

STATE OF  
NEVADA  
ALCOHOL AND  
DRUG  
PROGRAM  
For State of Nevada  
Executive Branch Agencies

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## I. INTRODUCTION

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No organization is immune from the many problems associated with alcohol and drug abuse. According to the Society for Human Resource Management, substance abusers are ten times more likely to miss work, 3.6 times more likely to be involved in on-the-job accidents (five times more likely to injury themselves or someone else in the process), five times more likely to file a workers' compensation claim, thirty-three percent less productive and responsible for health care costs that are three times as high. (Fiester, Margaret, "Employing and Managing Persons with Addictions", SHRM Online, June 17, 2011) According to the U.S. Department of Health and Human Services' 2014 National Survey on Drug Use and Health, 27 million (10.2%) of Americans used an illicit drug in the past 30 days and 60.9 million Americans were binge or heavy alcohol users.

The State of Nevada is committed to addressing these problems and to having a drug free workplace. As you read through the following alcohol and drug program, remember that the mission of the employees of this State is to serve the needs of our citizens in the most efficient and professional manner possible. Alcohol and drug abuse interferes with these goals and endangers the employees', co-workers' and public's safety. For these reasons, it must be addressed.

In addition to information and guidelines in this publication, the Division of Human Resource Management also provides training through the State of Nevada's [Online Professional Development Center](#).

Any questions regarding this program can be referred to the Alcohol & Drug Program Coordinator at (775) 684-0111 or [cphughes@admin.nv.gov](mailto:cphughes@admin.nv.gov).

## II. OVERVIEW

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This program does not address:

- U.S. Department of Transportation regulated alcohol and drug testing of employees who, as a function of their position, drive a commercial motor vehicle as defined by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (<http://www.fmcsa.dot.gov/>) ; and
- Client testing by agencies.

The State of Nevada recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. For that reason, one of the goals of our program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, a person violates the program, the consequences are serious.

The Nevada Revised Statutes (NRS), NRS 284.406 through NRS 284.407, provide for the testing of employment candidates and employees for alcohol and drugs. Regulations have been approved by the Personnel Commission to carry out the provisions of these statutes, Nevada Administrative Code (NAC) 284.880 through 284.894.

The State of Nevada program includes:

- Pre-employment drug testing for selected job classes and positions affecting public safety and approved by the Personnel Commission, see [Chapter VII](#);
- Reasonable suspicion testing when an employee is suspected of being under the influence of alcohol and/or a controlled substance on the premises of the workplace ([NAC 284.0875](#)), see [Chapters VIII & IX](#);
- Testing when an employee on duty causes bodily harm or substantial property damage when driving a motor vehicle or is involved in a work-related accident, motor vehicle crash or injury and when a law enforcement officer discharges a weapon; and
- Return to work testing as a requirement to return to work following a positive test result on a test.

The program does not include periodic random alcohol or drug testing.

Information obtained through this workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

An agency receiving a federal contract or grant must notify the federal agency which authorized the contract or grant within ten days after receiving notice that an employee of the agency was

convicted for violation of any federal or State criminal drug statute when such violation occurred while on duty or on the premises of the workplace.

Additionally, a copy of the Governor's [Alcohol and Drug-Free Workplace Policy](#) should be posted at all worksites.

### **III. TESTING STANDARDS**

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#### ***ALCOHOL***

In accordance with [NAC 284.884](#), while an employee is on duty he/she must not have a concentration of alcohol in his/her blood or breath greater than .02 gram by weight of alcohol per 210 liters of breath or per 100 milliliters of blood.

[NAC 284.882](#) also mandates that testing a person's breath for alcohol must be conducted using a breath-testing device certified in accordance with the "Conforming Products List of Evidential Breath Alcohol Measurement Devices" published in the Federal Register by the National Highway Traffic Safety Administration (<http://edocket.access.gpo.gov/2010/pdf/2010-5242.pdf>).

Breath alcohol testing is generally the preferred method of testing a person. If an agency is unable to perform a breath alcohol test, the agency may choose to have a blood alcohol test performed.

#### ***CONTROLLED SUBSTANCES (DRUGS)***

Per [NAC 284.882](#), screening tests to detect the presence of "controlled substances" (drugs) must comply with the standards established by the United States Department of Health and Human Services. The standards established by the United States Department of Health and Human Services are outlined in the [Mandatory Guidelines for Federal Workplace Drug Testing Programs](#) published by the Substance Abuse and Mental Health Services Administration in the Federal Register.

Drug tests are administered to determine the presence of substances covered by this program in excess of predetermined benchmarks. The standard substance abuse test screens for:

- Marijuana metabolites (THCA);
- Cocaine metabolite;
- Codeine/morphine;
- 6-acetylmorphine (heroin);
- Phencyclidine (PCP);
- Amphetamines/methamphetamine; and
- MDMA/MDA (ecstasy).



## **Prescription and Over-The-Counter Medications**

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to inform his/her supervisor as soon as possible.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of the State's program to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deteriorates and/or other incidents occur.

## **Testing for Additional Drugs**

The appointing authority may request additional tests for controlled substances listed on [Schedule I or II](#) of the Controlled Substances Act, when conducting a reasonable suspicion test on a case-by-case basis. However, the additional test(s) must be justified in writing at the time of the request. The basis for requesting additional test(s) may be noted on the Report Form for Suspected Alcohol/Drug Impairment (TS-77) form. Specific requests for additional testing may be made at the time of testing or after the initial screening, by contacting the State's drug testing vendor, see [Chapter V](#). Check with the State's current drug testing vendor immediately for additional testing, because specimens are only kept for a certain amount of time. Check with your agency personnel representative and your Deputy Attorney General before proceeding.

Per the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by reference in NAC 284.882, on a case-by-case basis a urine specimen may be tested for additional drugs, if the test is for reasonable suspicion or post-accident testing.

## **IV. EMPLOYEE'S RESPONSIBILITIES**

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A safe and productive alcohol and drug free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

An employee's responsibilities include:

- Maintaining a safe, secure and productive environment for himself or herself, other employees, and the general public;
- Reporting dangerous behaviour to his/her supervisor;
- Following State statutes, regulations, policies and procedures;
- Informing his/her agency in writing within five days after conviction for violation of any federal or State criminal drug statute when such violation occurred while on duty or on the State of Nevada's premises;
- Notifying his/her supervisor as soon as possible after consuming any drug, which could interfere with the safe and efficient performance of his/her duties; and
- Following a positive alcohol or drug test result:
  - Cooperating with any investigation;
  - Completing the treatment plan recommended by an employee assistance program (EAP) provider; and
  - Providing the required documentation (see [Chapter IX](#)) to your agency.

## **V. SUPERVISOR'S RESPONSIBILITIES**

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It is a supervisor's responsibility to:

- Maintain a safe, secure and productive environment for employees and the general public;
- Follow State statutes, regulations, policies and procedures;
- Investigate reports of dangerous practices;
- Safeguard employees' confidentiality;
- Evaluate and discuss performance with employees;
- Attend training on the State's alcohol and drug program ([NAC 284.498](#));
- Recognize workplace problems that may be related to use of alcohol or drugs;
- Initiate alcohol and/or drug testing based on reasonable suspicion or other allowable circumstances; and
- Initiate appropriate disciplinary action upon violation of the State's alcohol and drug program.

It is **NOT** a supervisor's responsibility to:

- Diagnose alcohol and drug problems;
- Provide counseling or therapy;
- Be a police officer; or
- Contact an EAP or treatment provider to obtain an employee's required documentation following a positive test result.

A supervisor needs to keep in mind that he/she is primarily concerned with work performance or conduct. He/she also has to remember that many problems get worse without assistance. A supervisor does not want to try to diagnose the problem, moralize or be misled by sympathy evoking tactics.

A supervisor will also need to continue to supervise employees who have been tested and return to work. This would include continuing feedback about performance, accurate performance evaluations, keeping open lines of communication and taking corrective action if performance problems reappear.

If a supervisor makes observations regarding the illegal distribution, possession, sale, transportation or manufacturing of controlled and dangerous substances on State property, the supervisor needs to immediately contact his/her agency management, agency personnel representative and law enforcement.

## **VI. STATE'S CONTRACTED TESTING VENDOR**

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[Appendix I](#) contains contact information regarding the State of Nevada's current contracted vendor to administer drug and, at times, alcohol testing as outlined in this program.

The current vendor maintains a list of authorized recipients for test results and/or billing information for each agency that has set up an account for testing. If any additions or changes to the agency contacts list need to be made, the request for the change should be made in writing to the Division of Human Resource Management, 100 N. Stewart St., Ste. 200, Carson City, NV 89701, Attention: Alcohol and Drug Program Coordinator.

The State's current vendor will initially provide each agency with a supply of chain of custody forms (see [Appendix III](#)). Agencies may replenish their supply of chain of custody forms by contacting the State's current vendor (see [Appendix I](#)).

All positive drug test results will be sent to the Medical Review Officer (MRO). The MRO will contact the person to offer the opportunity to explain any concerns with the test results.

Example: An employee may be taking codeine for pain relief with a lawful prescription from his/her treating physician, meaning that the employee is not necessarily in violation of this program. If the employee has a legitimate prescription for the substance, the MRO will downgrade the presumptive positive and the agency would be notified of a negative result. However, the MRO will also verify that the level of the prescription drug in the test result is within the correct range indicated by the prescribed level of the drug. If the test result level is not within the correct range indicated by the prescribed level of the drug, the result may be a positive test result. The services of the MRO are included in the testing costs.

Drug test results will generally be emailed to the primary and/or the secondary contact as established by the agency account with the State's current vendor. Test results may be faxed upon request; however, confidentiality must be maintained. Negative test results are typically sent to the agency within twenty-four to forty-eight hours of the test and positive test results within forty-eight hours. If you have questions or do not receive the information in a timely manner, contact the State's current vendor (see [Appendix I](#)).

Breath alcohol testing is typically conducted through State and local law enforcement agencies; however, in some cases it may be desirable for an employee to be tested for alcohol and drugs at the same time by the State's current drug testing vendor. Use the [Non-DOT Breath Alcohol Test Request \(NPD-79\) form](#); see [Appendix III](#), to have a breath alcohol test performed at a collection site. Before transporting the employee, verify that the collection site is capable of performing a breath alcohol test. This may involve an additional fee; whereas, breath alcohol tests conducted by law enforcement agencies are free of charge.

## **VII. PRE-EMPLOYMENT DRUG TESTING PROCEDURE**

Nevada Revised Statutes require post-offer/pre-employment testing of candidates for positions designated by the Personnel Commission as affecting public safety. Employment is contingent on passing the screening test. Candidates already employed by the State in a position affecting public safety who have previously been tested and are applying for another safety sensitive position are not required to submit to another pre-employment drug test. ([NAC 284.886](#))

If a candidate tests positive for the use of a controlled substance, the candidate will not be eligible for another position requiring pre-employment testing for one year or until he/she provides evidence he/she has successfully completed a rehabilitation program for substance abuse. ([NAC 284.894](#))

The results of the screening tests are confidential and must be securely maintained by the appointing authority or his/her designated representative. Results can be disclosed to another person only as prescribed by [NRS 284.4068](#).

### ***CLASSES/POSITIONS APPROVED FOR PRE-EMPLOYMENT DRUG TESTING***

The list of classes and positions that have received approval for pre-employment testing is located in [Appendix VI](#). This information is also indicated on the applicable class specification under Special Requirements. Only those candidates receiving a conditional job offer are required to test.

If an agency wishes to propose new classes or positions to the Personnel Commission for pre-employment testing, the request should be made in writing to the Division of Human Resource Management, Employee & Management Services' Deputy Administrator. The request should include the classes and/or positions being proposed for pre-employment testing and an explanation of how the position(s)/class(es) affect public safety.

### ***NRS 284.4066 NOTICE***

A notice covering the provisions of [NRS 284.4066](#) must be given to applicants at or before the time of application. The agency initiating the recruitment needs to ensure the appropriate pre-employment drug testing requirement notice is on the job announcement before it is posted. Further, when making an offer of employment, the offer should clearly indicate that it is conditional upon passing the pre-employment drug test.

