

Drug-Free Workplace **IMPLEMENTATION GUIDE**

October 2017

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Introduction

Substance misuse is one of the critical public health problems of our time and opioid abuse has been declared a national emergency. But, employees have a legal right to a safe and healthful workplace. Just as important, they have a desire to work in a place that is free from the hazards imposed by employees who use or abuse illegal drugs or alcohol at work. Injury rates soar—including injuries to innocent bystanders caused by co-workers impaired or under the influence. Employers suffer the consequences, too—decreased productivity, increased turnover, higher workers' compensation insurance premiums, and lower employee morale.

Fortunately, there is a program designed to address these concerns. That program is the Drug Free Workplace Program, administered by the Tennessee Bureau of Workers' Compensation.

The Problem: How Big Is It?

A 2016 survey¹ found that nearly 22.5 million people reported use of an illegal drug in the prior year, that over 20 million people have substance abuse disorders and that 12.5 million Americans reported misusing prescription pain relievers in the past year. Even more stunning—seventy-eight people die every day in the United States from an opioid overdose—nearly quadruple the number in 1999. Despite the fact that effective treatments exist, only one in five people who currently need treatment actually receive it.

22.5M
people reported
using an illegal
drug in 2015.

The Quest Diagnostics Drug Testing Index, released in 2017, reported that drug use in the American workforce reached its highest positivity rate in twelve years². Overall positivity in urine drug testing in 2016 was 4.2 percent, a five percent increase over 2015. Other trends showed the positivity for cocaine increased for the fourth consecutive year and marijuana positivity had increased by 75 percent between 2013 and 2016.

1: Facing Addiction in America; The Surgeon General's Report on Alcohol, Drugs, and Health; U.S. Department of Health and Human Services

2: Quest Diagnostics Drug Testing Index, 2017.

The Signs of Substance Abuse in the Workplace: What Does it Look Like?

Substance abuse affects employees differently, but there are some effects that are more common than others. They include:

- Habitual Tardiness
- Sleeping on the job
- Theft
- Poor decision making
- Low staff morale/dissent
- High turnover
- Problems between co-workers
- High rates of injury

The Costs to Employers: How Expensive Is It?

Employees who abuse substances reduce productivity in the workplace. The George Washington University Medical Center estimated that drug and alcohol problems in the workplace cost American employers \$197 billion each year. Abusers can lower overall productivity by 1/3rd and miss more than 2 ½ times more workdays than non-abusers. The National Council on Alcoholism and Drug Dependence found in 2015 that employees who abuse alcohol are 2.7 times more likely than non-abusers to have injury-related absences. A 2011 report issued by the Schneider Institute for Health Policy at Brandeis University found that healthcare costs for employees with alcohol problems are at least twice those for other employees.



The bottom line—impaired employees increase the workloads of their co-workers, compromise quality, increase turnover, impact your bottom line, and can harm your business' reputation. The National Safety Council, a non-profit organization chartered by Congress to help eliminate preventable deaths at work, can help you estimate the “real cost” of substance abuse in your worksite. To learn more, visit <https://www.nsc.org/forms/substance-use-employer-calculator/index.aspx>.

The Solution: A Drug-Free Workplace Program.

It's good for employees.

Employees are more productive and have better morale when their health and safety is protected from the increased dangers and risks that substance abusers present in the workplace. Employees will appreciate your concern for their health, safety & well-being.

It's good for employers.

For an employer choosing to participate in this voluntary program, the employer will receive the following benefits:

- A 5% premium credit on their workers' compensation insurance policy.
- If an employer discharges or disciplines an employee, or refuses to hire a job applicant who is found to be in violation of the covered employer's Drug-Free Workplace Program, it will be considered done for cause.
- If an employee receives a positive confirmed post-accident drug test for illegal use of drugs or alcohol or refuses to submit to a post-accident drug or alcohol test following a work-related injury, the employee may be denied workers' compensation benefits and will carry the burden of proving the illegal drugs or alcohol were not the reason the work injury occurred.



Implementing & Maintaining the Program

- 1.** Read and become knowledgeable about the Rules of the Tennessee Drug Free Workplace Program. They are available on our website at: <https://www.tn.gov/content/dam/tn/workforce/documents/injuries/0800-02-12.20120809.pdf>
- 2.** Develop your company's substance abuse policy and print it on your company's letterhead. **IMPORTANT:** You must include a list of the specific drugs to be tested and the consequences of violating your policy including the consequence of refusing to submit to the test. A sample substance abuse policy is available on our website at: <https://www.tn.gov/workforce/injuries-at-work/employers/employers/drug-free-workplace-program.html>, or you can create your own.
- 3.** Determine which medical facility will collect the urine specimen and which lab will perform the tests and provide you the results. **IMPORTANT:** Remember, the lab must be certified in accordance with the program's rules and have an MRO to review the results.
- 4.** Post the policy in a conspicuous location so that it can be viewed and read by all of your employees. Distribute individual printed copies to each current employee and future applicant after you make an offer of employment. **IMPORTANT:** Employees must be notified at least 60 calendar days before you begin drug and alcohol testing under this program. You must also include a notice on job postings if the job requires drug testing.
- 5.** Provide the required training for your employees and supervisors. **IMPORTANT:** All employees must receive at least one hour of training within 60 calendar days of your implementation of this program or within 60 calendar days of their date of hire. And, all supervisors must receive an additional two hours of training, for a total of three hours for supervisors. This training does not have to be repeated each year, but it must be provided to everyone at least one time. Topics required to be discussed in these training sessions are outlined in the program rules referenced above. The rules are flexible regarding the ways the training is delivered; but, accurate records indicating who was trained and when they were trained must be maintained.
- 6.** Complete and submit the program application. It is available on our website at: <https://www.tn.gov/content/dam/tn/workforce/documents/injuries/Drug%20Free%20Workplace%20App--final.pdf> **IMPORTANT:** You must renew your application each year. It is best to renew it at the same time that you renew your workers' compensation insurance policy. And, since annual training is no longer required, you must also obtain and maintain a signed acknowledgment form from each employee previously trained, stating that they acknowledge the existence of your company's policy. A sample acknowledgment form is available on our website at: <https://www.tn.gov/content/dam/tn/workforce/documents/injuries/Revised%20Drug%20Testing%20Consent%20and%20Release%20Form.pdf/Revised%20Sample%20Active%20Employee%20Certificate%20of%20Agreement.pdf>

