

3.24 DRUG-FREE WORKPLACE

ORIGINATING DEPARTMENT:

Human Resources

ADOPTED:

January 1, 2005

PURPOSE:

In an effort to meet its commitment to provide the citizens of Charlotte County and our employees quality services and to protect the public safety and health as well as employee safety, and to eliminate future substance abuse related costs from its operations, the Board of Commissioners of Charlotte County (herein after referred to as Charlotte County) has established a policy to test employees for drugs (including alcohol).

POLICY:

Charlotte County is committed to a drug-free work place and a drug-free work force. As a condition of employment, all employees are required to fully comply with the provisions of the County's Drug Free Workplace Policy. All employees shall receive and be asked to read the County's Policy with regard to alcohol and drug usage and sign a statement indicating their understanding of the Policy.

Compliance with State and Federal Law

Charlotte County's Drug Free Workplace Policy fully complies with federal and state law including the Drug-free workplace program requirements in Section 440.102 of the Florida Statutes and rules governing Drug-free workplace laboratories found in Florida Administrative Code Chapter (59A-24). This program is also implemented based on guidelines established by the Federal Drug Free Workplace Act of 1988, and the Federal Transit Administration (FTA) and the U.S. Department of Transportation (DOT) in 49CFR, and part 655 as amended. This program is intended to comply with all applicable federal regulations governing workplace anti-drug and alcohol abuse programs for all facets of Charlotte County's operations including Transit. Questions concerning the application or interpretation of the Policy should be directed to the Risk Manager.

Notice of Implementation of Charlotte County's Drug Free Workplace Policy

- A. The implementation of the Drug Free Workplace Policy, contained within the confines of this document, constitutes general notice to all employees of Charlotte County that each individual is required, as a condition of their continued employment with Charlotte County, to fully comply with the provisions of the Drug Free Workplace Policy, and to fully cooperate with the implementation and enforcement of the Policy, including execution of the necessary authorization form.
- B. The implementation of this Policy further constitutes general notice to all employees of Charlotte County that it is a condition of employment for an employee to refrain from reporting to work under the influence of drugs or alcohol, or working with levels in excess of those contained in Florida Administrative Code Chapter (59A-24).

- C. A notice of this Policy is to be posted on the bulletin board at each work site and copies are available upon request at the Risk Management office.

Types of Testing

Charlotte County reserves the right to conduct employee drug and alcohol testing in accordance with the law. The scope and description of each particular category of testing is set forth in further detail below:

A. Job Applicant Testing

1. Charlotte County requires all individuals hired by the County to safety-sensitive positions to be free of alcohol and controlled substances. All job applicants who receive a conditional offer of employment into a safety-sensitive position will be required to submit to a drug and/or alcohol screen. A refusal to submit to a pre-employment/post offer drug and/or alcohol test shall constitute a basis for Charlotte County's refusal to hire that individual. All prospective employment candidates will be provided notice of the test and assurance that highly reliable testing procedures will be used. After testing, applicants are given an opportunity to confidentially report to a Medical Review Officer the use of any prescription or nonprescription medicines which may alter their test results by filling out a form. Additionally, applicants may consult with a Medical Review Officer for any further technical information regarding such medications.
2. All offers of employment with Charlotte County are conditioned upon the individual being qualified for work and any individual in a safety-sensitive position who tests positive for any drug described herein will not be considered qualified for employment with Charlotte County.
3. The results of the laboratory test will be restricted to whether or not the applicant's specimen tested positive for drugs or alcohol, the particular drug involved and the amount found within the specimen tested.

B. Current Employee Testing

In addition to requiring prospective employment candidates to submit to substance abuse screening, Charlotte County will utilize the following categories of employment related testing for its employees.

1. Reasonable Suspicion Testing. Charlotte County shall require an employee to submit to a drug or alcohol screening whenever there is reasonable suspicion to believe that the employee is under the influence of, or otherwise using alcohol or a controlled substance. Reasonable suspicion requires a belief that can be articulated that an employee possesses or uses alcohol or controlled substances at the workplace and is either intoxicated or impaired by such substances. Where a Supervisor or Manager can reasonably conclude that there are objective facts indicative of the use of a prohibited substance, there is sufficient justification for testing. Among other things, such facts and inferences may be based upon:

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

Whenever possible, the supervisor should have the employee observed by a second supervisor, manager, or member of Human Resources before requiring testing.