### ***ALCOHOL/DRUG TEST CONSENT FORM***

Written consent by the candidate is required before the test is conducted. The [Alcohol/Drug Test Consent \(TS-76\) form](#) should be used for this purpose, see [Appendix III](#). The original consent form is retained by the agency, a copy is given to the candidate, and a copy is included with the chain of custody form and delivered to the collection site at the time of the collection.

## ***CONDUCT DRUG TESTING***

A pre-employment drug test appointment should be scheduled at a collection site for the candidate. The test appointment should generally be scheduled for as soon as possible. The employer section of the chain of custody form must be completed (Items A-D on Step 1 of the form). The candidate should be given the chain of custody form and a copy of the signed [Alcohol/Drug Test Consent form \(TS-76\)](#) in a sealed envelope to be delivered to the collection site at the time of his or her appointment. The candidate should also be provided with the date, time and location of the appointment.

If a test needs to be performed outside of Nevada, contact the Drug and Alcohol Program Coordinator at (775) 684-0111 or [cphughes@admin.nv.gov](mailto:cphughes@admin.nv.gov) or the State's current drug testing vendor (see [Appendix I](#)) to make arrangements for the testing to be done in the candidate's area.

A candidate will have the conditional offer of employment revoked, if he or she adulterates or dilutes the specimen, substitutes the specimen, sends an imposter, or refuses to sign the required forms. If the candidate is a current State employee, he or she may also be subject to disciplinary action.

### **Same Consequences as a Positive Test Result**

A candidate will have the conditional offer of employment revoked, if he or she:

- Does not appear for his/her appointment for testing, absent unusual circumstances;
- Refuses to test; or
- Refuses to cooperate in the testing process in such a way that prevents completion of the test.

If the candidate is a current State employee, the test will be considered positive for purposes of disciplinary action.

## ***RESULTS***

Test results will be emailed to the designated agency contact, typically within two working days. Test results may be faxed upon request; however, confidentiality must be maintained. If the test results are not received within three working days, the appointing authority or the designee authorized for receipt of test results may contact the State's current drug testing vendor (see [Appendix I](#)).

If a candidate tests "positive" for a controlled substance, the MRO will request proof from the candidate to determine if it was taken pursuant to a lawful prescription. The appointing authority shall not hire a candidate if he or she does not provide such proof within 72 hours of the request. ([NRS 284.4066](#)) The presence of marijuana will be reported as a positive test result.

An appointing authority shall, at the request of a candidate, provide him/her with the results of his/her screening test.

## ***SECONDARY TESTING***

If a screening test indicates the presence of a controlled substance, the MRO or the appointing authority shall advise the candidate that he or she may have the same sample tested at his or her expense by a laboratory, certified by the United States Department of Health and Human Services, of his or her choice. ([NRS 284.4067](#))

## **VIII. WHAT IS REASONABLE SUSPICION?**

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In general, reasonable suspicion is specific, capable of being explained observation(s) or fact(s) concerning the appearance, behavior, speech, or body odors of the employee. Certainty is not required; however, mere “hunches” are not sufficient. The National Institute on Drug Abuse considers reasonable suspicion to include observable behavior, such as eyewitness accounts of use, possession, or symptoms; and abnormal conduct. Any of these factors constitutes reasonable suspicion. In addition, the following situations automatically qualify as reasonable suspicion and provide justification for the supervisor to require testing under [NAC 284.888](#):

- Abnormal conduct or erratic behavior that is not otherwise normally explainable;
- The odor of alcohol or a controlled substance on the breath;
- Observation of the consumption of alcohol; or
- Observation of the possession of a controlled substance or use of a controlled substance that is reported by a credible source.

Testing may be performed in some circumstances even without reasonable suspicion, see [Chapter X](#).

### ***ALCOHOL AND DRUG INDICATOR CHECKLIST***

The Alcohol and Drug Indicator Checklist, see [Appendix V](#), does not provide a definite answer for making a determination, but it does provide a list of observable symptoms and assists in documenting the need for testing. In most cases it is suggested that a determination of reasonable suspicion be based on more than one indicator on the checklist.



## **IX. REASONABLE SUSPICION ALCOHOL AND/OR DRUG TESTING PROCEDURE**

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Keep in mind that an employee is not subject to disciplinary action for a positive screening test if the agency fails to comply with the provisions of [NRS 284.4065](#); therefore, those provisions have been incorporated into the steps in this program.

Confronting an employee suspected of impairment can be a very uncomfortable situation. It is one that requires compliance with statutes and regulations that allow for testing and preserve the rights of the employee at all steps in the process. The results of the screening tests are confidential and must be securely maintained by the appointing authority or his designated representative. Results can be disclosed to another person only as prescribed by [NRS 284.4068](#).

### **Have Another Supervisor Confirm**

Whenever possible, it is important to have another supervisor act as a witness to confirm your observations. It is recommended that the basis for the interview not be revealed to the second supervisor in order to avoid undue influence or bias. It is sufficient to inform a second supervisor that there are concerns about the employee's behavior or job performance and that he/she is being requested to participate in order to offer observations and an opinion.

The supervisor may contact his/her agency personnel representative for assistance with the evaluation of the facts supporting the decision to refer an employee for a screening test, especially when facing such a situation for the first time. Additionally, there is assistance available from the Alcohol & Drug Program Coordinator, (775) 684-0111 or [cphughes@admin.nv.gov](mailto:cphughes@admin.nv.gov).

### ***REPORT FORM FOR SUSPECTED ALCOHOL/DRUG IMPAIRMENT***

If the employee is performing, or required to perform, safety-sensitive duties such as driving vehicles, using heavy equipment, working around explosives or weaponry, or performing patient care activities, it is recommended that the employee be removed from performing these activities while moving forward with the reasonable suspicion testing procedure.

The first step after reasonable suspicion is established is to complete the [Report Form for Suspected Alcohol/Drug Impairment \(TS-77\)](#), see [Appendix III](#). The Nevada Revised Statutes require a written record of the facts supporting a request for an employee to submit to an alcohol and/or drug test. ([NRS 284.4065](#)) Also, the employee must be informed of the specific facts supporting the request to submit to a reasonable suspicion alcohol and/or drug test. Using the [Report Form for Suspected Alcohol/Drug Impairment \(TS-77\)](#) will satisfy those requirements.

### ***PRELIMINARY INTERVIEW WITH THE EMPLOYEE***

The supervisor should relieve the employee of his/her duties and quietly remove the employee to a private area. If at all possible, a second supervisor should be present. The employee should be

questioned regarding any observations that have been made about workplace behavior and performance. The following questions are suggested depending on the employee's responses; see Reasonable Suspicion Guide ([Appendix V](#)):

- I noticed the following things in your performance or behavior today at work, (use the Alcohol & Drug Indicator Checklist, see [Appendix V](#)). Can you explain why?
- Have you been drinking alcohol or using drugs on the premises of the workplace today?
  - Did you use either before coming to work today?
- Are you aware of any medical condition that would explain what I am seeing?

**NOTES:**

- If an employee states that a medical condition or prescribed drug may be impacting his/her performance, you may request that the employee obtain a statement from his/her health care provider indicating that he/she can safely perform his/her job elements. An employee may be placed on sick leave pending receipt of this type of statement from his/her health care provider. ([NRS 284.4064](#), [NAC 284.568](#))
- Even if the employee admits to drug or alcohol use on the job, it is still critical to proceed with reasonable suspicion testing, as the employee may deny the admission in the future.

As a final step before proceeding with testing, supervisors are advised to ask themselves these three questions:

- Are there objective facts pointing to abuse?
- Does another supervisor have the same conclusion?
- Am I putting my workplace, the employee, other employees or the public at risk if the testing is not done?

### ***ALCOHOL AND DRUG TESTING CONSENT FORM***

Once a determination of reasonable suspicion has been made, the supervisor should complete an [Alcohol and Drug Testing Consent Form \(TS-76\)](#), and have the employee sign it. The [Alcohol and Drug Testing Consent Form \(TS-76\)](#) form (see [Appendix III](#)) should indicate whether the employee is to be tested for alcohol, drugs or both. The original of the consent form is retained by the agency and a copy is given to the employee. A copy is also delivered to the service provider for inclusion with the test sample when it is referred for analysis.

If the employee refuses to sign the form or take the test:

1. The employee should be advised that refusal might result in dismissal or other disciplinary action.
2. If the employee still refuses to sign the form, a note to this effect should be placed on the consent form.

3. The supervisor and a witness (the second supervisor, where possible) should attest, in writing, to the employee's refusal to sign the form.
4. Arrangements should then be made for the employee's safe transportation home. The employee may instead elect to call a taxi, his/her spouse or a friend for transportation.

If the employee insists on driving, the supervisor will advise the employee that the objective facts supporting reasonable suspicion will be reported to local law enforcement. Experts recommend calling 911 to make the report because the call will be recorded. However, only objective facts should be reported not unsubstantiated opinions.

### ***TRANSPORT EMPLOYEE TO COLLECTION SITE***

It is the appointing authority's responsibility to transport any employee who signs the consent form to both the test collection site and to his/her home following the test. ([NAC 284.890](#)) Law enforcement may assist in coordinating transportation to the collection site upon request; see [Appendix V](#) for contact information. However, it is ultimately the appointing authority's responsibility to ensure the employee is safely transported to the collection site. If law enforcement does not assist with transport, it is recommended that another supervisor ride with the employee and his or her supervisor. It is recommended that one of the supervisors transporting the employee be of the same gender as the employee. If another supervisor is not available to assist with transporting the employee, it is recommended that the employee be transported in a taxicab. Whatever the method of transportation, the employee should ride in the same vehicle as the supervisor unless law enforcement assists with the transportation. Law enforcement may assist with coordinating transportation to the collection site upon request and can be reached by calling the Nevada Highway Patrol (NHP) Region Commander at the telephone numbers listed in [Appendix IV](#); however, it may be another law enforcement entity that will respond to the request for assistance (e.g., sheriff, metropolitan police). Every attempt should be made to keep the matter confidential between the employee and the employer. To avoid disruption in the workplace and to preserve the confidentiality of the employee, supervisors may choose to meet law enforcement in either a private meeting room in an area removed from the employee's workspace or an offsite location.

While you do not need to ride along in a law enforcement vehicle, you must accompany the employee to the confirmatory test site or collection site and arrange for the employee's safe transport home following the test.

If a drug test will be performed, you will need to fill out a chain of custody form ([Appendix III](#)) and transport the employee to an authorized collection site. This form is available through your agency's human resources department.

## ***CONDUCT ALCOHOL AND/OR DRUG TESTING***

### **Breath Alcohol Testing**

Law enforcement can assist with testing the employee for breath alcohol. Contact the NHP Regional Commander, see [Appendix IV](#) for contact information; however, it may be another law enforcement entity that will respond to the request for assistance (e.g., sheriff, metropolitan police). Law enforcement will have any needed forms. They may conduct a preliminary test at the worksite. Following the preliminary test, the law enforcement officer(s) will transport the employee to the nearest confirmatory test site where a breath test for alcohol will be performed to confirm the initial results. The possibility of the need for such action should be discussed with the office of the NHP Regional Commander at the time of initial notification.

Nevada Administrative Code also allows alcohol testing to be completed by vendors with certified equipment. ([NAC 284.882](#)) The [Non-DOT Breath Alcohol Test Request \(NPD-79\) form](#) is used for breath alcohol testing performed by a contract collection site. See [Appendix V](#) for collection site contact information and check the codes to see which contract collection sites provide breath alcohol testing. Once you have confirmed a testing site, fill out the [Non-DOT Breath Alcohol Test Request \(NPD-79\) form](#) (see [Appendix III](#)).

### **Drug Testing**

For drug testing, supervisors should use the chain of custody form ([Appendix III](#)). Whenever possible, tests should be performed at the laboratory locations listed in [Appendix IV](#). Appropriate areas of the chain of custody form should be completed in advance to include checking items A-D under Step 1. Supervisors in rural areas may need to check with local medical providers to determine who is qualified to handle the collection of samples for drug testing and to work with the State's current drug testing vendor ([Appendix I](#)) to get these providers added to the list of approved collection sites.

