspicion Checklist](#).

**Initial Test** means the first laboratory test utilized in the drug testing protocol. Also known as a screening, presumptive, or preliminary test.

**Intoxilyzer Operator** means an individual approved by the CDPHE to operate approved breath testing instruments used to determine Breath Alcohol Content (BrAC). A member certified to administer breath alcohol tests may administer the test to another member when directed by a State Patrol supervisor.

**Marijuana** means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

**Medical Review Officer (MRO)** means a certified, licensed physician who reviews all laboratory positive drug test results. The MRO includes knowledge of alternative medical explanations and best medical judgment in deciding whether to report a test result as positive or negative. The MRO is MROCC or AAMRO certified.

**Member** means any State Patrol sworn, civilian, full-time, part-time, or temporary employee.

**MROCC** means Medical Review Officer Certification Council.

**MRO-Verified Drug Test Result** means a laboratory positive test result verified by a certified MRO as containing one or more targeted drugs for which, in the MRO's opinion, there is no legitimate medical explanation.

**Negative Drug Test Result** means drugs and metabolites tested for are either absent or, if present, below the respective cut-off level.

**Positive Drug Test Result** means the initial and confirmatory tests in the drug testing protocol are positive for drug(s) and/or metabolite(s) above their respective cut-off levels.

**Program Coordinator** means a State Patrol member who administers and coordinates activities of the Drug-Free Workplace and Workforce program.

**Random Selection Drug Testing** means random drug testing as determined by computer selection. All members have an equal opportunity to be selected. Computer selection cannot differentiate between a previously selected member and those who were not selected. A member may be randomly selected by computer more than once during every annual test cycle.

**Safety-Related Workers** means members whose duties are directly responsible for the safety of Colorado residents and visitors. For purposes of this policy, Safety-Related Workers are statutory peace officers or P.O.S.T. certified peace officers, state patrol trooper classifications, port of entry officer classifications, police officer classifications, criminal investigator classifications, communication officer classifications, positions that require a Commercial Driver's License (CDL), positions that have the requirement for a Federal Secret or Top Secret Clearance, civilian pilots, Executive Command Staff positions, police communication supervisors, and the Communications Director. This includes supervisors of these classifications who may be classified as management.

**Split-Sample Collection Method** means a specimen collected in two collection containers. One collection container remains sealed and is analyzed only upon a member's request for retest by an independent laboratory.

**United States Code (U.S.C.)** is a multivolume published codification of federal statutory law.

## **POLICY STATEMENT(S)**

Within the State Patrol there will exist a Drug-Free Workplace and Workforce program.

Use of controlled substances, and alcoholic beverages in violation of the Drug-Free Workplace policy will not be tolerated. Violation of this policy may result in disciplinary action up to and including termination and when appropriate, referral for criminal prosecution.

Members are prohibited from possession, use, acquisition, sale, manufacture, or transportation of controlled substances except when prescribed by an attending physician or as part of official duties with the State Patrol. The manufacture or sale of controlled substances in performance of a work assignment must receive prior authorization from the Chief or designee.

**Safety-Related Workers** are prohibited from having any detectable amount of any controlled substance, to include marijuana, or alcohol in their system, while performing CDPS business or while in a CDPS facility.

**Non Safety-Related Workers** are members who are not classified as Safety-Related Workers. Non Safety-Related Workers are prohibited from having any detectable amount of any controlled substance, as defined above by this policy, or alcohol in their system, while performing CDPS business or while in a CDPS facility. **Non Safety-Related Workers should refer to [CDPS Policy 7.1.02.016 Drug and Alcohol Use](#) for additional guidance.**

Any member who unintentionally ingests, or is made to ingest, a drug or controlled substance will immediately report the incident to an immediate supervisor so that steps may be taken to ensure the employee's health and safety.

Legally prescribed drugs and medication will only be used in the dosage and frequency as prescribed by a licensed medical professional. Members will notify an immediate supervisor when required to use prescription medication which has the potential to impair job performance.

Except with prior approval of the Chief, the consumption of alcohol while on duty, including rest and meal breaks, or reporting to duty with the apparent odor of an alcoholic beverage on the breath or while under the influence of an alcoholic beverage is prohibited for all members.

A member will obtain approval from an immediate supervisor prior to operating a State of Colorado owned vehicle or equipment after consuming prescribed medication that warns against such activity.

Post-conditional offer, pre-employment drug testing will be conducted on all State Patrol applicants.

