

CITY OF MARSHFIELD, WISCONSIN POLICIES AND PROCEDURES

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CHAPTER: Safety

SUBJECT: Drug and Alcohol Testing

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APPROVED BY:

PRIMARY RESPONSIBILITY: City Administrator's office

SPECIAL NOTE: This policy/procedure manual does not in any way constitute an employment contract and the City of Marshfield reserves the right to amend this manual at any time subject only to the approval by the Common Council.

I. STATEMENT OF POLICY

The City of Marshfield recognizes that the use and/or abuse of alcohol or controlled substances by drivers of commercial motor vehicles presents a serious threat to the safety and health of the driver and the general public. It is the policy of the City of Marshfield that its drivers should be free of drugs and alcohol. In order to further the City's goal of obtaining a drug-free and alcohol-free environment, and to come into compliance with the Omnibus Transportation Employee Testing Act of 1991, the City of Marshfield has implemented a drug and alcohol testing program which is designed to help reduce and avoid traffic accidents and injuries to the City's employees and the public, to discourage substance and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

II. PURPOSE

The Department of Transportation (DOT) and the Federal Highway Administration (FHWA) have issued Federal Regulations (49 CFR Parts 40 and 382) implementing the provisions of the federal Omnibus Transportation Employee Testing Act of 1991 which requires alcohol and controlled substance testing of drivers who are required to have a commercial driver's license. These Regulations include detailed procedures for urine drug testing and breath alcohol testing of employees in safety-sensitive positions. The purpose of this policy is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by drivers of commercial motor vehicles. Consequently, the City of Marshfield has established the following alcohol misuse prevention program and anti-drug program as well as the subsequent enforcement of violations for its employees conducting safety-sensitive job functions. Employees should also refer to the City's "Drug-Free and Alcohol-Free Workplace Policy" which addresses the strict enforcement of workplace controlled

substances and alcohol usage.

III. COVERAGE

For purposes of this policy, the City of Marshfield and the DOT strictly prohibit the use of alcohol and/or controlled substances by its employees who are performing, ready to perform, or ceasing to perform the following safety-sensitive job functions:

- 1. Regular operation of a commercial motor vehicle;
- 2. Repair and maintenance of a commercial motor vehicle;
- 3. Occasional, casual, or intermittent operation of a commercial motor vehicle;
- 4. Supervisors who are on stand-by duty to perform a safety-sensitive job.

IV. PROHIBITED CONDUCT

Federal Regulations prohibit employees from engaging in the following conduct:

- 1. Using or possessing alcohol while on duty. Note: Federal Regulations include medications containing alcohol in the substances banned from use or possession in the workplace. Therefore, employees should not report for duty while using or possessing medication if such medication contains any measurable amount of alcohol:
- 2. Using alcohol within eight (8) hours following an accident, unless the employee has already undergone post-accident drug and alcohol testing or is not required to undergo post-accident drug or alcohol testing;
- 3. Reporting for duty or remaining on duty while having an alcohol concentration of 0.04 or greater;
- 4. Consuming any amount of alcohol within four (4) hours before reporting for duty;
- 5. Using controlled substances while on duty, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle:
- 6. Reporting for duty or remaining on duty if the employee tests positive for controlled substances; or
- 7. Refusing to submit to any alcohol or drug testing required by this policy.

In addition, the City of Marshfield policies prohibit employees from engaging in the following conduct:

- a. Possessing, dispensing, distributing, or receiving alcohol or controlled substances while on duty;
- b. Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 but less than 0.04;
- Reporting for duty or remaining on duty while under the influence of alcohol or a controlled substance;
- d. Deliberately misusing this policy in regard to subordinates; and
- 5. Providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution.

Any employee who violates any of the rules set forth above is subject to discipline, up to and including termination.

V. REQUIRED TESTS

Refusal to take a required test will result in removal of that employee from their assignment(s) which, in turn, may result in discipline up to and including termination.

