

# **ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY**

## **ADMINISTRATIVE PROCEDURE**

**Date Issued 7/22**

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<b>SECTION</b> Personnel		<b>SUBJECT</b> Personnel: Alcohol and Drug Testing		
<b>WRITTEN BY</b> Lisa K. Ferguson	<b>REVISED BY</b> Jody Kruskie		<b>AUTHORIZED BY</b> Tracey Pingitore	

### **I. APPLICATION:**

- ☐ SCCCMHA Board
- ☐ SCCCMHA Providers & Subcontractors
- ☒ Direct-Operated Programs
- ☒ Community Agency Contractors
- ☐ Residential Programs
- ☐ Specialized Foster Care

### **II. PURPOSE STATEMENT:**

St. Clair County Community Mental Health Authority (SCCCMHA) requires that all potential employees participate in pre-hire drug and alcohol testing and all employees performing safety sensitive functions in designated program vehicles or their own vehicles participate in random drug and alcohol testing in accordance with the procedures outlined below, and that any employee suspected of being under the influence of alcohol or unprescribed controlled substances or illegal substances during normal work hours be sent for on demand testing as outlined in this administrative procedures.

### **III. DEFINITIONS:**

- A. Safety Sensitive Employee (S.S.E.): includes an employee who operates an agency vehicle on a regularly scheduled basis, operates any vehicle used in the transportation of individuals served, regardless of frequency, an employee who controls the dispatch of such vehicles and the immediate supervisor of such employee if they direct staff to drive (e.g direct staff to pick an individual up).
- B. Reasonable Suspicion: means a belief, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, that an employee is using or may have been using drugs or alcohol in violation of agency administrative procedures or the law. By way of example only, reasonable suspicion may be based upon the following:
  - 1. Observable phenomena, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being impaired by, or under the influence of, a drug or alcohol.
  - 2. A report of on-duty or sufficiently recent off-duty drug or alcohol use provided by a credible source.
  - 3. Evidence that an individual has tampered with a drug test or alcohol test during employment with Community Mental Health.

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4. Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs or alcohol while on duty, while on Agency premises, or while operating Agency's vehicle, machinery, or equipment.

IV. STANDARDS:

- A. Adopts, by reference, the Department of Transportation (DOT) illegal or controlled substances and alcohol testing program administrative procedures (Exhibit A).
- B. SCCCMHA requires all candidates selected for employment to participate in pre-employment drug and alcohol testing.
- C. SCCCMHA requires safety sensitive employees to sign a consent form and to submit to federally mandated random alcohol and drug testing. Failure to provide adequate breath, saliva or urine specimen for testing or engaging in conduct that clearly obstructs the testing process, constitutes a refusal to test. The individual will be removed from service, be subject to paid or unpaid suspension or termination, and to disciplinary action as described in Exhibit A.
- D. SCCCMHA does not permit any employee, including S.S.E.'s, to go on or remain on duty if under the influence of any alcoholic or unprescribed controlled substance or any illegal substance during work hours.

V. PROCEDURES:

A. For Pre-employment Drug Screens

**HR Designee**

1. Provides authorization to McLaren Port Huron Industrial Health Services for candidate's pre-employment drug screen.
2. Instructs candidate to report to McLaren Port Huron Industrial Health Services to obtain drug screen, informing them of their cost, and that cost will be reimbursed only upon receipt of negative drug screen. McLaren Port Huron Industrial Health Services is open M-F 8:00 a.m.-4:30 p.m. It is suggested the candidate go no later than 2:00 p.m.

**Candidate**

3. Reports to McLaren Port Huron Industrial Health Services to obtain drug screen.

**HR Designee**

4. Obtains drug screen result from McLaren Port Huron Industrial Health Services and informs hiring supervisor of the result.

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**B. For Random Drug Screens**

**Supervisor/Designee**

1. Reviews and provides a copy of the policy/administrative procedures with S.S.E.'s, particularly new hires, and obtains staff signature on an Employee Certification of Notification form (Form #731) and Drug Testing: Consent to Diagnostic Procedure and Release of Information Authorization (Form #732).

**HR Designee**

2. Obtains random draw list and sends authorization to testing center.
3. Consults with employee's supervisor (when possible) regarding employee's schedule/availability prior to notifying employee to report for testing.