The State Patrol will use a random selection drug testing method to annually test 10% of its workforce.

Workers employed by a temporary labor service performing job tasks for the State Patrol are not subject to pre-employment or random selection drug testing.

## **OPERATIONAL PROCEDURES**

### **A. Pre-Employment Testing Requirements**

#### **1. Applicant Drug Testing**

- a. All applicants for employment will be required to participate in a post-conditional offer, pre-employment drug test.
  - I. Colorado Department of Public Safety Human Resources (CDPS HR) is responsible for ensuring that all State Patrol applicants meet drug-testing requirements.

### **B. Member Drug and Alcohol Testing**

#### **1. Random Selection Drug Testing**

- a. All members are subject to a random selection drug testing process and have an equal chance of being selected throughout the year.
  - I. Because the selection is random, some members may be selected more than once during the year.
- b. The program coordinator will provide each selected member's immediate commander with an Employee Test Notification Order that must be provided to each selected member's immediate supervisor within three days of the Employee Test Notification Order.
- c. The member's immediate supervisor will determine the date, time and location the member is to report to an authorized collection site and inform the program coordinator.
  - I. The date and time will be within five days of the receipt of the order.
  - II. Whenever possible, the member will be scheduled for specimen collection during the member's regularly scheduled shift.
  - III. A member required to complete the specimen collection process during any time other than an assigned shift will be appropriately compensated for the actual time spent, including travel to and from the collection site and the time spent completing the specimen collection process.

- d. The immediate supervisor will personally deliver the order, record the notification time on the order, and instruct the member to report to the designated collection site within two-hours of receiving the order.
- e. After receiving an Employee Test Notification Order, the member will sign the notification order and report to the designated collection site to complete the specimen collection process.
  - l. The collection site person will notify the immediate supervisor when a test has been completed.
- f. The immediate supervisor will notify the program coordinator when the member has completed the requirements of the notification order.

## 2. Program Compliance

- a. When a member fails to report within two hours of notification, the member will immediately notify a supervisor specifying the reason for the inability to comply with the order.
- b. If the member does not have justification for the absence, the supervisor will place the member on administrative leave and initiate a memorandum documenting the circumstances and forward the memorandum to the program coordinator, who will notify the Chief or designee.
  - l. An unexcused absence, failure to notify, failure to report, or failure to provide a urine specimen when directed will be considered a refusal and may result in disciplinary action.
- c. A justifiable absence may result in rescheduling the test by the end of the shift or as soon as possible.

## 3. For-Cause (Reasonable Suspicion) Testing Notification

- a. Any member will be subject to drug and/or alcohol testing whenever reasonable suspicion exists to believe that a member has used a controlled substance or an alcoholic beverage in violation of this policy.
- b. Any member having credible information about another member regarding illegal possession, use, or sale of any drug in violation of this policy will document the circumstances and immediately bring this information to the attention of a supervisor.
- c. If a member refuses to submit to drug or alcohol testing, the supervisor will place the member on administrative leave pending further investigation, and advise the member that refusal to submit to a drug or alcohol test may result in disciplinary action.
- d. Member refusal documentation will be forwarded to the Professional Standards Section (PSS) for investigation.

## 4. For-Cause (Reasonable Suspicion) Drug Test Collection Procedures

- a. The immediate supervisor of a member suspected of consumption or impairment in violation of this policy will complete the [CDPS Reasonable Suspicion Checklist](#) and review the circumstance with the next available supervisor in the chain of command.
- b. A member required to perform a test as the result of a for-cause (reasonable suspicion) circumstance will be escorted to a collection site.