Employees testing positive for a controlled substance must provide proof to the MRO that they are taking the controlled substance pursuant to a current and lawful prescription issued in their name at the time of the test. Employees who fail to provide required proof within 72 hours of receiving notice of a positive test result are subject to disciplinary action. ([NRS 284.4063](#))

If an employee adulterates or dilutes the specimen, substitutes the specimen, sends an imposter, or refuses to sign the required forms, the employee may be subject to disciplinary action pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by reference in NAC 284.882.

### **Same Consequences of a Positive Test Result**

An employee will be considered to have a positive test result for purposes of disciplinary action, pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by reference in NAC 284.882, if the employee:

- Does not appear for his/her appointment for testing, absent unusual circumstances;
- Refuses to test; or
- Refuses to cooperate in the testing process in such a way that prevents completion of the test.

### ***TRANSPORT THE EMPLOYEE HOME***

The appointing authority may place an employee on administrative leave with pay pending receipt of the results of a screening test. While optional per regulation, the Division of Human Resource Management strongly suggests that agencies place employees on administrative leave while awaiting the results of a screening test. This allows the agency to notify the employee that he/she must be readily available for agency contact during normal work hours. ([NAC 284.589](#))

Once the employee has completed all required testing, it is the appointing authority's responsibility to make sure the employee is transported home. Typically, law enforcement will not be able to assist with this final step.

### ***RESULTS***

Controlled substance test results will be emailed to the designated agency contact, typically within two working days. Test results may be faxed upon request; however, confidentiality must be maintained. If the test results are not received within three working days, the appointing authority or the designee authorized for receipt of test results may contact the State's current drug testing vendor ([Appendix I](#)).

The results of the screening tests are confidential and must be securely maintained by the appointing authority or his/her designated representative. The appointing authority or their designee must provide written results of the screening test (alcohol and/or controlled substance) to the employee within 3 working days after receipt of the results. ([NRS 284.4065](#))

### ***SECONDARY TESTING***

If a screening test indicates the presence of a controlled substance, the MRO or the appointing authority shall advise any such person that they may have the same sample tested at their expense by a laboratory, certified by the United States Department of Health and Human Services, of their choice. ([NRS 284.4067](#)) If such a request is made, the MRO arranges to have the same sample securely transported between the laboratories.

### ***REFER TO THE EMPLOYEE ASSISTANCE PROGRAM (EAP)***

If an employee has tested positive for the first time in a screening test and is not subject to termination, a referral to an employee assistance program (EAP) is mandatory. ([NRS 284.4062](#)) It is recommended that the employee remain on administrative leave until the initial EAP session is completed.

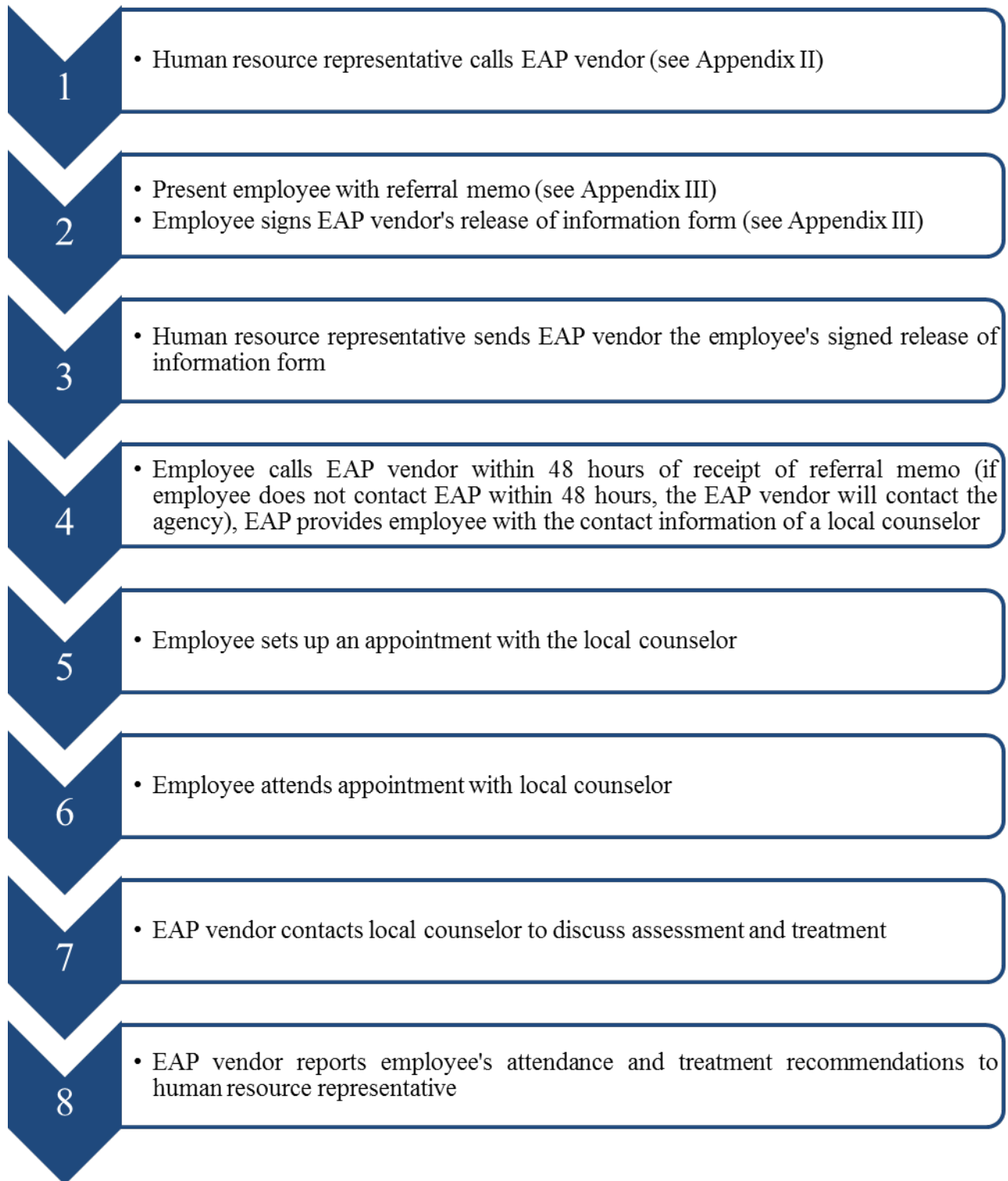
## **Required Referral Procedure**

See the flow chart on the next page for the steps of the procedure. A referral memo (see [Appendix III](#)) will be presented to the employee following the agency's human resources representative's conversation with the EAP vendor. The memo outlines the requirements for the employee to return to work and what the ongoing requirements will be in connection with any recommended treatment.

The employee is required to provide the appointing authority evidence of his or her consultation with the EAP and any recommendation with respect to his or her rehabilitation within five working days of the initial consultation with the EAP.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

## REQUIRED REFERRAL PROCEDURE



## ***DISCIPLINARY ACTION***

Per [NAC 284.650](#) and the agency's policy and/or Prohibitions and Penalties, appropriate disciplinary action may be taken.

If the employee tests positive for alcohol or drugs for the second time within a 5-year period, the employee may be terminated from employment. ([NAC 284.894](#))

## ***RETURN TO WORK***

An appointing authority shall require the employee upon his/her return to work to:

- Provide documentation that verifies the employee is able to return to duty and perform the essential functions of his/her job from his/her Licensed Substance Abuse Treatment Provider or other provider of health care with training and experience in substance abuse treatment; and
- Submit to and pass a return to duty alcohol and/or drug test at the employee's own expense.

Upon receipt of documentation from an EAP or treatment provider that the employee is able to perform his/her essential functions and able to return to work, the agency should direct the employee to an approved testing facility for a return to work screening test. However, the employee may choose to use another vendor that meets the criteria in [NRS 284.4067](#). Please note that not all vendors will allow an employee to test without a referral from a doctor or being on an employer's account; check with the vendor before referring the employee.

## **Monitor Rehabilitation Program**

The employee is also required to provide the appointing authority all recommendations of the counselor with respect to his/her rehabilitation on a monthly basis. The employee is required to provide the appointing authority evidence of his/her completion of any rehabilitation program recommended by the counselor within five working days after his/her completion of the program. ([NAC 284.892](#))

For any period of time that the employee is away from work receiving treatment, the employee will usually be placed on any available sick leave. If the employee does not have any accrued sick leave, the employee should be placed on any available annual leave. If the employee does not have any accrued annual leave, the employee should be placed on leave without pay. Administrative leave is generally not appropriate at this point in the process. The employee may also be eligible for Family and Medical Leave Act (FMLA) coverage depending upon whether the employee meets the FMLA eligibility criteria and whether the type of care meets the FMLA's definition of serious health condition; see the Division of Human Resource Management's [Family and Medical Leave Act \(FMLA\) Overview](#) for more information.



In addition, the employee is responsible to pay for any portion of the charges for this required treatment that are not covered by his/her health insurance provider.

### **Follow-up Care**

After the employee's completion of a rehabilitation program, there may be some type of follow-up care such as a 12-Step Program or other group meetings, therapy or follow up EAP session. The Family and Medical Leave Act (FMLA) may cover these sessions depending upon the employee's eligibility and whether the type of care meets the FMLA's definition of serious health condition. The Americans with Disabilities Act (ADA) may also cover these sessions. For more information on the FMLA, see the [Family and Medical Leave Act \(FMLA\) Overview](#). For more information on the ADA, see the [Americans with Disabilities Act \(ADA\) & the ADA Amendments Act \(ADAAA\) Employment Provisions Guide](#).

## **X. TESTING OTHER THAN PRE-EMPLOYMENT & REASONABLE SUSPICION**

[Subsection 2 of NRS 284.4065](#) allows an appointing authority to test an employee if the employee:

- “Is a law enforcement officer and, during the performance of the employee’s duties, the employee discharges a firearm, other than by accident”.
- “During the performance of the employee’s duties, drives a motor vehicle in such a manner as to cause bodily injury to the employee or another person or substantial damage to property.” “Substantial damage to property” is defined in [NAC 284.888](#) as more than \$500 worth of property damage.
- “Has or is involved in a work-related accident, motor vehicle crash or injury.” [NAC 284.888](#) clarifies that this would involve “an accident or injury that occurs in the course of employment or that involves an employee on the premises of the workplace.”

### ***DISCHARGE OF A WEAPON OR A WORK-RELATED ACCIDENT, MOTOR VEHICLE CRASH OR INJURY***

When testing is based on a law enforcement officer discharging his or her weapon other than by accident or a work-related accident, motor vehicle crash or injury pursuant to paragraphs (a) and (c) of subsection 2 of NRS 284.4065, the employee and agency will follow the procedures in the sections in Chapter IX beginning with ALCOHOL AND DRUG TESTING CONSENT FORM through the end of the chapter.

When testing is performed due to a work-related accident, motor vehicle crash or injury and an employee is released by a health care provider to return to work immediately following the testing, the employee should be allowed to return to work until receipt of the test result.

### ***CAUSING BODILY INJURY OR PROPERTY DAMAGE DUE TO DRIVING A MOTOR VEHICLE***

When testing is based on an employee driving a motor vehicle in such a manner as to cause bodily injury to himself or herself or another person or substantial damage to property pursuant to paragraph (b) of subsection 2 of NRS 284.4065, the agency will arrange for the employee’s safe transportation to the collection site and the employee and agency will be required to follow the procedures in the sections in Chapter IX beginning with the section CONDUCT ALCOHOL AND/OR DRUG TESTING through the end of the chapter.

## **XI. RELATED OFFENSES**

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### ***DRIVING UNDER THE INFLUENCE (DUI)***

If an employee is not terminated, a referral to an EAP is mandatory for any of the following offenses, [NAC 284.653](#):

- When an employee is convicted of driving under the influence (DUI) while driving a State vehicle;
- When an employee is convicted of a DUI while driving a private vehicle on State time; or
- Any offense resulting from an incident while on State business in which the employee was originally charged with a DUI or charged with any other offense for which a DUI is an element of the offense while on State business.

See the [Required Referral Procedure subsection](#) in [Chapter IX](#). The employee and agency will also be required to follow the [RETURN TO WORK](#) section procedures in [Chapter IX](#).