**HR Designee/Supervisor**

4. Informs staff when he/she has been selected for random testing.

**Staff**

5. Participates in the random testing, which will be conducted according to the procedures outlined in Exhibit A, DOT Controlled Substances and Alcohol Testing Program Administrative Procedures, including illegal substances.

**HR Designee**

6. Obtains results and forwards to designated administrative staff when positive results occur.

**Administration**

7. Obtains results and follows administrative procedures #06-001-0055, Personnel: Corrective/Disciplinary Action, accordingly.
8. Maintains a file of test results.

**C. For Reasonable Suspicion Testing**

**Supervisor**

1. Notifies management immediately when it is believed the appearance or behavior of an employee is a result of the use of controlled or illegal substances or alcohol.

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### Management

2. Determines if reasonable suspicion testing is necessary and requests employee proceed to McLaren Port Huron Industrial Health Service, accompanied by SCCCMHA designee as the driver, for testing.
3. Follows guidelines from Section V, Section VI, and Section IX in Exhibit A related to reasonable suspicion testing, follow-up and discipline.

#### VI. REFERENCES:

None Available

#### VII. EXHIBITS:

- A. St. Clair County CMH adopted DOT Controlled Substances and Alcohol Testing Program Policy (inclusive of illegal substances)

#### VIII. REVISION HISTORY:

Dates issued 09/98, 10/00, 06/02, 06/04, 6/06, 12/09, 05/13, 05/14, 05/15, 05/16, 05/17, 05/18, 05/19, 07/20, 05/21.

St. Clair County  
Community Mental Health

**DOT Controlled Substances**

**and**

**Alcohol Testing Program**

**Policy**

**As Adopted By**

**St. Clair County  
Community Mental Health**

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## **SECTION I. PURPOSE OF TESTING FOR CONTROLLED SUBSTANCES AND ALCOHOL**

To maintain the highest level of integrity and safety within our consumer transportation system and to help maintain a drug-free work environment. This program is designed to carefully balance the health and welfare of each employee and S.S.E. with St. Clair County Community Mental Health's responsibility for public safety and its obligation to comply with the Department of Transportation's (DOT) rules and regulations. This policy is designed to comply with federally mandated guidelines.

## **SECTION II. ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH POLICY STATEMENT**

Employees and S.S.E.'s are not permitted to go on duty or remain on duty if they possess controlled substances or are using any of the following:

- Σ any alcoholic substance, regardless of its alcoholic content
- Σ any controlled substance or illegal drug or any derivative thereof
- Σ any other substance that could impair their ability to perform a job safely and competently.

These rules govern employees and S.S.E.'s from the time they report to work until they leave CMH premises at the end of the working day.

Employees and S.S.E.'s are further prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of controlled substances on CMH premises, in CMH vehicles, or while on CMH business. Law enforcement personnel will be notified, as appropriate, where criminal activity is suspected. Employees and S.S.E.'s must report any criminal drug statute conviction occurring in the work place to CMH within five (5) days of any conviction. Any employee or S.S.E. violating these provisions will be subject to disciplinary action.

These rules reflect current laws and government regulations that strictly prohibit the use or possession of any illicit substances by those S.S.E. who are subject to the Department of Transportation drug and alcohol testing regulations.

All employees and S.S.E.'s are expected to report for work and remain at work in condition to perform assigned duties and not "impaired" by any substance which may affect performance or render them a safety risk. No employee or S.S.E. is permitted to go on duty or remain on duty if he or she possesses or has the presence of controlled substances or alcohol in their system. This includes prescription drugs not prescribed by a physician to the employee or S.S.E.

This rule reflects current laws and government regulations that strictly prohibit the use of, or possession of, any illicit substances by those S.S.E. who are subject to the Department of Transportation drug and alcohol testing regulations.

CMH will comply with all U.S. DOT rules and regulations concerning controlled substance and alcohol testing for government mandated classifications of S.S.E.

Illegally used controlled substances or drugs include any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

The appropriate use of legally prescribed drugs and over-the-counter non-prescription medications is allowed. However, the use of any substance which carries a warning label that indicates that mental function, motor skills, or judgement may be adversely affected should be reported to supervisory personnel and medical advice should be sought, as appropriate, before performing work-related duties.

A legally prescribed drug means that individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance,



quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

### **SECTION III: INDIVIDUALS SUBJECT TO DOT CONTROLLED SUBSTANCES AND ALCOHOL TESTING**

#### **1. Safety-Sensitive Functions**

An S.S.E. is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety sensitive functions.