- I. The immediate supervisor will completely disarm a trooper to include weapons, ammunition, oleoresin capsicum spray, electro muscular disruption technology device and the expandable baton.
  - II. A civilian supervisor may contact a uniformed supervisor to assist in transporting a civilian member.
  - III. Reasonable steps should be taken to ensure safety when transporting a member to a collection site.
- c. Whenever a member is unable to provide a urine specimen for a for-cause drug test, a blood specimen will be collected at an approved collection site.
5. For-Cause (Reasonable Suspicion) Alcohol Testing Procedures
- a. The immediate supervisor of a member suspected of consumption or impairment in violation of this policy will complete the [CDPS Reasonable Suspicion Checklist](#) and review the circumstance with the next available supervisor in the chain of command.
  - b. Breath alcohol specimens will be collected at an approved contracted collection site. If not available, a specimen may be collected at the nearest CDPHE certified location for evidentiary breath tests by a peace officer certified in the use of an approved evidentiary breath collection device.
  - c. If a member, for verifiable and documented medical reasons, is unable to provide a breath sample for testing, a blood sample may be obtained.
6. Blood Specimen Collection Procedures
- a. All for-cause blood sample collections will be completed at an approved collection site by a physician, registered nurse, certified medical technician, certified phlebotomist or person whose normal duties include withdrawing blood samples under the supervision of a physician or registered nurse.
- C. Positive Test Result and Retesting
1. Notification Procedures
    - a. When a drug or alcohol test result of a member is verified positive, the program coordinator will provide written notification of the test result to the member's Appointing Authority and the PSS supervisor within 72 hours of receiving Medical Review Officer (MRO) notification if applicable.
    - b. The member's Appointing Authority will be notified of the member's test result and will place the member on paid administrative leave pending an internal investigation.
  2. Retesting
    - a. A member must request any retest of an MRO verified positive test result sample within 72 hours of notification of a positive test result. Testing will be paid for by the State Patrol.
- D. Voluntary Acknowledgment
1. Any member who admits to drug or alcohol use after being notified to submit to random selection testing will be required to comply with for-cause testing procedures.
- E. Self-Initiated Assistance

1. When a member recognizes a personal substance abuse problem prior to random selection or for cause testing, prior to being charged or convicted of violation of law, or prior to an investigation for violation of State Patrol policy, the member is encouraged to use the confidential Colorado State Employee's Assistance Program (CSEAP) to obtain resource information and referral assistance.

F. Use of Positive Test Results

1. Alcohol and drug testing requirements of the Drug-Free Workplace and Workforce program are administrative in nature.
  - a. Random selection test results will not be used for purposes of criminal prosecution.
  - b. For-cause test results may be used for criminal prosecution or administrative action.
  - c. Positive random selection test results will only be used in administrative actions in accordance with State Personnel Rules and Regulations, the State of Colorado Department of Personnel Administration Drug and Alcohol Abuse Policy, and the Federal Drug-Free Workplace Act of 1988.

G. Mandatory Evaluation Procedure

1. Determination of Mandatory Evaluation
  - a. Any employee obtaining an MRO verified positive test result will be required to submit to substance abuse evaluation by a State Patrol contracted substance abuse professional.
  - b. Evaluations will be arranged through the Drug-Free Workplace and Workforce program coordinator. The program coordinator will complete and sign the top portion of a Mandatory Substance Abuse Evaluation Order and ensure that the order is issued to the member.
  - c. The member will give the notification order to the substance abuse professional when reporting for an evaluation.
  - d. The substance abuse professional will complete the lower portion of the notification order, provide recommendations to the Patrol and mail the recommendations to the program coordinator.
  - e. The State Patrol will be responsible for the cost of the evaluation.
  - f. The member will be required to complete any counseling or rehabilitation program recommended by the substance abuse professional.
    - I. The member is encouraged to consult their individual healthcare provider as the member will be responsible for any cost incurred during rehabilitation and/or counseling.
  - g. Prior to returning to work, the member will submit to a drug and/ or alcohol test, the results of which must be negative.
    - I. A Return-to-Duty (RTD) agreement may be implemented when a member violates this policy but remains employed or is otherwise retained by the State Patrol.
    - II. RTD agreements are implemented to ensure the member abides by the provisions set forth in the RTD agreement while performing their job duties.

- III. An Appointing Authority who wishes to develop a RTD agreement will coordinate with the CDPS HR and the Colorado State Employee Assistance Program (C-SEAP). CDPS HR will coordinate the RTD agreement testing.
- IV. A member who violates an RTD agreement may be subject to corrective and/or disciplinary action, up to and including termination.
- V. The program coordinator will notify the member's immediate supervisor of the test result.
- VI. If the test result is negative, the immediate supervisor will notify the member of return to duty assignment.
- VII. If the test result is positive, the member will remain on administrative leave pending the result of an administrative investigation.
- h. Upon recommendation of the substance abuse professional, the State Patrol may order the member to submit to unannounced substance abuse testing for a period of time and at a frequency specified by the substance abuse professional.
- i. The program coordinator will schedule follow-up substance abuse testing for the member when recommended by the substance abuse professional and approved by the State Patrol.
- j. Any member receiving an MRO positive test result during the follow-up testing period may be subject to disciplinary action.
- k. The State Patrol may approve member use of sick leave, annual leave, compensatory hours, or upon approval of the Chief, unpaid leave for the purpose of the member obtaining counseling or rehabilitative assistance.
- l. Member compliance with substance abuse evaluation and rehabilitation requirements does not exempt the member from disciplinary action resulting from an administrative investigation of the member's violation of State Patrol policies and procedures.