The employee is also subject to the following disciplinary actions (NAC 284.653):

- For a first offense:
  - Suspension for 30 days;
  - Demotion;
  - Suspension for 30 days and demotion; or
  - Termination.
- For a second offense within 5 years:
  - Termination.

### ***SALE OF A CONTROLLED SUBSTANCE***

If an employee is convicted of violating any State or federal law prohibiting the sale of a controlled substance, the employee is subject to termination. ([NAC 284.653](#), [NRS 193.105](#))

## **APPENDIX I -CURRENT VENDORS**

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Alcohol & Drug Testing Vendor: **Drug Free Workplaces, Inc.**

Address: 27 W. Romana St.  
Pensacola, FL 32502

Phone #: (850) 434-3782

Fax #: (850) 434-8244

Medical Review Officer: Dr. Morris Simhachalam

Phone #: (800) 430-3782

Contract period: January 1, 2017 through December 31, 2020

Testing for the following categories:

- Pre-employment
- For cause (reasonable suspicion)
- Other (e.g., discharge of a weapon, driving a motor vehicle in such a manner as to cause bodily injury to oneself or another person or substantial property damage, work-related accident, motor vehicle crash or injury)
- Return to work

IMPORTANT-To set up an account with the State's current alcohol & drug testing vendor, contact the Alcohol & Drug Program Coordinator at (775) 684-0111 or [cphughes@admin.nv.gov](mailto:cphughes@admin.nv.gov).

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Employee Assistance Program Vendor: **ComPsych Corporation's GuidanceResources®**

Phone #: (888) 972-4732  
TDD (800) 697-0353

Contract period: July 1, 2015 through June 30, 2019

## **APPENDIX II – RELEVANT ALCOHOL & DRUG NRS & NAC**

### ***NEVADA REVISED STATUTES***

**NRS 284.406 Policy concerning use of alcohol or drugs by state employees.** It is the policy of this state to ensure that its employees do not:

1. Report for work in an impaired condition resulting from the use of alcohol or drugs;
2. Consume alcohol while on duty; or
3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property.

(Added to NRS by [1991, 1348](#))

**NRS 284.4061 Definitions.** As used in [NRS 284.406](#) to [284.407](#), inclusive, unless the context otherwise requires:

1. “Employee” means a person in the classified or unclassified service of the State.
2. “Screening test” means a test of a person’s:
  - (a) Breath or blood to detect the general presence of alcohol; or
  - (b) Urine to detect the general presence of a controlled substance or any other drug,↳ which could impair that person’s ability to perform the duties of employment safely and efficiently.

(Added to NRS by [1991, 1348](#); A [1993, 2252](#); [2001, 1441](#))

**NRS 284.4062 Employee who consumes or is under the influence of alcohol or drugs or who possesses controlled substance on duty is subject to disciplinary action; state agency required to refer certain employees to employee assistance program; regulations.**

1. Except as otherwise provided in subsections 3 and 4, an employee who:
  - (a) Consumes or is under the influence of alcohol while on duty, unless the alcohol is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer’s instructions or in accordance with a lawfully issued prescription;
  - (b) Possesses, consumes or is under the influence of a controlled substance while on duty, at a work site or on state property, except in accordance with a lawfully issued prescription; or
  - (c) Consumes or is under the influence of any other drug which could interfere with the safe and efficient performance of the employee’s duties, unless the drug is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer’s instructions or in accordance with a lawfully issued prescription,↳ is subject to disciplinary action. An appointing authority may summarily discharge an employee who, within a period of 5 years, commits a second act which would subject the employee to disciplinary action pursuant to this subsection.
2. Except as otherwise provided in subsection 3, a state agency shall refer an employee who:
  - (a) Tests positive for the first time in a screening test; and
  - (b) Has committed no other acts for which the employee is subject to termination during the course of conduct giving rise to the screening test,

↳ to an employee assistance program. An employee who fails to accept such a referral or fails to complete such a program successfully is subject to further disciplinary action.

3. The Commission may adopt regulations setting forth the circumstances under which a person who holds a valid registry identification card to engage in the medical use of marijuana pursuant to [chapter 453A](#) of NRS is subject to disciplinary action pursuant to subsection 1 or must be referred to an employee assistance program pursuant to subsection 2.

4. Subsection 1 does not apply to:

(a) An employee who consumes alcohol in the course of the employment of the employee while hosting or attending a special event.

(b) A peace officer who possesses a controlled substance or consumes alcohol within the scope of the peace officer's duties.

(Added to NRS by [1991, 1348](#); A [1995, 1714](#); [2015, 1047](#))

**NRS 284.4063 Grounds for disciplinary action: Failure to notify supervisor after consuming certain drugs; failure or refusal to submit to screening test; failure of screening test; regulations.**

1. Except as otherwise provided in subsection 2 and subsection 5 of [NRS 284.4065](#), an employee who:

(a) Fails to notify the employee's supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of the employee's duties;

(b) Fails or refuses to submit to a screening test as requested by a state agency pursuant to subsection 1 or 2 of [NRS 284.4065](#); or

(c) After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by the employee's appointing authority, that the employee had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the employee's name,

↳ is subject to disciplinary action.

2. The Commission may adopt regulations setting forth the circumstances under which a person who holds a valid registry identification card to engage in the medical use of marijuana pursuant to [chapter 453A](#) of NRS is subject to disciplinary action pursuant to this section.

(Added to NRS by [1991, 1349](#); A [1993, 2252](#); [2015, 1048](#))

**NRS 284.4064 Appointing authority authorized to require employee who has consumed drug to obtain clearance from physician; inquiry regarding use of alcohol or drug by employee; preventing employee from continuing work.**

1. If an employee informs the employee's appointing authority that the employee has consumed any drug which could interfere with the safe and efficient performance of the employee's duties, the appointing authority may require the employee to obtain clearance from the employee's physician before the employee continues to work.

2. If an appointing authority reasonably believes, based upon objective facts, that an employee's ability to perform the employee's duties safely and efficiently:

(a) May be impaired by the consumption of alcohol or other drugs, it may ask the employee whether the employee has consumed any alcohol or other drugs and, if so:

(1) The amount and types of alcohol or other drugs consumed and the time of consumption;

(2) If a controlled substance other than marijuana was consumed, the name of the person who prescribed its use; and

(3) If marijuana was consumed, to provide proof that the employee holds a valid registry identification card to engage in the medical use of marijuana pursuant to [chapter 453A](#) of NRS.

(b) Is impaired by the consumption of alcohol or other drugs, it shall prevent the employee from continuing work and transport the employee or cause the employee to be transported safely away from the employee's place of employment in accordance with regulations adopted by the Commission.

(Added to NRS by [1991, 1349](#); A [2003, 1449](#); [2015, 1048](#))

**NRS 284.4065 Screening tests: General provisions.**

1. Except as otherwise provided in subsection 2, an appointing authority may request an employee to submit to a screening test only if the appointing authority:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing the employee's ability to perform the employee's duties safely and efficiently;

(b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and

(c) Informs the employee in writing:

(1) Of whether the test will be for alcohol or drugs, or both;

(2) That the results of the test are not admissible in any criminal proceeding against the employee; and

(3) That the employee may refuse the test, but that the employee's refusal may result in the employee's dismissal or in other disciplinary action being taken against the employee.

2. An appointing authority may request an employee to submit to a screening test if the employee:

(a) Is a law enforcement officer and, during the performance of the employee's duties, the employee discharges a firearm, other than by accident;

(b) During the performance of the employee's duties, drives a motor vehicle in such a manner as to cause bodily injury to the employee or another person or substantial damage to property; or

(c) Has or is involved in a work-related accident, motor vehicle crash or injury.

➔ For the purposes of this subsection, the Commission shall, by regulation, define the terms "substantial damage to property" and "work-related accident, motor vehicle crash or injury."

3. An appointing authority may place an employee who submits to a screening test on administrative leave with pay until the appointing authority receives the results of the test.

4. An appointing authority shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at the employee's expense an independent test of the employee's urine or blood from a laboratory of the employee's choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at the employee's expense an independent test of the employee's blood from a laboratory of the employee's choice.

(c) Provide the employee with the written results of the employee's screening test within 3 working days after it receives those results.

5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.

6. An appointing authority shall not use a screening test to harass an employee.

(Added to NRS by [1991, 1350](#); A [1993, 2253](#); [1997, 1606](#); [2003, 1450](#); [2015, 1049](#))

**NRS 284.4066 Screening tests: Applicants for positions affecting public safety required to take screening test; appointing authority required to consider results; provision of results to applicant upon request; appointing authority required to provide certain results to Administrator; regulations.**

1. Each appointing authority shall, subject to the approval of the Commission, determine whether each of its positions of employment affects the public safety. The appointing authority shall not hire an applicant for such a position unless the applicant submits to a screening test to detect the general presence of a controlled substance. Notice of the provisions of this section must be given to each applicant for such a position at or before the time of application.

2. An appointing authority shall consider the results of a screening test in determining whether to employ an applicant. If those results indicate the presence of a controlled substance other than marijuana, the appointing authority shall not hire the applicant unless the applicant provides, within 72 hours after being requested, proof that the applicant had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the applicant's name.

3. An appointing authority shall, at the request of an applicant, provide the applicant with the results of the applicant's screening test.

4. If the results of a screening test indicate the presence of a controlled substance, the appointing authority shall:

(a) Provide the Administrator with the results of the applicant's screening test.

(b) If applicable, inform the Administrator whether the applicant holds a valid registry identification card to engage in the medical use of marijuana pursuant to [chapter 453A](#) of NRS.

5. The Commission may adopt regulations relating to an applicant for a position which affects the public safety who tests positive for marijuana and holds a valid registry identification card to engage in the medical use of marijuana pursuant to [chapter 453A](#) of NRS.

(Added to NRS by [1991, 1350](#); A [1993, 2254](#); [2003, 1450](#); [2015, 1049](#))

**NRS 284.4067 Screening tests: Requirements for administration; use; results.**

1. A screening test:

(a) To detect the general presence of a controlled substance or any other drug, must be conducted by an independent laboratory that is certified by the United States Department of Health and Human Services.



(b) To detect the general presence of alcohol or of a controlled substance or any other drug, must be administered in such a manner as to protect the person tested from any unnecessary embarrassment.

2. Except as otherwise provided in subsection 3, a sample of urine provided for use in a screening test must not be used for any test or purpose without the prior written consent of the person providing the sample. The appointing authority shall ensure that the person retains possession and control of the person's sample until it is appropriately tagged and sealed with tamper-proof tape.

3. If the results of a screening test indicate the presence of any drug which could impair the ability of a person to perform the duties of employment safely and efficiently:

(a) The laboratory shall conduct another test of the same sample of urine to ascertain the specific substances and concentration of those substances in the sample; and

(b) The appointing authority shall provide the person tested with an opportunity to have the same sample tested at the person's expense by a laboratory of the person's choice certified by the United States Department of Health and Human Services.

(Added to NRS by [1991, 1351](#); A [1993, 2254](#); [1997, 1607](#))

**NRS 284.4068 Screening tests: Results confidential; admissibility of results; maintenance of results; disclosure.** Except as otherwise provided in [NRS 239.0115](#) and [284.4066](#), the results of a screening test taken pursuant to [NRS 284.4061](#) to [284.407](#), inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;

2. Must be securely maintained by the Division, the appointing authority, the designated representative of the appointing authority and any other person authorized to receive the results separately from other files concerning personnel; and

3. Must not be disclosed to any person, except:

(a) Upon the written consent of the person tested;

(b) As required by medical personnel for the diagnosis or treatment of the person tested, if the person is physically unable to give the person's consent to the disclosure;

(c) As required pursuant to a properly issued subpoena;

(d) When relevant in a formal dispute between the appointing authority and the person tested;

(e) As required for the administration of a plan of benefits for employees; or

(f) As may be authorized pursuant to regulations adopted by the Commission.

(Added to NRS by [1991, 1351](#); A [2007, 2087](#); [2015, 1050](#))

**NRS 284.4069 Training for supervisors.** The Division shall provide training in the provisions of [NRS 284.4061](#) to [284.407](#), inclusive, to employees of appointing authorities whose duties include the supervision of other employees.