An S.S.E. is considered to be in a safety-sensitive position subject to testing if he/she performs any of the functions described in the definition of safety-sensitive function in 49 CFR 653.7 and 49 CFR 654.7 and listed below:

- a) Operates an agency vehicle used in the transportation of consumers on a regularly scheduled basis, whether or not the vehicle is in service. (Drivers)
- b) Operates a vehicle when required to be operated by a holder of a CDL.
- c) Controls the dispatch or movement of a revenue service vehicle or equipment used in revenue service. (Dispatchers)
- d) Supervisors are included in this definition so long as the supervisor performs or the supervisor's job description includes the performance of any of the above functions.

### **SECTION IV: RESTRICTIONS ON CONTROLLED SUBSTANCES AND ALCOHOL USE AND POSSESSION**

This section describes CMH restrictions and DOT prohibitions against the use and possession of controlled substances and use of alcohol, as well as the required time periods for compliance.

#### **A. RESTRICTIONS ON ALCOHOL USE**

##### **1. CMH Policies Applicable to Employees and S.S.E.'s**

Employees and S.S.E.'s are not permitted to go on duty or remain on duty if they use, or are under the influence of any alcoholic substances **during work hours**.

##### **2. DOT Prohibitions on Alcohol Use Applicable to S.S.E.'s**

###### **a) Alcohol Concentration**

CMH prohibits any S.S.E. from reporting for duty or remaining on duty requiring the performance of a safety-sensitive function while having an alcohol concentration of 0.04 or greater.

(The Agency shall not allow an S.S.E. having an alcohol concentration of 0.02 or greater, but less than 0.04, to continue to perform safety-sensitive functions until the S.S.E.'s alcohol concentration measures less than 0.02. If a level of .02 to .039 exists the S.S.E. will be sent home without pay for the remainder of the work day).

###### **b) On-Duty Use**

CMH prohibits any S.S.E. from using alcohol **during work hours and** while performing safety-sensitive functions.

c) **Pre-Duty Use**

CMH prohibits any S.S.E. from performing safety sensitive functions after using alcohol, or reporting for duty with a prohibited level of alcohol concentration, as referred to above.

d) **Use Following An Accident**

CMH prohibits any S.S.E. who is required to take a post-accident alcohol test from the use of alcohol until undergoing a post-accident alcohol test.

e) **Refusal To Submit To A Required Random Alcohol Test**

CMH requires S.S.E.'s to consent to and submit to federally mandated alcohol testing. Failure to provide adequate breath or saliva for testing without a valid medical explanation, or refusal to submit to alcohol testing after having been notified of the requirement for testing, or engaging in conduct that clearly obstructs the testing process, constitutes a refusal to test. The individual will be removed from service and will be subject to 3 days suspension without pay for first occurrence, and possible termination at second occurrence.

**B. RESTRICTIONS ON CONTROLLED SUBSTANCES USE AND POSSESSION**

1. **CMH Policies Applicable to Employees and S.S.E.'s**

Employees and S.S.E.'s are not permitted to go on duty or remain on duty if they possess, use, or are under the influence of ("impaired by") any controlled substance, including any prescription medication not prescribed to the S.S.E.

2. **DOT Prohibitions on Controlled Substances Use Applicable to S.S.E.'s at CMH**

a) **Pre-Duty/On-Duty Use**

CMH prohibits any S.S.E. reporting for duty or remaining in a safety-sensitive position when he or she uses any drug, except when the use is pursuant to the instructions of a physician who has advised the S.S.E. and documented in writing that the substance does not adversely affect the S.S.E.'s ability to perform safety-sensitive functions. An S.S.E. must inform his or her CMH immediate supervisor of any therapeutic drug use.

b) **Positive Test Result**

CMH prohibits any S.S.E. from performing safety sensitive duties **or regular work duties** following a positive drug test result until the S.S.E. has met all requirements for returning to duty, including having a negative return to duty drug test result.

c) **Refusal to Submit to Drug Testing**

CMH requires S.S.E.'s to consent and to submit to and federally mandated controlled substances testing. Failure to provide an adequate urine specimen for drug testing without a valid medical explanation, or refusal to submit to drug testing after having been notified of a DOT requirement for testing, or engaging in conduct that clearly obstructs the testing process, constitutes a refusal to test. The individual will be suspended for 3 days without pay at first occurrence, and possible termination at second occurrence.