## H. Disciplinary Action

### 1. Disciplinary Action

- a. Any member who knowingly consumes, distributes, sells, or attempts to sell illegal drugs on State Patrol premises or while on duty may be subject to disciplinary action up to and including termination and when appropriate, referral for criminal prosecution.
- b. Any member who is found to be in possession, under the influence of, or who is found to have a detectable amount of a controlled substance or an illegal drug in their system in violation of this policy may be subject to disciplinary action up to and including termination.
  - I. The member may be offered an opportunity to complete an approved rehabilitation program.
  - II. During rehabilitation, the employee will be subject to unannounced drug or alcohol testing.

c. Any member found to have an MRO verified positive or suspicious test result for a controlled substance or a positive breath alcohol test result in violation of this policy will be immediately placed on paid administrative leave while an administrative investigation is conducted by the PSS.

2. Refusal to Take Drug and Alcohol Tests

a. Any member who refuses to be tested when directed, fails to appear at the collection site without prior approval or does not have an excused absence, may be subject to disciplinary action.

i. An attempt to alter or substitute a urine specimen will be considered a refusal to take the required drug test.

b. Failure to provide a sufficient breath sample for alcohol testing without a medical reason certified by a medical professional will be considered a refusal.

**MedPro #96007**

<i>DRUG</i>	<i>SCREEN</i>	<i>CONFIRM</i>	<i>DRUG</i>	<i>SCREEN</i>	<i>CONFIRM</i>
<b>AMPHETAMINES</b>			Cannabinoids (marijuana)	50 ng/ml	15 ng/ml
D-Amphetamine	300 ng/ml	500 ng/ml	Cocaine <metabolites>	300 ng/ml	150 ng/ml
Methamphetamine	300 ng/ml	500 ng/ml	Phencyclidine (PCP)	25 ng/ml	25 ng/ml
MDMA (ecstasy)	1000 ng/ml	500 ng/ml	<b>NARCOTICS</b>		
MDA (adam)	1000 ng/ml	500 ng/ml	Codeine	300 ng/ml	300 ng/ml
<b>BARBITURATES</b>			Hydrocodone (lortab)	300 ng/ml	300 ng/ml
Amobarbital (amytal)	300 ng/ml	200 ng/ml	Hydromorphone (dilaudid)	300 ng/ml	300 ng/ml
Butobarbital (butisol)	300 ng/ml	200 ng/ml	Methadone (dolophine)	300 ng/ml	300 ng/ml
Butalbital (fiorinal)	300 ng/ml	200 ng/ml	Morphine	300 ng/ml	300 ng/ml
Pentobarbital (nembital)	300 ng/ml	200 ng/ml	Oxycodone (percodan)	100 ng/ml	100 ng/ml
Phenobarbital (luminal)	300 ng/ml	200 ng/ml	Oxymorphone (numorphan)	100 ng/ml	100 ng/ml
Secobarbital (seconal)	300 ng/ml	200 ng/ml	Propoxyphene (darvon)	300 ng/ml	300 ng/ml
<b>BENZODIAZEPINES</b>					
Alprazolam (xanax)	300 ng/ml	100 ng/ml			
Chlordiazepoxide (librium)	300 ng/ml	100 ng/ml			
Clonazepam (klonopin)	300 ng/ml	100 ng/ml			
Clorazepate (tranxene)	300 ng/ml	100 ng/ml			
Diazepam (valium)	300 ng/ml	100 ng/ml			
Flurazepam (dalmane)	300 ng/ml	100 ng/ml			
Lorazepam (ativan)	300 ng/ml	100 ng/ml			
Midazolam (versed)	300 ng/ml	100 ng/ml			
Oxazepam (serax)	300 ng/ml	100 ng/ml			
Prazepam (centrax)	300 ng/ml	100 ng/ml			
Temazepam (restoril)	300 ng/ml	100 ng/ml			
Triazolam (halcyon)	300 ng/ml	100 ng/ml			

**RELATED RESOURCES AND FORMS**

Resource or Form Number	Title	Office of Professional Responsibility
	<a href="#">CDPS Reasonable Suspicion Checklist</a>	CDPS HR