Frequently Asked Questions

What are the types of testing required by Tennessee Drug Free program?

- Pre-Employment (after an job offer has been made)
- Reasonable Suspicion (such as slurred speech, dilated pupils, mood changes, etc)
- Routine Fitness for Duty
- Follow-Up to an earlier positive test
- Post-Accident

Random drug testing is allowed but is not required.

What drugs are required to be tested for by Tennessee Drug Free participants?

All testing & collection procedures are done in accordance with the procedures established by the U.S. Department of Transportation as found in 49 C.F.R, Part 40. The list of drugs that must be tested for is available on the Bureau's website at: <http://www.tn.gov/workerscomp>.

What should I do if I have an employee who tests positive for drugs or alcohol?

Follow your company policy! When developing your company policy it is extremely important to spell out the consequences for violating your policy. Termination of the employee is not required by this program, but do not discipline one employee and look the other way for another employee. If you do terminate employees as part of your DFWP program, you must enforce the policy uniformly.

What is an MRO?

A Medical Review Officer (MRO) is a licensed physician, employed with or contracted with an employer that is participating in this program. The physician will have knowledge of substance abuse disorders and laboratory testing procedures and verifies positive, confirmed test results. The physician will have the medical training necessary to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

What are the requirements regarding the training aspects of the program?

Effective July 1, 2016, employers participating in the Tennessee Drug-Free program are no longer required to provide annual training for their employees or supervisors if those employees and supervisors have already gone through such training at least once. Rather, each employee and supervisor must simply acknowledge, in writing each year, the existence of the employer's drug-free workplace policy.



**Tennessee Bureau of Workers'
Compensation 220 French Landing Drive, 1B
Nashville, TN 37243-1002**

Phone: 615-532-1321 FAX: 615-253-5265 Email: DFW.Program@tn.gov

<https://www.tn.gov/workforce/injuries-at-work/employers/employers/drug-free-workplace-program.html>

DRUG FREE WORKPLACE PROGRAM APPLICATION

- 1. This application must be complete, legible and signed or it will be RETURNED.**
- 2. This application must be resubmitted anytime the employer changes insurance carriers.**
- 3. This form must be submitted to the Bureau. Please include the completed original copy of this form plus one photocopy, a copy of PROOF OF COVERAGE and two pre-addressed, stamped envelopes:**
 - a. One addressed to your Workers' Compensation Insurance Carrier and**
 - b. One addressed to the employer named below.**
- 4. THIS APPLICATION MUST BE RENEWED ANNUALLY.**

Circle one: New application Renewal application Changed Insurance Carrier

Company Name _____ FEIN: _____

Mailing Address _____ City _____ State & Zip _____

Business Address _____ City _____ State & Zip _____

Phone # _____ Fax # _____ Email _____

Name of Substance Abuse Program Administrator _____

Nature of Business _____ Total # of FT & PT employees _____

Workers' Compensation Insurance Carrier _____

Lab Certification (circle one): **SAMHSA** **CAP-FUDTAP** **Other** _____

Name of Testing Laboratory _____ City _____ State _____ ZIP _____

Name of Medical Review Officer (MRO) _____ Phone # _____

Have all employees hired prior to the date of this application been provided at least one hour of substance abuse training? Yes No

Have all employees hired prior to the date of this application been informed of your company's drug free program policies? Yes No

Effective date of your program _____

Renewal applicants only:

Number of tests performed in past 12 months for each of the following:

Job Applicants:	Total _____	Positive _____	Routine Fitness for Duty:	Total _____	Positive _____
Post work accident:	Total _____	Positive _____	EAP Follow-up:	Total _____	Positive _____
Random (optional):	Total _____	Positive _____	Reasonable Suspicion	Total _____	Positive _____

Have all employees that have undergone substance abuse training acknowledged, in writing, their attendance at that training and the existence of your company's drug free program policies? Yes No

I hereby certify that all provisions and requirements of the Tennessee Drug-Free Workplace Program as established by T.C.A. have been met and implemented. (To be signed by all applicants)

Owner/Officer's Signature and title _____ Printed name _____ Date _____

Bureau of Workers' Compensation Representative Signature _____ Title _____ Accepted Date _____



TENNESSEE BUREAU OF WORKERS' COMPENSATION

✉ Online

Email: dfw.program@tn.gov
Web: tn.gov/workerscomp

☎ Phone

Phone: (615) 532 1321
Toll Free: (800) 332 2667
Fax: (615) 532 1468

📍 Address

Bureau of Workers' Compensation
220 French Landing Drive Suite 1-B
Nashville, Tennessee 37243

Forms

[DFWP Application](#)
[Poster](#)
[Sample Implementation Forms](#)