(Added to NRS by [1991, 1351](#))

**NRS 284.407 Regulations.** The Commission shall adopt such regulations as are necessary to carry out the purposes of [NRS 284.406](#) to [284.4069](#), inclusive.

(Added to NRS by [1991, 1352](#); A [2003, 1451](#))

## **NEVADA ADMINISTRATIVE CODE**

### **NAC 284.498 Training of supervisory and managerial employees. (NRS 284.065, 284.155, 284.343)**

1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning work performance standards and the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class which has been approved by the Division of Human Resource Management in each of the following areas:

- (1) Equal employment opportunity;
- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures; and
- (5) Handling grievances.

2. Every 3 years, a supervisor or managerial employee shall complete training which is approved by the Division of Human Resource Management in each of the topic areas described in subsection 1.

3. The appointing authority, at its discretion, may accept, in lieu of the training required by subsection 1, supervisory or managerial training classes in each of the topic areas described in subsection 1 which are approved by the Division of Human Resource Management and taken by the employee during the 3 years immediately preceding the employee's appointment.

4. In addition to the training otherwise required by this section, the Division of Human Resource Management or an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the Division of Human Resource Management or appointing authority.

5. As used in this section:

(a) "Managerial position" means a position which is held by an employee who:

- (1) Formally evaluates supervisors;
- (2) Is involved in the hiring and firing of subordinate staff;
- (3) Determines organizational structure within a component of the organization; and
- (4) Develops, monitors and implements policies to accomplish long-range goals.

(b) "Supervisory position" means a position which is held by an employee who:

- (1) Formally evaluates staff;
- (2) Is involved in the hiring and firing of subordinate staff; and
- (3) Establishes policies which affect the performance or behavior of subordinate staff.

[Personnel Div., Rule X part § F, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; 5-27-86; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004; R057-10, 10-15-2010; R139-12, 10-4-2013)

**NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345, 284.383, 284.385, 284.390)**

1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve the employee of his or her duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;

(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his or her position;

(c) For up to 30 days to remove the employee from the workplace when he or she has committed or threatened to commit an act of violence;

(d) For up to 2 hours to donate blood;

(e) To relieve the employee of his or her duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065, as amended by section 8 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1049; or

(f) To attend a general employee-benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.

2. The appointing authority, upon approval of the Risk Management Division, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:

(a) By telephone to the supervisor of the employee; and

(b) To report to a work site or another location, as directed by the supervisor of the employee,

↳ during regular business hours.

4. Except as otherwise provided in subsection 5, an appointing authority or the Division of Human Resource Management may grant administrative leave with pay to an employee for any of the following purposes:

(a) His or her participation in, or attendance at, activities which are directly or indirectly related to the employee's job or employment with the State but which do not require him or her to participate or attend in an official capacity as a state employee.

(b) His or her safety during an emergency when employees have been authorized by the Governor not to report to work or to leave work before the end of their shifts during the emergency, including, without limitation, emergencies relating to enemy attacks or other hostile actions, natural causes or other catastrophes, except for employees who are designated as essential and notified that they are required to report to work or remain at work.

(c) Closure of the employee's office or work site caused by a natural disaster, pandemic or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(d) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing

authority may designate certain employees as essential and notify them that they are required to report to work.

(e) His or her appearance as an aggrieved employee or a witness at a hearing of the Committee.

(f) His or her appearance as a witness at a hearing regarding a matter described in subparagraph (1), (2) or (3) of paragraph (e) of subsection 6.

(g) His or her appearance to provide testimony at a meeting of the Commission.

5. An appointing authority or the Division of Human Resource Management shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (e), (f) or (g) of subsection 4 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of the appointing authority or adversely impact the provision of services to clients or to the public.

6. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program, including, without limitation, consultations provided in-person or telephonically.

(b) His or her attendance at a health fair or related event coordinated by the Public Employees' Benefits Program.

(c) His or her participation in an official capacity as a member of a committee or board created by statute on which he or she serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for any hearing described in paragraph (e).

(e) The appearance of the employee as a party at a hearing regarding:

(1) An alleged reprisal or retaliatory action against the employee for disclosing an improper governmental action as provided in NRS 281.641;

(2) An involuntary transfer of the employee as provided in NRS 284.376; or

(3) A suspension, demotion or dismissal of the employee as provided in NRS 284.390 and NAC 284.6561.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008; R061-09 & R081-09, 10-27-2009; R063-09, 11-25-2009; R058-10, 10-15-2010; R137-13, 6-23-14; R042-15, 12-21-2015)

**NAC 284.650 Causes for disciplinary action.** (NRS 284.065, 284.155, 284.383)  
Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the Commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.
21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.
23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.

[Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006)

**NAC 284.653 Driving under the influence; unlawful acts involving controlled substance.**  
(NRS 284.065, 284.155, 284.383, 284.385, 284.407)

1. An employee is subject to any disciplinary action set forth in subsection 2, as determined by the appointing authority, if the employee is convicted of any of the following offenses:
  - (a) If the offense occurred while the employee was driving a state vehicle, or a privately owned vehicle on state business:

(1) Driving under the influence in violation of NRS 484C.110; or  
(2) Any offense resulting from an incident in which the employee was:  
(I) Originally charged with driving under the influence; or  
(II) Charged with any other offense for which driving under the influence is an element of the offense.

(b) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance on the premises of the workplace or on state business.

2. An appointing authority may impose the following disciplinary actions if an employee is convicted of an offense set forth in subsection 1:

(a) For the first offense:

(1) Dismissal;  
(2) Demotion, if permitted by the organizational structure of the agency for which he or she is employed;

(3) Suspension for 30 calendar days; or

(4) Suspension for 30 calendar days and demotion.

(b) For the second offense within 5 years, dismissal.

3. An employee who is suspended or demoted pursuant to subsection 2 must:

(a) Agree to be evaluated through an employee assistance program; and

(b) Complete any program of treatment recommended by the evaluation.

4. If an employee fails to complete the program of treatment, the appointing authority must dismiss the employee.

5. Pursuant to NRS 193.105, an employee who is convicted of violating any state or federal law prohibiting the sale of a controlled substance must be dismissed.

6. An employee must report a conviction of any offense described in this section to his or her appointing authority within 5 working days after it occurs. If the employee fails to make that report, he or she must be dismissed.

(Added to NAC by Dep't of Personnel, eff. 7-22-87; A 4-20-90; 3-27-92; A by Personnel Comm'n by R147-06, 12-7-2006; R141-07, 1-30-2008)

**NAC 284.880 Definitions.** (NRS 284.065, 284.155, 284.407) As used in NAC 284.880 to 284.894, inclusive, unless the context otherwise requires:

1. "Employee" has the meaning ascribed to it in subsection 1 of NRS 284.4061.

2. "Screening test" has the meaning ascribed to it in subsection 2 of NRS 284.4061.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by Personnel Comm'n by R066-09, 10-27-2009)

**NAC 284.882 Administration of screening tests.** (NRS 284.065, 284.155, 284.4065, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with:

(a) The standards established by the United States Department of Health and Human Services which are hereby adopted by reference. A copy of the standards is available, without charge, from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, Maryland 20857; and

(b) Any supplementary standards and procedures established by the Commission.

2. Alcohol by testing a person's breath must be conducted using a breath-testing device certified in accordance with the "Conforming Products List of Evidential Breath Alcohol Measurement Devices" published in the Federal Register by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm'n by R066-09, 10-27-2009; R009-11, 10-26-2011)

**NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. (NRS 284.065, 284.155, 284.407)**

1. An employee must not have a concentration of alcohol in his or her blood or breath greater than .02 gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of NAC 284.638 to 284.6563, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .02 gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty.

2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001; R138-12, 10-4-2013)

**NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception. (NRS 284.065, 284.155, 284.407)**

1. Except as otherwise provided in this section, an applicant for a position that is designated by the Personnel Commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he or she is employed by the State in a position that is also designated as affecting public safety at the time he or she applies.

2. A person who has been laid off from a position affecting public safety and who is reemployed in a class affecting public safety within 1 year after the date he or she was laid off is not required to submit to a screening test pursuant to this section.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 3-23-94)

**NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)**

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his or her duties safely and efficiently include, but are not limited to:

(a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(b) The odor of alcohol or a controlled substance on the breath of the employee;

(c) Observation of the employee consuming alcohol; or

(d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source.

2. Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Division of Human Resource Management.

3. The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to paragraph (b) of subsection 2 of NRS 284.4065.

4. For the purposes of subsection 2 of NRS 284.4065, as amended by section 8 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1049:

(a) "Substantial damage to property" includes, but is not limited to:

(1) The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or

(2) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

(b) "Work-related accident or injury" means an accident or injury that occurs in the course of employment or that involves an employee on the premises of the workplace.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by Personnel Comm'n by R066-09, 10-27-2009; R193-09, 4-20-2010; R010-11, 10-26-2011; R044-15, 1-1-2016)

**NAC 284.890 Transportation of employee to and from location of screening test.** (NRS 284.065, 284.155, 284.407) If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the employee submits to the screening test, the appointing authority shall provide transportation for the employee to his or her home.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

**NAC 284.892 Duties of employee who is referred to employee assistance program.** (NRS 284.065, 284.155, 284.407)

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to NAC 284.653, he or she shall provide to the appointing authority:

(a) Evidence of his or her consultation with a counselor employed by an employee assistance program; and

(b) Any recommendation of the counselor with respect to his or her rehabilitation,  
→ within 5 working days after the date of the initial consultation.

2. The employee shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to his or her rehabilitation.

3. The employee shall provide to the appointing authority evidence of his or her completion of any rehabilitation program recommended by the counselor within 5 working days after completing the program.

4. An employee who fails to provide evidence of his or her consultation with a counselor or successful completion of a rehabilitation program is subject to disciplinary action.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)



**NAC 284.893 Return to work of employee who tests positive for alcohol or controlled substance while on duty. (NRS 284.065, 284.155, 284.407)**

1. The appointing authority of an employee who tests positive for the presence of alcohol or a controlled substance while on duty and who, as a result, is subject to disciplinary action pursuant to NAC 284.646 or 284.650 but is not terminated shall, before allowing the employee to return to work, require the employee to:

(a) Provide to the appointing authority documentation from a counselor who is licensed or certified pursuant to chapter 641C of NRS or another health care provider who has training or experience in substance abuse counseling, which verifies that the employee is able to return to duty and perform the essential functions of his or her job.

(b) Submit to a screening test.

2. The employee is responsible for the cost of any:

(a) Counseling services the employee receives to verify that the employee is able to return to duty and perform the essential functions of his or her job and any documentation of those services; and

(b) Screening test,

↪ required pursuant to subsection 1.

3. An employee who fails or refuses to submit to a screening test required pursuant to subsection 1 is subject to disciplinary action, including, without limitation, termination, at the discretion of the employee's appointing authority.

(Added to NAC by Personnel Comm'n by R066-09, eff. 10-27-2009; A by R195-09, 4-20-2010; R138-12, 10-4-2013)

**NAC 284.894 Treatment of applicant who tests positive; treatment of employee who tests positive twice within 5-year period. (NRS 284.065, 284.155, 284.407)**

1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing and must be removed from all lists of eligible persons established from a recruitment that requires such testing until:

(a) One year after the time of the positive test; or

(b) The applicant provides evidence that he or she has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 7-1-94; A by Personnel Comm'n by R194-09, 4-20-2010)

## **APPENDIX III - FORMS**

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This section includes examples of the following forms:

- Chain of Custody Form-Sample
  
- Report Form for Suspected Alcohol/Drug Impairment (TS-77)
  
- Alcohol/Drug Test Consent Form (TS-76)
  
- Non-DOT Breath Alcohol Testing Request Form (NPD-79)
  
- Required Referral Memo
  
- Authorization Form: Formal Referral (ComPsych Release of Information form)

# CHAIN OF CUSTODY

## CHAIN OF CUSTODY FORM

OTS - RTP  
LABCORP  
1704 ALEXANDER DRIVE  
RTP, NC 27709  
3000

Customer Service: 800-833-3984



SPECIMEN ID NO. **0777090414**

LAB ACCESSION NO.