2. Post-Injury/Accident Testing. Charlotte County shall automatically require substance abuse testing for any employee involved in a job related accident that results in medical attention beyond basic first aid or property damage. Charlotte County's concern for its workforce is paramount, therefore; it may be necessary to administer the appropriate medical treatment prior to obtaining specimens for testing. If the required specimens can be obtained at a medical treatment facility which is not a designated collection site, a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse, certified paramedic or licensed collection site person qualified by training and skills, may collect the specimens. If such an individual is not present, the injured employee, as soon as is medically permissible, shall be transported to a designated collection site to produce the required specimens.

C. Random Testing.

Random testing will be performed in accordance with the various bargaining unit contracts. Employees not covered by the various bargaining unit contracts are subject to random testing set forth in this policy. Employees in safety sensitive positions are subject to random testing. For employees with special class licenses subject to DOT and/or FTA rules, random testing will be performed in accordance with those agencies requirements.

D. Follow-Up Testing.

1. If Charlotte County determines that an employee who has submitted confirmed test results which register positive for content of one or more controlled substances should not be terminated, the employee may be granted a Last Chance Agreement, the terms and conditions of which are outlined in the employees applicable Bargaining Unit Contract.

2. Both job applicant and current employee testing procedures shall provide for a second confirmation test of the remaining portion of an applicant/employee's initially tested specimen in the event the results of that individual's initial substance abuse test registers a positive result. The confirmation test shall be based upon a different scientific principle than that of the initial test as long as sensitivity is equal to or greater test. Charlotte County shall require that a confirmation test be conducted upon all specimens registering a positive result prior to initiating any course of disciplinary action against the employee or making a determination that an applicant is unqualified.

E. Drugs to be tested

A list of drugs for which the employer will test job applicants and employees is as follows:

ALCOHOL: (Including a distilled spirit, wine, a malt beverage or an intoxicating liquor.)

AMPHETAMINES: (Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin)

CANNABINOID: (Marijuana, THC)

COCAINE

PHENCYCLIDINE (PCP)

METHAQUALONE

OPIATES: (Paregoric, Parepectolin, Donnegel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromophone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tuss-Organidin)

BARBITURATES: (Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phreninlin, Triad)

BENZODIAZEPINES: (Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Halcion, Paxipam, Restoril, Centrax)

METHADONE

PROPOXYPHENE: (Darvocet, Darvon N, Dolene)

METABOLITE of any of the substances listed above.

SYNTHETIC NARCOTIC

F. Rules of Conduct

1. Charlotte County strictly prohibits its employees from being on duty and possessing, using, distributing or being under the influence of alcohol, marijuana or any drug not prescribed for the employee. Further, Charlotte County prohibits its employees from misusing alcohol or possessing, using or distributing drugs or alcohol off the job to the extent that any off-duty possession, use or distribution impacts upon their effectiveness and ability to perform their employment duties, or adversely affects the interests of the Board.

The penalty for violation of Charlotte County's Substance Abuse Policy may include termination of employment or some other form of discipline, which Charlotte County, in its discretion, deems appropriate, and loss of workers' compensation benefits.

G. Penalties and Consequences of a Positive Drug Test/Employee's Refusal to Submit to testing

1. Any injured employee who refuses to submit to testing under this Policy automatically forfeits any medical and indemnity benefits they would otherwise be eligible for under Florida's Workers' Compensation Statute. Additionally, any employee, whether injured or uninjured, who refuses to submit to testing or tests positive under Charlotte County's Drug Free Workplace Policy may be either discharged or otherwise disciplined by Charlotte County. Individuals who refuse to submit to testing procedures shall be asked to sign a Refusal To Submit Blood/Urine Form.
2. Specimen Collection and Laboratory Procedures
 - a. Charlotte County is committed to following strict specimen collection and laboratory testing procedures to ensure the quality, integrity and authenticity of the specimen. Employees and job applicants have a right to consult a Medical Review Officer for technical information regarding prescription and non-prescription medication. Further, employees and job applicants will be allowed to confidentially report the use of prescription or non-prescription medications to a Medical Review Officer after being tested.
 - b. Collection site security and specimen collection are unequivocally the responsibility of the collection site and its personnel. Charlotte County assumes no responsibility for specimen collection or transmittal errors by either collection site, the laboratory or their respective staffs. Charlotte County will pay the cost of all initial and confirmation substance abuse screening it requires from either its applicants or employees. However, all costs of additional, non-required testing and testing incurred during a rehabilitation period or program shall be borne by the employee.

