**KWORCC Policies for Counties**

**Drug and Alcohol Testing Policy**

KWORCC recommends each Member County conduct tests of all employees for the presence of drugs and alcohol following a work-related injury. This policy is designed to protect the county against workers compensation liability when the injury, disability or death of an employee was contributed to by the use or consumption of alcohol or drugs, chemicals or other compounds or substances.

**Therefore, KWORCC recommends that each Member County adopt the following policy:**

It shall be the policy of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County to establish a testing procedure for employees to detect the use of alcoholic beverages, unprescribed drugs, chemicals and other compounds that have the potential of influencing the work performance of its employees.

All current county employees will be required to sign a consent form to be kept on file for use by the county for such testing. Further, all persons hired hereafter by the County shall be required to sign such consent at time of hire.

Whenever a department head has reasonable cause to believe an employee has consumed or used either a controlled substance, including alcoholic beverages, he or she may direct the employee to submit to testing procedures as provided in the consent form. Prior to testing, the department head must document in writing the circumstances leading to this finding of probable cause. The employee shall be given the opportunity to admit to alcohol or drug use and agree to leave work without pay until the employee is free of the influence of the drug or alcohol consumed. Before returning to work, the employee shall submit to appropriate testing to ensure fitness for work. Should the employee refuse to admit such use and refuse to submit to such testing, this refusal will subject the employee to disciplinary action and possible termination of employment.

It is always necessary to advise KWORCC’s claims personnel immediately after any injury resulting from an on-the-job accident. If the immediate supervisor or the department head suspects the use of either drugs or alcohol by the injured employee or anyone else involved in the accident, this information must be provided immediately to KWORCC’s claims personnel and the following steps must be taken immediately.

1. There must be a judgment made by the employer that there was probable cause (i.e., it is more likely than not) to believe that the employee used, had possession of or was impaired by drugs or alcohol while working. As soon as practical, a written description of probable cause must be described in writing by the supervisor or department head involved.

2. The test sample must be collected as soon as possible after the accident. If the any employee involved in the accident or injured thereby refused to submit to testing as soon as possible following the accident, the department head shall document this refusal and administer appropriate disciplinary action for those involved in such refusal.

3. The collecting and labeling of the test sample must be performed by, or under the supervision of, a licensed health care professional (e.g. medical doctors and registered nurses).

4. The test must be performed by a laboratory approved by the U.S. Department of Health and Human Services or licensed by the Department of Health and Environment. Blood samples may be tested for alcohol content by a laboratory approved for use by state law enforcement agencies.

5. Except for blood alcohol samples, the test results must be confirmed by gas chromatography-mass spectroscopy or other comparably reliable analytical methods.

6. The test sample must be proven “beyond a reasonable doubt” to have come from the employee. What this means is that there must be a strict chain of evidence from the employee to the sample in order to present the evidence to the judge. Therefore, in the event of a blood sample, it must be an “evidence draw.” Similarly, the drug testing must be carefully traced and initialed by all persons who handled the sample at all stages of testing and storage.

7. A split sample sufficient for testing shall be retained and made available to the employee within 48 hours of a positive test.

Important: The DRUG TESTING NOTICE AND CONSENT form can be found in the Forms for Injured Workers folder on KWORCC’s website, as follows: <https://www.kworcc.com/forms-for-injured-workers.html.>