## SECTION V: CIRCUMSTANCES FOR TESTING

Testing procedures will be performed for:

- \* Pre-Employment Testing
- \* Random Testing
- \* Reasonable Suspicion Testing
- \* Post-Accident Testing
- \* Return-To-Duty Testing
- \* Follow-Up Testing
- \* S.S.E. Requested Follow-Up Testing

### A. PRE-EMPLOYMENT TESTING

All applicants for covered positions will be informed of DOT controlled substances testing requirements. Prior to the first time an applicant (who has applied for an S.S.E. position) performs a safety-sensitive function, he/she will be required to undergo testing for controlled substances.

### B. RANDOM TESTING

The DOT requires that unannounced random controlled substances and alcohol testing be performed on a specified percentage of S.S.E.'s each year. All S.S.E.'s will be subject to random controlled substances and alcohol testing in accordance with DOT regulations.

In accordance with the DOT mandated controlled substances and alcohol testing of S.S.E.'s, the following protocol is to be used:

#### 1. Random Pool

All S.S.E.'s will be included in the random pool for selection.

#### 2. Percentage Of Random Alcohol And Controlled Substances Tests

CMH will require controlled substances testing and alcohol testing on 50 percent and 25 percent of the random pool, respectively, as mandated by DOT.

The annualized rate of 50 percent (or the DOT revised rate) for controlled substances testing and 25 percent (or the DOT revised rate) for alcohol testing will be maintained. Fluctuation by selection period will reflect the size of the pool and the number of test samples required. (Annualized rate = Total of completed random tests year-to-date divided by the total of the selection periods' average number of S.S.E. in the random pool.)

#### 3. Random S.S.E. Selection

Random controlled substances and alcohol testing of S.S.E.'s will occur on a periodic basis that is reasonably spread throughout the year. S.S.E.'s will be randomly selected by an agent contracted to provide DOT regulated selections and follow-up for random selections. All S.S.E.'s are subject to random selection each selection period.

### C. REASONABLE SUSPICION TESTING

Reasonable suspicion controlled substances and alcohol testing is required by DOT and CMH whenever a supervisor has reason to believe that an employee or S.S.E.'s appearance or behavior may indicate the use of controlled substances and/or alcohol.

The determination that reasonable suspicion exists must be made by a supervisor who has been trained on alcohol misuse and use of controlled substances.

The documentation of reasonable suspicion circumstances must be based on specific, contemporaneous, articulable and documentable observations that concern the appearance, behavior, speech, or unusual characteristics of the individual. Reasonable suspicion testing of controlled substances and alcohol testing of an employee or S.S.E. is authorized only if the observations are made during or just preceding the work day when the employee or S.S.E. is required to perform their normal job functions or, for S.S.E.'s, a safety-sensitive function and be in compliance with DOT regulations.

CMH recommends that two supervisory staff, if available, should observe the employee or S.S.E. and provide written documentation explaining the circumstances of reasonable suspicion which were observed by the supervisor. However, if only one supervisory staff is available, he or she may proceed in making the reasonable suspicion determination. In such situations, the supervisor should also note any and all observations of the employee or S.S.E.'s appearance or behavior made by coworkers.

Reasonable suspicion documentation, including witnesses' observations, should be completed as soon as practicable. With 24 hours, send a copy of all documentation to the CMH Administration.

If an alcohol or controlled substance abuse test is required as a result of the reasonable suspicion, DOT and CMH requires that the test be administered **WITHIN TWO (2) HOURS OF THE REASONABLE SUSPICION DETERMINATION**. If the test is not performed within two (2) hours, the witnessing manager/supervisor must document the reasons why the alcohol testing was not promptly administered. All efforts to obtain the test after eight (8) hours should be ceased. Documentation regarding reasonable suspicion testing must be prepared by the Manager/Supervisor who made the observations and a copy sent to the CMH Operations Manager, to be maintained in the Substance Abuse Testing file and sent to an agent contracted to provide random drug screening services within DOT guidelines. The employee or S.S.E. will not be allowed to return to duty after this eight (8) hour period has passed without an alcohol or controlled substance abuse test until the start of employee or S.S.E.'s next regularly scheduled duty period, but not less than eight (8) hours following the reasonable suspicion determination was made or the appropriate test is performed and the employee or S.S.E. has an alcohol test result of less than 0.02 or negative drug screen.