H. Common Medications That May Alter or Affect a Drug Test

The following list includes the most common over-the-counter and prescription medications which may alter or affect a drug test.

ALCOHOL: All liquid medications containing 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, Diddrex, Ionamine, Fastin.

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.

BARBITURATES: Phenobarbital, Tuinal, Amytal, Nambutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad.

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

METHADONE: Dolophine, Metadose

PROPOXYPHENE: Darvocet, Darvon N, Dolene, etc.

I. Challenges to Test Results

1. Within five (5) working days after receiving notice of a positive confirmed test result, the employee or applicant may contest or explain the result to a Medical Review Officer. If the explanation or challenge of the positive test result is unsatisfactory to the Medical Review Officer, the Medical Review Officer shall report a positive test result back to Charlotte County.
2. Within five (5) working days after receipt of a positive confirmed test from the Medical Review Officer, Charlotte County will inform the employee or job applicant of such positive test result, the consequences of such results, and the options available to the employee or job applicant. Within five (5) working days after receiving notice of a positive confirmed test result, the employee or applicant may submit information to Charlotte County explaining or contesting the test result, and explaining why the result does not constitute a violation of Charlotte County's Policy. If an employee's or job applicant's explanation or challenge of the test result is unsatisfactory to Charlotte County, then 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, will be provided to the employee or applicant. Charlotte County will keep all such documentation confidential.

3. If an employee was tested as a result of an on-the-job injury, that employee may undertake an administrative challenge to a positive test result by filing a claim for benefits with a Judge of Compensation Claims. If no workplace injury has occurred, the individual must challenge the test result in a court of competent jurisdiction. The doctrine of election of remedies shall apply to challenges filed pursuant to this Policy. Should an employee elect to pursue an alternative remedy available to him, including the filing of a proceeding allowed by law, the filing of any such proceeding shall operate as a waiver of the employee's rights to avail himself of the proceedings available under this Policy. Should a proceeding be filed pursuant to an alternative remedy, before or after proceedings under this Policy have been completed, the filing of any such proceeding shall be considered not valid and be terminated. When an employee or applicant undertakes a challenge to the results of a test it shall be the employee's or applicant's responsibility to notify the laboratory and the sample shall be retained by the laboratory until the case is resolved. Applicants and employees are responsible for notifying the laboratory of any administrative or civil actions brought pursuant to the Workers' Compensation Act.

J. Confidentiality/Employee Safeguards

- a. All information, interviews, reports, statements memoranda, and drug test results, written or otherwise, received by Charlotte County through the Substance Abuse Policy shall be treated in a confidential manner, unless otherwise required by Florida law.
- b. Charlotte County, any collection sites, laboratories, drug and alcohol rehabilitation programs, and their agents who receive or have access to information concerning drug test results shall keep all information confidential, unless otherwise required by Florida law.

K. Workforce Education Regarding Substance Abuse

Charlotte County believes that education and understanding can be powerful weapons in the fight against drugs. Employees armed with knowledge are better prepared to resist substance abuse and intervene when necessary. As such, Charlotte County maintains a current resource file of providers of employee assistance including alcohol and drug abuse programs, mental health providers, and various other persons, entities or organization designed to assist employees with personal and behavioral problems including, but not limited to those referenced in the "Florida Comprehensive Directory, Substance Abuse and Mental Services," published by the Department of Health and Rehabilitative Services. Further, Charlotte County will provide an annual education course to help employees identify the signs of personal and emotional problems brought on by substance abuse. This course will include a presentation of the legal, social, physical and emotional consequences of the misuse of alcohol and drugs.

L. Employee Assistance Plan

The following contains the name, address, and telephone number of our Employee Assistance Plan provider.

Cigna
877-622-4327
www.cignabehavioral.com
Employer ID: ccbocc

The Risk Manager has been designated as the Charlotte County official responsible for providing information and answering any questions concerning this Policy.

DEFINITIONS:

Safety-sensitive position - As defined by Florida Statute 440.102 “means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety or a position in which a momentary lapse in attention could result in injury or death to another person.”

SCHEDULED REVIEW DATE:

Annually

AMENDED:

January 7, 2011; May 21, 2012, August 15, 2014