**STEP 1: TO BE COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE**

A. Employer Name, Address and I.D. No.		B. MRO Name, Address, Phone and Fax No. <b>197016</b>	
		DRUG FREE WORKPLACES, INC. ATTN: MORRIS SIMHACHALAM, D.D. 27 WEST ROMANA STREET PENSACOLA FL 32502 850-434-3782 FAX: 850-434-8244	
C. Donor SSN or Employee I.D. No.			
D. Reason for Test: <input type="checkbox"/> Pre-Employment <input type="checkbox"/> Random <input type="checkbox"/> Reasonable Suspicion/Cause <input type="checkbox"/> Post Accident <input type="checkbox"/> Periodic <input type="checkbox"/> Other _____			
E. Collection Site/Address			

F. Donor Identification Verified By:  Photo I.D.  Employer Representative

Collector Phone No. \_\_\_\_\_  
Collector Fax No. \_\_\_\_\_

**STEP 2: TO BE COMPLETED BY COLLECTOR**

Read specimen temperature within 4 minutes. Is temperature between 90° and 100°F?  Yes  No  
 Split Specimen Collection  Yes  No

REMARKS:

STEP 3: TO BE COMPLETED BY COLLECTOR AND DONOR - Collector affixes bottle seal(s). Donor Initials seal(s).

STEP 4: TO BE COMPLETED BY COLLECTOR AND DONOR

G. Daytime Phone No. (\_\_\_\_) \_\_\_\_\_ Evening Phone No. \_\_\_\_\_ Date of Birth \_\_\_\_/\_\_\_\_/\_\_\_\_

H. TEST(S) REQUESTED BY EMPLOYER:

I authorize the collection of this specimen for the purpose of \_\_\_\_\_ and acknowledge that the specimen container(s) was/were sealed with tamper-proof seal(s) in my presence; and that the information provided on this form is correct. I authorize the laboratory to release the results of the test to the company identified on this form.

(PRINT) DONOR'S NAME (FIRST, MIDDLE, LAST) \_\_\_\_\_ SIGNATURE OF DONOR \_\_\_\_\_ INITIAL \_\_\_\_\_ MONTH \_\_\_\_\_ DAY \_\_\_\_\_ YEAR \_\_\_\_\_

**STEP 5: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY**

I certify that the specimen given to me by \_\_\_\_\_ donor identified on this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable requirements.

Signature of Collector \_\_\_\_\_ Time of Collection \_\_\_\_\_ AM \_\_\_\_\_ PM  
 (PRINT) Collector's Name (First, MI, Last) \_\_\_\_\_ Date (Mo/Day/Yr.) \_\_\_\_\_

SPECIMEN BOTTLE(S) RELEASED TO: \_\_\_\_\_  
 Name of Delivery Service Transferring Specimen to Lab \_\_\_\_\_

RECEIVED AT LAB:  Primary Specimen Bottle Seal Intact  
 Yes  
 No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO: \_\_\_\_\_  
 Signature of Accessioner \_\_\_\_\_  
 (PRINT) Accessioner's Name (First, MI, Last) \_\_\_\_\_ Date (Mo/Day/Yr.) \_\_\_\_\_

Printed: 10/08

CONTAINER SEAL OTS - RTP 3000 0777090414	Bottle A		<b>A</b>	____/____/____ DATE DONOR'S INITIALS
	Bottle B (SPLIT)		<b>B SPLIT</b>	____/____/____ DATE DONOR'S INITIALS

NOTE POSITION OF BARCODE STARTS AT BOTTOM OF CONTAINER, SHOWN HERE

COPY 1 - LABORATORY

91 abform

## **REPORT FORM FOR SUSPECTED ALCOHOL/DRUG IMPAIRMENT**

### ***REQUIRED ACTION***

It is the responsibility of each supervisor to take immediate action and to complete this form whenever the supervisor observes or is made aware of a situation where an employee is suspected of being under the influence of alcohol or a controlled substance and objective facts support a drug screening test.

### ***REASONABLE BELIEF***

For the purposes of requiring an employee to submit to a drug screening test, a reasonable belief must exist that an employee is under the influence of alcohol or a controlled substance. Objective facts upon which a belief may be based include but are not limited to the following:

1. Abnormal conduct or erratic behavior not otherwise normally explainable (use checklist to establish reasonable suspicion);
2. The odor of alcohol or a controlled substance on the breath of the employee;
3. Observation of consumption of alcohol; or
4. Observation of the possession or use of a controlled substance that is reported by a credible source.

### ***PROCEDURE***

1. If possible, have another supervisor or (if no supervisor is available) employee confirm your observations. Complete sections (2) through (9) on this form.

2. Name of Employee: \_\_\_\_\_

3. Position of Employee: \_\_\_\_\_

4. Date of Incident: \_\_\_\_\_

5. Time of Incident: \_\_\_\_\_

6. List the objective observations and/or evidence giving reasonable suspicion that the employee was under the influence of alcohol or a controlled substance at the time of the incident or observation. Physical evidence, witness statements, and other pertinent information should be retained and filed for future reference. (Use additional sheets, if necessary.)

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7. If applicable, state justification for testing for additional drug(s): \_\_\_\_\_

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**REPORT FORM FOR SUSPECTED ALCOHOL/DRUG IMPAIRMENT (CONTINUED)**

8. The supervisor should direct the employee to a private location, if feasible. The employee should be reminded of the State policy on the use of alcohol and controlled substances and be informed of the specific allegation(s) and supporting evidence.

Be sure the employee receives a copy of the consent form which advises the employee that:

- a. He or she will be tested for alcohol, drugs, or both;
- b. The results of the test are not admissible in a criminal proceeding against him or her; and
- c. He or she may refuse the test, but the refusal may result in his or her dismissal or other disciplinary action.

**NOTE: NRS 284.4065 requires that an employee receive this information in writing. The consent form meets this requirement.**

9. If the employee wishes to respond to the allegation(s), his or her response or statement should be recorded below and, if appropriate, an investigation may be initiated, in accordance with the provisions of NRS 284.387 and NAC 284.655.

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10. Request the employee to submit to a screening test for alcohol and/or controlled substance. (Circle one or both.)
- a. If the employee agrees, have the employee sign the "Alcohol/Drug Test Consent Form" and proceed to have the employee tested. Pursuant to agency policy, place the employee on administrative leave if applicable, pending the results of the screening test and appropriate disposition by the appointing authority.
  - b. If the employee refuses to be tested or sign the consent form, the employee should be informed that his or her refusal may result in disciplinary action up to and including termination and this should be documented in writing on the consent form.
11. In cases where an employee is suspected of being under the influence of alcohol or a controlled substance, the Nevada Highway Patrol may be contacted for assistance in conducting and transporting the employee for tests. The employee must be provided transportation home, contact your agency's Human Resources department for your agency's procedure.

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Signature of Supervisor

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Date

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Signature of Witness (if possible)

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Date

## ALCOHOL/DRUG TEST CONSENT FORM

**EMPLOYER:** *If applicable, state objective facts giving rise to the belief that the employee is under the influence of alcohol or a controlled substance.*

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I, \_\_\_\_\_ pursuant to a request by my appointing authority or as a condition of employment with the State of Nevada, Department of \_\_\_\_\_ hereby give my consent to and authorize the State and the testing laboratory designated by the State to perform analytical tests deemed necessary to determine the absence or the presence of alcohol and/or drugs (**Employer: Check all that apply**) in my  urine,  blood, or  breath as specified by statute and regulation.

I give my consent to release the results of the test(s) and other related medical information from the laboratory to individuals within the State who, pursuant to statute or regulation, have a need to know of the alcohol and drug testing results and to the use of all such reports or other medical information by the State in its assessment of my employment application and/or employment status. I understand the results of the test may not be used in any criminal proceeding.

**I understand that:**

The appointing authority may request proof that I am taking a controlled substance as directed pursuant to a lawful prescription issued in my name. If requested, I must provide such proof within 72 hours.

I have the right to request a re-test of the initial specimen at a laboratory of my choice, certified by the United States Department of Health and Human Services, when I have a positive test for drugs. All requests for a re-test of the sample must be made within ten (10) working days of the receipt of the original positive test result. The results of the sample must be forwarded to me by the appointing authority of the agency.

A positive test for alcohol and/or drugs, or my refusal to authorize the test(s) by signing this form, taking the specified test(s) or producing a specimen, may result in the following action:

**Applicants** - rejection of my employment application for public safety related positions for one year or until I demonstrate I have successfully completed a substance abuse treatment program (NAC 284.894).

**Employees** - referral to an employee assistance program and/or disciplinary action up to and including termination in accordance with statute, regulation, and any applicable policy.

Applicant/Employee Signature	Date
Supervisor's Signature (if employee refuses to sign)	Date
Witness' Signature (if employee refuses to sign)	Date

Distribution: Agency, Employee/applicant

# Non-DOT Breath Alcohol Test Request

## **COLLECTOR-PLEASE READ BEFORE TEST:**

- A positive test result must be confirmed by a confirmation test. A confirmation test must be a breath alcohol test.
- If the result is positive and the donor is unaccompanied, contact the Employer Designated Representative (see below) by phone to verify arrangements to transport the donor.
- Account and billing through Drug Free Workplaces USA, LLC (see below).

## EMPLOYER & EMPLOYEE INFORMATION:

Date: \_\_\_\_\_

State of Nevada Agency/Department: \_\_\_\_\_

Name of employee: \_\_\_\_\_

Social security number or employee ID number: \_\_\_\_\_

Test reason:

Reasonable suspicion

Post accident

Return to duty

Other (specify): \_\_\_\_\_

Authorized by (print name): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## RESULTS:

Fax all copies of results to Employer Designated Representative and Drug Free Workplaces USA, LLC.

- **CALL BEFORE FAXING EMPLOYER DESIGNATED REPRESENTATIVE.**
  - Employer Designated Representative: \_\_\_\_\_
    - Phone number: \_\_\_\_\_
    - Fax number: \_\_\_\_\_
- Drug Free Workplaces USA, LLC's fax number: (850) 434-8244

## BILLING & QUESTIONS:

Drug Free Workplaces USA, LLC  
27 W. Romana Street, Pensacola, FL 32502  
Phone: (850) 434-3782  
Fax: (850) 434-8244

## **REQUIRED REFERRAL MEMO**

<Agency>

<HR representative>

<Mailing address>

<HR representative's phone #>

<Employee's name>

Re: Return to work requirements pursuant to the State of Nevada Drug and Alcohol Program

As a result of your actions, which led to a determination of a positive test result for <substance>, you have violated Nevada Revised Statutes 284, Nevada Administrative Code 284, the State of Nevada's Drug and Alcohol Program and <Agency>'s Prohibitions and Penalties. Your return to work and ongoing requirements are outlined below.

### **Requirements to return to work:**

1. ***You must contact an employee assistance program (EAP) within 48 hours of receipt of this notice, absent extraordinary circumstances.***

The phone number of the State's EAP provider GuidanceResources® is (888) 972-4732 (TDD (800) 697-0353). Your reference number is \_\_\_\_\_.

2. ***You must attend your EAP appointment.***

Please be aware that the EAP provider may refer you to another counselor with specific training in treating alcohol and substance abuse. Any additional counseling or treatment beyond one to three appointments with the EAP provider will be your financial responsibility. (NRS 284.4062)

3. ***You must provide your appointing authority with documentation that a) you attended the EAP appointment, b) you are able to return to duty and perform the essential functions of your job and c) any recommendations of the EAP provider with respect to your rehabilitation.***

Following your EAP appointment, either the EAP provider or the treatment provider you may be referred to will determine when you are able to return to work. Based upon that determination, either the EAP or treatment provider will need to provide you with documentation stating that you are able to perform your essential functions and return to work. Your essential functions are attached and should be provided to the EAP provider and any treatment provider. You are required to provide the agency with evidence of your consultation with the EAP provider and any recommendations of the EAP provider with respect to your rehabilitation within 5 working days after the date of your EAP appointment. (NAC 284.892, 284.893)



**4. You must complete a return to work screening test and it must be negative for alcohol and/or controlled substances.**

Following the agency's receipt of documentation from the EAP or treatment provider that you are able to perform your essential functions and are able to return to work, you will be required to submit to a return to work screening test at an approved testing facility. For your convenience, upon receipt of the above documentation I will set up an appointment for you at <Vendor>. If you prefer to use another vendor for your return to work screening test, please contact me at the below number. You cannot return to work until you provide the agency with your test result. (NAC 284.893)

**Ongoing requirements:**

**5. You must provide your appointing authority with the recommendations of any treating provider monthly and evidence of completion of a rehabilitation program.**

You are required to provide the agency with the recommendations of your treatment provider at least on a monthly basis and evidence of successful completion of any rehabilitation program recommended by the EAP provider within 5 working days after completion of the program. (NAC 284.892)

Please note that you are responsible for the costs of your documentation, counseling/treatment and return to work screening test. (NAC 284.893) You may have coverage for some of these expenses under your medical insurance plan. It is your responsibility to make financial arrangements with treatment providers, medical insurance administrators and approved testing facilities.