## **D. POST-ACCIDENT TESTING**

As soon as practicable following an accident that involves an agency vehicle, CMH shall require that each surviving CMH S.S.E. involved in the accident, or otherwise determined to be subject to post-accident testing, be tested for drugs and alcohol, as required by DOT regulations, under the following circumstances.

### **1. Accident**

An accident is an occurrence associated with the operation of a mass transit vehicle in which:

- \* An individual dies
- \* An individual suffers bodily injury and immediately receives medical treatment away from the scene of an accident.
- \* The vehicle involved is a bus, electric bus, van or automobile in which one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.
- \* The vehicle involved is a railcar, trolley car, trolley bus, or vessel, and is removed from revenue service.

- \* Damage is sustained to the vehicle operated by the S.S.E., another vehicle or to property, whether public or private.

## **2. Fatal Accident**

Whenever there is a loss of human life, each surviving safety sensitive S.S.E. on duty in the mass transit vehicle at the time of the accident must be tested.

## **3. Non-Fatal Accident**

Following nonfatal accidents involving a bus, electric bus, van, or automobile, employers shall test each safety-sensitive S.S.E. on duty in the mass transit vehicle at the time of the accident if the S.S.E. received a citation under State or local law for a moving traffic violation arising from the accident (653.45, 654.33).

For nonfatal accidents, CMH shall test any other safety-sensitive S.S.E. whose performance could have contributed to the accident, as determined by CMH using the best information available at the time of the accident.

S.S.E.'s are required to submit to alcohol testing as soon as possible. If a post-accident test is not administered within two (2) hours of the accident, the reasons why the test was not promptly administered should be documented. If a post-accident test is not administered within eight (8) hours following the accident, all attempts to administer the alcohol test should be ceased and the reasons why the testing was not timely completed should be documented in the same record.

An S.S.E. may not use alcohol until he/she submits to a post-accident test.

S.S.E.'s are required to submit to controlled substances testing as soon as possible, and within thirty-two (32) hours of the accident. However, if testing is not timely completed, reasons should be documented.

An S.S.E. who is required to submit to post-accident controlled substances and alcohol testing shall remain readily available for post-accident testing, or he/she will be deemed to have refused to submit to testing. However, this requirement is not intended to, and shall not, require the delay of necessary medical attention for injured individuals following an accident, or prohibit an S.S.E. from leaving the scene of an accident (for the period required to obtain assistance in responding to the accident, or to obtain necessary emergency medical care). The S.S.E. must notify CMH of his or her location if he or she leaves the scene prior to submission for testing or that will be deemed a refusal to submit to testing.

## **E. RETURN-TO-DUTY TESTING**

DOT and CMH requires that before an employee or S.S.E. returns to duty after engaging in conduct prohibited by 49 CFR 653 or 49 CFR 654, he or she must, if the prohibited conduct was concerning alcohol, have a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and, if the prohibited conduct was concerning controlled substances, have a verified negative result for controlled substances use.

## **F. FOLLOW-UP TESTING**

DOT and CMH requires that when an employee or S.S.E. has engaged in alcohol related conduct prohibited by federal regulation or controlled substance related conduct prohibited by federal regulation, the employee or S.S.E. will be required to submit to at least six (6) unannounced follow-up tests during the first 12 months following the individual's return-to-duty.

The one year period may be extended.

## **G. S.S.E. REQUESTED RETEST**

Any S.S.E. who questions the results of a required drug test under this policy may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are paid by the S.S.E. unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. The S.S.E.'s request for a re-test must be made to I.H.S. within 72 hours of notice of the initial test results. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the S.S.E.

## **SECTION VI: DISCIPLINARY ACTION**

Employees and S.S.E.'s who test positive for controlled substance or test higher than .019 for alcohol or who refuse to submit for testing will be subject to discipline up to and including discharge.

- \* Reasonable Suspicion Testing
- \* Post-Accident Testing
- \* Random Testing
- \* Return-To-Duty Testing
- \* Follow-Up Testing

### **A. RANDOM TESTING**

#### **1. A positive controlled substance test:**

**First Offense:** For a first offense, the S.S.E. will be taken out of service until the next working day without pay, referred to EAP and may be subject to disciplinary action.

**Second Offense:** A second offense within the next 12 months of having a positive test above 0.02 subjects the employee to discipline and is a dischargeable offense under CMH policy, but may be met with a lesser form of discipline at the sole discretion of CMH (voluntary participation in a treatment program may be considered).