Testing must be conducted in the following situation:

1. Pre-employment Testing

Any individual not currently employed by the City of Marshfield who is applying for a safety-sensitive position shall be required to undergo drug and alcohol testing after a conditional offer of employment has been extended.

Prior to the first time an existing employee performs safety-sensitive functions for the City (i.e. new position, promotion, job transfer, etc.), the employee shall be required to undergo testing for alcohol and controlled substances. A positive result will result in a disqualification from further consideration for the vacancy or eligibility list. Any applicant or existing employee who refuses to undergo such alcohol or drug testing will be disqualified from further consideration for employment in that safety-sensitive position.

2. Reasonable Suspicion Testing

Reasonable suspicion means suspicion based on a specific, contemporaneous observation by a trained supervisor or other trained City of Marshfield representative concerning the appearance, behavior, speech or body odors of an employee, including indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion alcohol testing will only occur under these rules if the supervisor's observations are made during, just before, or just after the time the employee is performing work in a safety-sensitive position. Reasonable suspicion drug testing does not have to be conducted in immediate time proximity to performing safety-sensitive functions.

- a. In a situation where an employee is either acting in an impaired manner and/or the supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the supervisor may order the employee to undergo a drug or alcohol test. The supervisor may, but need not, seek a corroborating opinion from another supervisor prior to immediately removing the employee from the job and sending the employee for drug or alcohol testing.
- b. Once the employee has been removed from the job, the supervisor is to contact the Human Resources Specialist. If contact cannot be made at that time, the supervisor is to proceed through the next step of this procedure and make contact with the Human Resources Specialist as soon as thereafter possible.
- c. The supervisor is to then transport the employee to the collection site for testing immediately, but no later than eight (8) hours for an alcohol test or twenty-four (24) hours for a drug test, of having determined that there is reasonable suspicion to believe that the employee is using or is under the influence of alcohol or drugs. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes such reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test. The supervisor is to wait at the clinic with the employee until the breath test has been completed or the urine sample has been taken. If

the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.

- d. Once the testing has been completed and a positive alcohol confirmation test result has been received (0.02 percent or above), the employee will not be permitted to drive his/her own vehicle home at that time. The employee must make alternative transportation arrangements in order to leave the collection site.
- e. The employee is to be advised not to report for work as s/he will be placed on administrative leave without pay. If a blood alcohol test has been administered, the City of Marshfield will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
- f. The results of the drug testing will be sent directly to the Human Resources Specialist. When the results are obtained, the employee's supervisor and department head will meet with the Human Resources Specialist to determine the appropriate course of action to be taken

This is a <u>confidential</u> process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or termination with anyone who does not need to know.

g. Once the test has been completed and the employee has been sent home, the supervisor must submit a written report to the Human Resources Specialist outlining, in detail, the event and the behavior which was observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be completed within 24 hours of the testing.

3. Random Testing

Random alcohol testing will be conducted just before, during, or just after an employee's performance of safety-sensitive duties. Random drug testing does not have to be conducted in immediate time proximity to performing safety-sensitive functions. The employee will be randomly selected for testing from a "pool" of employees subject to testing. The testing dates and times are unannounced and are with unpredictable frequency throughout the year.

The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of safety-sensitive positions. The minimum annual percentage rate for random drug testing shall be 50 percent of the average number of safety sensitive positions. The City of Marshfield reserves the right to either increase or decrease the minimum annual percentage rate for random alcohol and drug testing based upon the reported violation rate for the entire industry as determined by the Federal Highway Administration and the Federal Regulations implementing drug and alcohol testing.

The selection of employees for random testing shall be administered by the Partners In Health Random Program using a scientifically valid method. This method will be a computer software-based random selection program that is matched with employee social security numbers. Periodically, a list of confidential numbers will be generated and forwarded to the Human Resources Specialist in order that they may contact the employee's supervisor for testing arrangements. Under this selection process, each employee will have an equal chance of being tested each time selections are made. In the event that an employee tests positive for either alcohol or controlled substances, the employee will be subject to disciplinary action up to and including termination.