If any of the above requirements are not met, including if your return to work screening test is positive, you will be subject to additional disciplinary action up to and including termination.

Please read these requirements carefully and if you have any questions contact me at <contact's phone #>.

\_\_\_\_\_  
Human resource representative

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Distribution: Agency (original)  
Employee (copy)

**AUTHORIZATION FORM: Formal Referral**

I, the undersigned, hereby authorize ComPsych's Clinical Staff to release to:

\_\_\_\_\_  
(Name of the Referral Contact)

\_\_\_\_\_  
(Name of the Company/Agency)

the following information contained in my record maintained by ComPsych:

1. Date of the initial appointment
2. Treatment recommendations
3. Compliance/Non-compliance with recommendations
4. Completion of treatment recommendations
5. Results of Drug/Alcohol tests, if applicable
6. Other \_\_\_\_\_

My authorization for the release of the above information is effective on the date I sign this form and will remain effective for a period of one (1) year from such date.

The purpose of the disclosure by ComPsych to the recipient is: To report my compliance/non-compliance with the formal referral process.

I understand that ComPsych will not condition treatment or payment or the eligibility of my receiving services on the basis of my providing authorization for the requested use or disclosure, and that I may refuse to sign this authorization. To the extent that I do sign this authorization, I do so voluntarily. I understand that I have the right to inspect and copy the information that I have authorized to be used or disclosed as provided for under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations found at 45 C.F.R. § 164.524.

I understand that the information used or disclosed pursuant to this authorization may be subject to redisclosure by the recipient and may no longer be protected by law.

I understand that this authorization is valid for one (1) year, unless revoked by me before then. I understand that I may revoke this authorization at any time by sending written notice to ComPsych. I understand that if I revoke this authorization such revocation will not be effective to the extent ComPsych has already relied on it to disclose the information.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Employee Address: \_\_\_\_\_

*Photocopies and electronic facsimile copies of this authorization are considered as valid as the original form*

NBC Tower 455 N. Cityfront Plaza Drive Chicago, IL 60611-5322

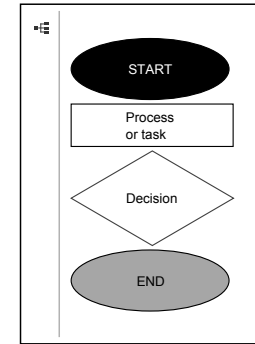
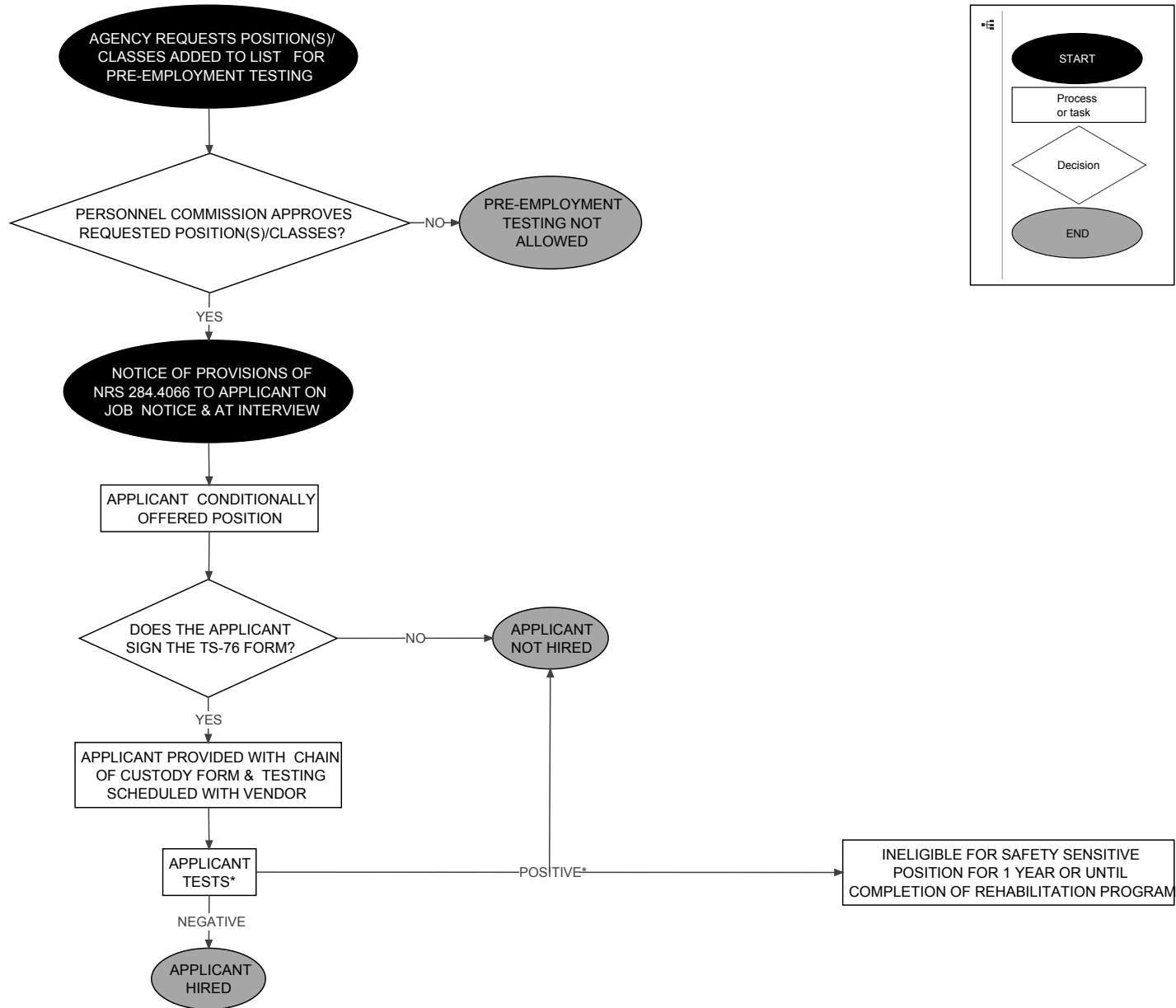
## **APPENDIX IV – OPTIONAL TOOLS FOR SUPERVISORS**

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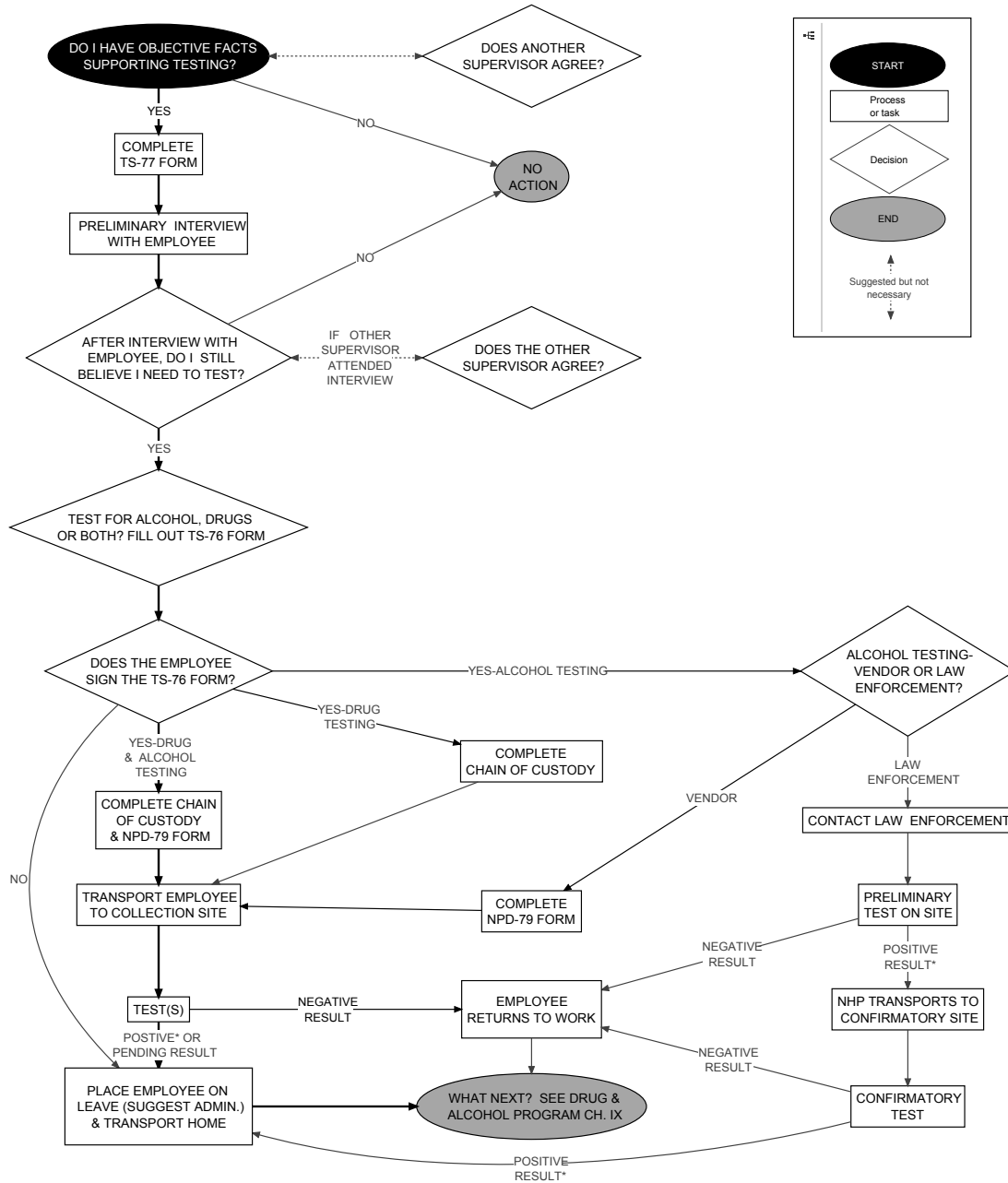
Attached are copies of resources that a supervisor may find helpful when dealing with reasonable suspicion cases. The forms are not intended to be mutually exclusive. Instead, the purpose of this appendix is to offer various documents that different agencies find useful for their supervisors. The supervisors should use the tool that works best for them.

- **Flowchart for Pre-Employment Drug Testing**  
This flowchart offers a visual diagram of the steps for pre-employment testing.
- **Reasonable Suspicion Alcohol and Drug Testing Flowchart**  
This flowchart offers a visual diagram for reasonable suspicion.
- **Reasonable Suspicion Guide**  
This guide is a more detailed, step-by step document that walks a supervisor through what to say and what to do when faced with a reasonable suspicion situation. This guide was adapted for State use by the Division of Human Resource Management, based on information provided by Bob Sinnett of Sinnett Consulting Services. While much of this information is incorporated into [Chapters VIII & IX](#), it is offered here as a stand-alone reference.
- **Alcohol and Drug Indicator Checklist**  
This flowchart was developed by Bob Sinnett and is used with permission.