#### **2. A positive alcohol test at a 0.02 - 0.039 level:**

**First Offense:** For a first offense, the S.S.E. will be taken out of service until the next working day without pay, referred to EAP and may be subject to disciplinary action.

**Second Offense:** A second offense within the next 12 months of having a positive alcohol test level above 0.02 subjects the employee to discipline and is a dischargeable offense under CMH policy, but may be met with a lesser form of discipline at the sole discretion of CMH.

#### **3. A positive alcohol test at or above a 0.04 level:** This subjects the S.S.E. to discipline and is a dischargeable offense, upon first occurrence, but may be met with a lesser form of discipline at the sole discretion of CMH (voluntary participation in a treatment program may be considered).

#### **4. Refusal to consent or submit to a random alcohol or controlled substance test:**

**First Offense:** Three day suspension without pay.

**Second Offense:** Termination.

### **B. REASONABLE SUSPICION TESTING**

#### **1. A positive controlled substance test:**

**First Offense:** For a first offense, the employee or S.S.E. will be taken out of service until the next working day without pay, will be referred to EAP, and may be subject to discipline.

**Second Offense:** A second violation, by having a positive test subjects the employee or S.S.E. to disciplinary action, is a dischargeable offense under CMH policy, but may be met with a lesser form of discipline at the sole discretion of CMH.

2. **A positive alcohol test at a 0.02 - 0.039:**

**First Offense:** For a first offense, the employee or S.S.E. will be taken out of service until the next working day without pay, will be referred to EAP, and may be subject to disciplinary action.

**Second Offense:** A second violation, by having a positive alcohol test level above 0.02 subjects the employee or S.S.E. to discipline and is a dischargeable offense under CMH policy, but may be met with a lesser form of discipline at the sole discretion of CMH (voluntary participation in a treatment program may be considered).

3. **A positive alcohol test at or above a 0.04 level:** Subjects the employee to discipline and is a dischargeable offense, upon first occurrence (voluntary participation in a treatment program may be considered).

4. **Refusal to consent to or submit** to a reasonable suspicion alcohol or controlled substance:

**First Offense:** Three day suspension without pay.

**Second Offense:** Termination.

**C. POST-ACCIDENT TESTING**

1. A positive controlled substance test or alcohol test at or above 0.02 is a dischargeable offense, but may be met with a lesser form of discipline at the sole discretion of CMH.
2. Refusal to consent to and submit to a post-accident controlled substance or alcohol test subjects the S.S.E. to discipline and is a dischargeable offense.

**D. RETURN-TO-DUTY TESTING**

1. A positive controlled substance test or an alcohol test, at or above 0.02, is a dischargeable offense, but may be met with a lesser form of discipline at the sole discretion of CMH.

**E. FOLLOW-UP TESTING**

1. A positive controlled substance test or an alcohol test, at or above 0.02, is a dischargeable offense, but may be met with a lesser form of discipline at the sole discretion of CMH.
2. Refusal to consent to or submit to a follow-up test is a dischargeable offense.

**F. OTHER VIOLATIONS BY ENGAGING IN CONDUCT PROHIBITED BY THIS POLICY OR DOT CONTROLLED SUBSTANCES AND ALCOHOL USE AND POSSESSION REGULATIONS**

If an applicant, employee or S.S.E. otherwise violates the provisions of this policy or DOT controlled substances and alcohol use or possession regulations, the applicant will no longer be considered for employment and the employee or S.S.E. will be subject to disciplinary action up to and including discharge.

**G. NOTIFYING THE TRANSIT SYSTEM OF CRIMINAL DRUG CONVICTION**

Any S.S.E. who fails to notify CMH within 48 hours of any criminal drug statute conviction shall be subject to disciplinary action, up to and including termination.

## **SECTION VII: DOT ALCOHOL TESTING PROCEDURES**

Procedures for breath alcohol testing will follow DOT guidelines and CMH will ensure a location that provides privacy during the testing process. No unauthorized personnel will be allowed in the area used for testing and only one alcohol test will be conducted at a time. In all circumstances, the applicant's, employee's or S.S.E.'s dignity will be considered, and steps will be taken to ensure that the entire process does not demean, embarrass or offend the applicant, employee or S.S.E. unnecessarily. All testing procedures shall be conducted by a qualified Breath-Alcohol Technician or Screening Test Technician (BAT or STT) in a professional, discreet and objective manner.

