

Statement of Policy

Drug and Alcohol Testing

It shall be the policy of _____ County to conduct tests of all its employees for the presence of drugs and/or alcohol following a work-related injury. The purpose of this policy is to protect _____ 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, chemical or other compounds or substances. All current employees of the County shall immediately sign a consent form for such drug testing and persons hired hereafter by the County shall sign such consent at time of hire.

Important: The DRUG TESTING NOTICE AND CONSENT form can be found in the Forms for Injured Workers folder on our website, as follows: <https://www.kworcc.com/forms-for-injured-workers.html> KWORCC's claim adjuster should be notified immediately following an accident or injury. If it is suspected that drugs and/or alcohol are involved the procedures listed below should be followed.

Further, these steps need to be followed in order for such testing to be admissible into evidence in a workers compensation proceeding.

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.
2. The test sample must be collected at a time contemporaneous with the events establishing the probable cause. (i.e. last week is less contemporaneous than a few moments or perhaps an hour or so prior to the accident.)
3. The collecting and labeling of the test sample must be performed by, or under the supervision of, a licensed health care professional. This would include medical doctors and registered nurses.
4. The test must be performed by a laboratory approved by the United States 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 commonly used for the purpose by state law enforcement agencies.
5. Except for blood alcohol samples, the test 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.