## FLOWCHART: PRE-EMPLOYMENT DRUG TESTING



### FLOWCHART: REASONABLE SUSPICION TESTING



# REASONABLE SUSPICION GUIDE

## 1. INVESTIGATE

- a. Relieve the employee from duty and quietly move to a private area.
- b. Fill out [Report Form for Suspected Alcohol/Drug Impairment \(TS-77\)](#). If necessary, use the *Alcohol and Drug Indicator Checklist* in the [State of Nevada Alcohol and Drug Program](#). Additionally, your agency's human resources can be consulted for assistance in determining whether there is reasonable suspicion.
- c. When possible, seek assistance from another supervisor to observe and evaluate the situation. Do not bias the corroborating supervisor by saying that you suspect alcohol or drug use; instead, state that you are concerned about the employee's behavior and/or performance and would like him/her there to observe and or talk with the employee to get his/her opinion of the situation.
- d. (Both supervisors, if possible) Meet with the employee and ask for an explanation regarding observations about the employee's performance, behavior or fitness for duty (i.e., "I noticed the following things in your performance or behavior today at work. Can you explain why?")
  - i. Based on the response, the following questions are recommended (as appropriate):
    1. "Have you been drinking alcohol or using any illegal drugs on the job site **today**?"
    2. "Have you used an illegal drug before coming to work **today**?"
    3. "Have you consumed any alcohol before reporting for duty?"
    4. "Are you taking any medication that would explain what I am seeing in your performance or behavior?"
      - a. Do not ask about the identity or type of medication the employee is taking.
    5. "Are you aware of any medical condition that would explain what I am seeing in your performance or behavior?"
      - a. Do not ask about the type or identity of the medical condition.
      - b. In the event the employee discloses information on a medical condition or medication use to explain your observations, the employee can be instructed to obtain a written release from his/her physician or dentist that the medical condition or medication being taken will not affect the employee's ability to perform his/her job safely. The employee should not continue to work or be scheduled to work again until you have the medical release.

## 2. REQUEST CONSENT TO TEST

- a. If the employee admits to using alcohol and/or controlled substance **OR** if the employee denies using alcohol and/or a controlled substance but you (2 supervisors, if possible) feel there is reasonable suspicion to test, state:

“Based on my (our) observations of your behavior or performance today at work, I (we) am requesting that you submit to an alcohol and drug test to rule that out as a factor in your fitness for duty.” And request the employee indicate consent by signing the [Alcohol/Drug Test Consent Form \(TS-76\)](#).

1. Never accuse the employee of using alcohol or drugs or being under the influence, impaired or high. Only an alcohol and drug test can provide objective proof of alcohol or drug use. Keep your discussion focused on safety and fitness for duty.

- ii. If the employee **REFUSES** to submit to testing:

1. Ask the employee for the reason(s) why he/she is refusing to submit to drug and alcohol testing and document reasons on [Report Form for Suspected Alcohol/Drug Impairment \(TS-77\)](#).
2. Inform the employee that the State policy requires an employee to consent to testing and that refusal is grounds for disciplinary action up to and including termination.
3. Again, request the employee consent to alcohol and/or drug testing.
4. If the employee still refuses to test, arrange transportation home for the employee (i.e., taxi, call a family member to pick up, or supervisor/co-worker can transport).

- a. If the employee refuses transportation, attempt to persuade the employee to change his/her mind. Do not detain or physically restrain the employee. Inform the employee that you intend to call the police unless the employee accepts transportation. Seek a corroborating witness (e.g., another supervisor) to verify employee’s refusal of transportation. In cases where the employee refuses transportation and the employee’s condition suggests that the employee presents a potential or actual safety risk to him/herself or other drivers, notify the police by calling 911. State: “I am calling because I am concerned about an employee by the name of \_\_\_\_\_. Based on my observations of his/her behavior and performance today at work, I am concerned about his/her ability to operate a motor vehicle”. Relay your observations to the officer but **do not** voice an opinion about alcohol or drug use.

### 3. TEST

- a. If employee agrees, have him/her sign the [Alcohol/Drug Test Consent Form \(TS-76\)](#) and complete the [Report Form for Suspected Alcohol/Drug Impairment \(TS-77\)](#).
- b. Fill out forms necessary for type of testing and contact law enforcement or transport the employee to collection site along with, if possible, another supervisor of the same gender as the employee:
  - i. **DRUG TEST ONLY**
    1. Take to a collection site (see *Collection Sites/Testing Contact Information* at <http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Publications/collectionsites5.16.pdf> for contact information) and use a chain of custody form (see your agency HR for this form).
  - ii. **ALCOHOL TEST ONLY** (2 options)
    1. Call Nevada Highway Patrol (see *Collection Sites/Testing Contact Information* at <http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Publications/collectionsites5.16.pdf> for contact information).  
**OR**
    2. Take to a collection site (see *Collection Sites/Testing Contact Information* at <http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Publications/collectionsites5.16.pdf> for contact information) and use the NPD-79 form (<http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Forms/Alcohol/NPD-79NonDOTBreathAlcoholTestRequestPDF.pdf>).
  - iii. **DRUG & ALCOHOL TESTS**
    1. In metropolitan areas (i.e., Las Vegas, Carson City, Reno), take to a collection site (see *Collection Sites/Testing Contact Information* at <http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Publications/collectionsites5.16.pdf> for contact information), use a chain of custody form (see your agency HR for this form) and use the NPD-79 form (<http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Forms/Alcohol/NPD-79NonDOTBreathAlcoholTestRequestPDF.pdf>).
    2. In rural areas with no collection sites capable of performing breath alcohol testing or if after hours, the drug testing will be done at a collection site (see **i. DRUG TEST ONLY** above) and the breath alcohol test performed by law enforcement (see **ii. ALCOHOL TEST ONLY** above). It is recommended that the alcohol breath test be performed before the drug test.
- c. Arrange transportation to collection site (if appropriate). Accompany the employee to the collection site (if transported by law enforcement can arrive separately) and wait until notified that the collection has been completed.



#### 4. TRANSPORT HOME

- a. Regardless of where the employee is (at the office, a collection site or law enforcement office), if the test is positive or results are not immediately available (i.e., urine or blood tests) arrange transportation home for the employee (i.e., taxi, call a family member to pick up, or supervisor/co-worker can transport home).
  - i. Inform employee that he/she is on administrative leave pending test results.
  - ii. If the employee refuses transportation, attempt to persuade the employee to change his/her mind. Do not detain or physically restrain the employee. Inform the employee that you intend to call the police unless the employee accepts transportation. Seek a corroborating witness (e.g., another supervisor) to verify employee's refusal of transportation. In cases where the employee refuses transportation and the employee's condition suggests that the employee presents a potential or actual safety risk to him/herself or other drivers, notify the police by calling 911. State: "I am calling because I am concerned about an employee by the name of \_\_\_\_\_. Based on my observations of his/her behavior and performance today at work, I am concerned about his/her ability to operate a motor vehicle". Relay your observations to the officer but **do not** voice an opinion about alcohol or drug use.

## ALCOHOL AND DRUG INDICATOR CHECKLIST

### Physical Signs or Conditions

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Weariness, exhaustion                         | <input type="checkbox"/> Flushed face                           | <input type="checkbox"/> Yellow/gray skin complexion                |
| <input type="checkbox"/> Unusual cuts, bruises, rashes                 | <input type="checkbox"/> Facial itching                         | <input type="checkbox"/> Glassy/blood shot eyes                     |
| <input type="checkbox"/> Dilated or constricted eyes                   | <input type="checkbox"/> Eyelid tremors                         | <input type="checkbox"/> Marked reddening of eyelids                |
| <input type="checkbox"/> Unusual effort to cover arms                  | <input type="checkbox"/> Sleepiness (nodding)                   | <input type="checkbox"/> Alcohol on breath                          |
| <input type="checkbox"/> Fresh puncture marks                          | <input type="checkbox"/> Blank stare                            | <input type="checkbox"/> Untidiness                                 |
| <input type="checkbox"/> Yawning excessively                           | <input type="checkbox"/> Change in personal grooming habits     | <input type="checkbox"/> Slurred speech                             |
| <input type="checkbox"/> Unsteady walk/poor coordination               | <input type="checkbox"/> Unusual thirst                         | <input type="checkbox"/> Brittle hair and nails                     |
| <input type="checkbox"/> Dry mouth                                     | <input type="checkbox"/> Extreme bad breath                     | <input type="checkbox"/> Receding gums                              |
| <input type="checkbox"/> Grinding teeth, dental problems               | <input type="checkbox"/> Excessive use of nasal sprays          | <input type="checkbox"/> Shakes, hand tremors                       |
| <input type="checkbox"/> Running nose                                  | <input type="checkbox"/> Major weight gain or loss              | <input type="checkbox"/> Strong use of perfumes or colognes         |
| <input type="checkbox"/> Use of breath purifiers, such as gum or spray | <input type="checkbox"/> Sunglasses worn at inappropriate times | <input type="checkbox"/> Changes in appearance after lunch or break |

### Mood

- |  |   |
|--|---|
| <input type="checkbox"/> Appears to be depressed or extremely anxious all the time | <input type="checkbox"/> Irritable  |
| <input type="checkbox"/> Suspicious  | <input type="checkbox"/> Complains about others                             |
| <input type="checkbox"/> Low frustration tolerance levels                          | <input type="checkbox"/> Over-reaction                                      |
| <input type="checkbox"/> Mood changes after lunch or break                         | <input type="checkbox"/> Confusion  |
| <input type="checkbox"/> Disorientation  | <input type="checkbox"/> Emotional unsteadiness (e.g., outbursts of crying) |

### Actions

- |   |   |
|---|---|
| <input type="checkbox"/> Becomes a loner                                  | <input type="checkbox"/> Withdrawn or improperly talkative                    |
| <input type="checkbox"/> Argumentative                                    | <input type="checkbox"/> Has exaggerated sense of self-importance             |
| <input type="checkbox"/> Displays violent behavior                        | <input type="checkbox"/> Avoids talking with supervisor regarding work issues |
| <input type="checkbox"/> Spends excessive amount of time on the telephone |   |

### Absenteeism

- |   |  |
|---|--|
| <input type="checkbox"/> Frequent use of unscheduled vacation time  | <input type="checkbox"/> Unauthorized leaves   |
| <input type="checkbox"/> Requesting to leave work early for various reasons   | <input type="checkbox"/> Long lunch hours  |
| <input type="checkbox"/> Highly unlikely excuses for absences   | <input type="checkbox"/> Frequent unreported absences, later explained as "emergencies"              |
| <input type="checkbox"/> Acceleration of absenteeism & tardiness, especially on Mondays, Fridays, before & after holidays | <input type="checkbox"/> Unusually high incidence of colds, flu, upset stomach, headaches            |
| <input type="checkbox"/> Leaving work area more than necessary (e.g., frequent trips to water fountain & bathroom)        | <input type="checkbox"/> Unexplained disappearance from the job with difficulty in locating employee |

### Accidents

- |   |  |
|---|--|
| <input type="checkbox"/> Taking of needless risks                           | <input type="checkbox"/> Disregard for the safety of others    |
| <input type="checkbox"/> Higher than average accident rate on & off the job | <input type="checkbox"/> Damage to State property or equipment |

### Work Patterns

- |  |  |
|--|--|
| <input type="checkbox"/> Inconsistency in quality of work                              | <input type="checkbox"/> High & low periods of productivity                  |
| <input type="checkbox"/> Mental slow down  | <input type="checkbox"/> Complaints from customers                           |
| <input type="checkbox"/> Lapses in concentration                                       | <input type="checkbox"/> Difficulty in recalling instructions                |
| <input type="checkbox"/> Difficulty in remembering own mistakes                        | <input type="checkbox"/> Increased difficulty in handling complex situations |
| <input type="checkbox"/> Using more time to complete work, missing deadlines           | <input type="checkbox"/> Wasting materials                                   |
| <input type="checkbox"/> Poor judgment, more mistakes than usual, general carelessness |  |

### Relationships to Others on the Job

- |  |  |
|--|--|
| <input type="checkbox"/> Over-reaction to real or imagined criticism                                   | <input type="checkbox"/> Avoidance & withdrawal from peers     |
| <input type="checkbox"/> Wide swings in morale   | <input type="checkbox"/> Complaints from co-workers            |
| <input type="checkbox"/> Unrealistic resentments   | <input type="checkbox"/> Borrowing money from fellow employees |
| <input type="checkbox"/> Complaints of problems at home, such as separation, divorce, child discipline | <input type="checkbox"/> Persistent job transfer requests      |

Please note that these indicators may be caused by other conditions or circumstances. In most cases, it is suggested that a determination of reasonable suspicion be based on more than one indicator.