Because of the consequences that a positive alcohol test result may have on an individual, CMH will employ a very accurate, two-stage screening and confirmatory breath alcohol testing program. All testing will be in accordance with DOT alcohol testing requirements.

### **A. SCREENING TEST PROCEDURES**

Testing will be conducted under the direct observation of a Breath Alcohol Technician (BAT) or Screening Test Technician (STT). All procedures will be conducted in accordance with DOT regulations in a professional, discreet, and objective manner. The following cut-off levels shall be used when testing breath or saliva specimens to determine whether they are negative, or positive, for alcohol.

#### **Screening Test Alcohol Cut-Off Levels**

Less than 0.02 - Negative  
0.02 and above - Positive (Requires Confirmation Test)

These test levels are subject to change by the DOT as advances in technology or other considerations warrant.

### **B. CONFIRMATION TEST PROCEDURES**

All specimens identified as positive on the screening test that show an alcohol concentration of 0.02 or higher, shall be confirmed using an EBT device that is capable of assigning a unique and sequential number to each test; and is capable of printing out, on each copy of the result, the manufacturer's name for the device, the device's serial number, and the time of the test.

NOTE: A confirmation test must be performed at least 15 minutes after the screening test, but not more than 30 minutes, or any time period mandated by DOT, after the screening test.

#### **Confirmation Test Cut-Off Levels**

The following cut-off levels shall be used to confirm the presence of alcohol:

Breath alcohol levels:

- |    |                  |          |
|----|------------------|----------|
| a) | Less than 0.02   | Negative |
| b) | 0.02 to 0.039 -  | Positive |
| c) | 0.04 and above - | Positive |

These test levels are subject to change by the DOT as advances in technology or other considerations warrant.

## **SECTION VIII: DOT CONTROLLED SUBSTANCES TESTING PROCEDURES**



All urine drug testing will be performed in accordance with DOT regulations and Department of Health and Human Services guidelines at a Substance Abuse and Mental Health Service Administration (SAMHSA) certified laboratory. The controlled substances testing will include the following five drugs: marijuana, cocaine, opiates, amphetamines and phencyclidine.

All urine samples will be collected in a private location and each sample will be separated into two (2) separate specimens, the primary and the split samples. All urine samples will be sealed with tamper resistant tape, in the presence of the donor, to affirm integrity of the samples. These samples will be kept secure until shipped to the testing laboratory.

The SAMHSA certified lab will screen all primary specimens to identify any positive samples. If the initial screen identifies a positive test, a confirmatory test termed Gas Chromatography/Mass Spectrometry (GC/MS) must be performed on the split sample.

#### **A. SCREENING TEST PROCEDURES**

The initial screening test shall use an immunoassay which meet the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

Marijuana	-	50 ng/ml
Cocaine	-	300 ng/ml
Opiates	-	300 ng/ml
Phencyclidine	-	25 ng/ml
Amphetamine	-	1000 ng/ml

#### **B. CONFIRMATION TEST PROCEDURES**

All specimens identified as positive on initial screening test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques and by quantitative analysis at the cutoff levels listed below:

Marijuana	-	15 ng/ml
Cocaine	-	150 ng/ml
Opiates		
Morphine	-	300 ng/ml
Codeine	-	300 ng/ml
Phencyclidine	-	5 ng/ml
Amphetamine	-	500 ng/ml

#### **C. MEDICAL REVIEW FOR LAB POSITIVE TEST RESULTS**

The Medical Review Officer (MRO) is the licensed physician who receives and reviews all laboratory drug test results prior to reporting drug test results to CMH. The MRO will perform an administrative review of all lab negative test results.

Prior to reporting positive test results to CMH, the MRO, or the MROs assistant, will attempt to contact the donor, who had a positive lab test result, to conduct an initial interview for the purpose of determining whether the positive drug test result might have resulted from the legitimate use of legally prescribed medication.

If after reasonable efforts, the MRO is unable to contact the donor, the MRO will contact the CMH Operations Manager and request that the donor contact the MRO. Once the donor is notified to contact the MRO, he or she must do so within five (5) days or the test result will be considered as an uncontested positive test result. This time may be extended if it is proven to the MRO that there was a legitimate reason for the donor not doing so.

In the event of a positive drug test result, the MRO will notify the donor that he or she has 72 hours to request that the split sample be forwarded to another DHHS certified laboratory for analysis. If the donor did not contact the MRO for a legitimate reason, the MRO may extend this 72 hour period for ordering the split sample for testing.

## **SECTION IX: SUBSTANCE ABUSE PROFESSIONAL REFERRALS**

Any employee or S.S.E. who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in this policy will be referred to EAP or the Health Professional Recovery Program (HPRP) for evaluation. EAP or HPRP will evaluate each employee or S.S.E. to determine what assistance, if any, the employee or S.S.E. needs in resolving problems associated with prohibited controlled substance abuse or alcohol misuse.

Assessment by EAP or HPRP does not shield an employee or S.S.E. from disciplinary action or guarantee employment or reinstatement with CMH. CMH policies shall determine the penalty for performance-based infractions and violation of policy provisions.

If an employee or S.S.E. is allowed to return-to-duty, he/she must properly follow the rehabilitation program prescribed by EAP or HPRP, the employee or S.S.E. must pass return-to-duty drug and alcohol tests, and be subject to unannounced follow-up tests for a period of one (1) to five (5) years, or as recommended by the HPRP.

## **SECTION X: TRAINING/EDUCATION**

This section provides information regarding the training for the following:

- \* Management
- \* S.S.E.

### **A. MANAGEMENT**

Full-time and part-time managers and supervisors who will determine whether reasonable suspicion exists to require an employee or S.S.E. to undergo testing will receive a total of at least two (2) hours of training: 60 minutes of training on alcohol misuse, and 60 minutes of training on controlled substances.

### **B. S.S.E.**

S.S.E. will be provided educational materials that explain the DOT alcohol misuse and controlled substances regulations and requirements and CMH's policies and procedures with respect to or possession of controlled substances or use of alcohol and the consequences for S.S.E. found to have a specified alcohol level or a positive controlled substances test.

Each S.S.E. is required by DOT to sign a statement certifying that he or she has received a copy of the above materials. CMH will maintain the signed certificate in the S.S.E. file.

### **C. CONFIDENTIALITY AND ACCESS TO RECORDS**

The regulations indicate that test results may be released only under the following circumstances:

- \* Employers shall release information or copies of records regarding an employee or S.S.E.'s test results to a third party only as directed by specific, written instruction of the employee or S.S.E.
- \* Employers may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee or S.S.E. tested.

- \* Upon written request, employers must promptly provide any employee or S.S.E. with any records relating to his/her test.
- \* Employers must release information to the National Transportation Safety Board (NTSB) about any post-accident under NTSB investigation.
- \* Employers shall make available copies of all results of employer testing programs, and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the employer or any of its S.S.E., or to a State oversight agency authorized to oversee rail fixed guideway systems.

Employers shall maintain records in a secure manner, so that disclosure of information to unauthorized persons does not occur.

Besides the employer, the collection site, laboratory, Medical Review Officer, and Substance Abuse Professional should be held to strict confidentiality requirements. The testing laboratory must be prohibited from releasing individual test results to anyone except the designated MRO. The MRO and the BAT should only report individual employee or S.S.E.'s test results to your designated drug and alcohol program manager and to the individual who was tested. To ensure that confidentiality is not violated, it is your responsibility to clearly define who will receive test results and for what purposes in accordance with 49 CFR part 653.

#### **D. EFFECTS OF ALCOHOL**

Alcoholism is an addictive disease in which the person becomes dependent on a chemical—alcohol. The disease affects every aspect of an alcoholic's life, including physical health, psychological well-being, and behavior. It also has an impact on others in the work place and in the family.

- \* Physical and Health Effects - Alcohol is a poison. It affects many parts of the body including the brain, heart, liver, digestive system, and immune system. So alcoholics have a higher risk of heart disease, cancer, mental illness, and other diseases.
- \* Psychological and Behavioral Effects - Alcoholics live in a world filled with anguish - anxiety, fear, guilt, anger, insecurity, and resentment. Alcohol consumes their time, money, and attention, usually at the expense of others. Unable to control their disease, they deal with the problems it creates through rationalization and denial.
- \* Impact on Others - Alcoholism affects not only the individual. It also affects the people an alcoholic comes into contact with. It isolates family members from each other and the world around them, and erodes the bonds that hold a family together. In the work place, it creates excessive safety risks, high accident rates, and a decline in performance. This means extra costs for the company and is often a cause of dissension among co-workers who fill in or cover up.