4. Post-Accident Testing

As soon as practicable following an accident involving a commercial motor vehicle, the City of Marshfield shall test an employee driver for alcohol and controlled substances in the following situations:

- a. the accident involved loss of human life; or
- b. the employee received a citation under State or local law for a moving traffic violation arising from the accident.

The alcohol breath test should be administered within two hours, but must be administered no later than eight (8) hours following the accident, and the drug test must be administered within thirty-two (32) hours of the accident. If the alcohol test is not administered within two (2) hours of the accident, the supervisor will complete a report explaining the reasons for the delay in conducting the test.

An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City of Marshfield to have refused to submit to testing which is treated as if the employee recorded a test result of 0.04 or greater.

4. Return-to-Duty/Follow-Up Testing

The City of Marshfield will ensure that before an employee returns to duty requiring the performance of a safety-sensitive job function after engaging in conduct prohibited in this policy, the driver shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 percent and a verified negative result for controlled substance use. In any event, an employee will not be allowed to return to duty without first having been evaluated by the City of Marshfield EAP provider in order to determine the employee's fitness-for-duty. Such follow-up may be required if an employee has engaged in conduct prohibited by City policy.

Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the City of Marshfield will ensure that the employee is subject to unannounced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse professional. Consequently, the employee will be given at least six (6) random tests during the next 12 month period with the possibility of follow-up testing for up to 60 months after the employee returns to duty.

5. Voluntary

This testing provides an opportunity for all employees (management, supervisory, and non-supervisory) not part of the random pool to demonstrate a commitment to the goal of an alcohol-free and drug-free workplace.

VI. TESTING PROCEDURES

The City of Marshfield has entered into an alcohol and drug testing agreement with Marshfield Laboratories. Testing may be done on both urine and breath (blood alcohol may also be required). All drug and alcohol testing will be conducted in conformance with the procedures and rules established by the Federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations. Marshfield Laboratories will collect the samples (in standard collection kits) from the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, and an on-call technician is available through St. Joseph's Emergency Room all other non-regular business hours and days. Specimen collection is not to be done anywhere but Marshfield Laboratories unless specifically authorized by the Human Resources Specialist.

A. ALCOHOL TESTING

Employees will be required to submit to breath testing using an approved evidential breath testing (EBT) device. A certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City of Marshfield will take action based only upon the positive results of the confirmation test. All procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the federal law and Federal Regulations.

1. PREPARATION FOR BREATH ALCOHOL TESTING

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug and alcohol testing under the Federal Law. These procedures are not binding and are subject to change in the event the Federal Highway Administration or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- a. When the employee enters the collection site, the BAT will require him or her to provide positive identification (i.e. photo I.D.).
- b. The BAT will explain the test procedure.
- c. Employees will be required to complete and sign various forms used to document the test process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- d. Employees will be instructed to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
- e. If employee tests positive during the screening test, the employee shall not eat, drink, put any object or substance in his or her mouth and, to the extent possible, and not belch during the waiting period before the confirmation test. The waiting period is usually 15 minutes, however, it may not exceed 20 minutes.
- f. Refusal by an employee to complete and sign the test form, to provide breath, to provide an adequate amount of breath, or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered a disciplinable offense, up to and including termination. The consequences for refusal are the same as if an employee had an alcohol concentration of 0.04 or greater.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. BLOOD ALCOHOL TESTING

Blood alcohol testing is authorized only in the following circumstances:

- a. When this policy or Federal Regulations requires a post accident or reasonable suspicion test, and an EBT is not readily available for either a screening or confirmation test.
- b. When an employee attempts and fails to provide an adequate amount of breath, blood alcohol testing may be used for both screening and confirmation test purposes.

All blood alcohol testing will be conducted in conformance with the procedures established by the Federal Regulations.

3. RESULTS OF POSITIVE TESTS

Any employee who tests positive for alcohol concentrations of 0.02 or higher is subject to discipline, up to and including termination.

If a confirmation alcohol test measures 0.04 or greater, the City of Marshfield is required to:

- a. Remove the employee from the safety-sensitive position;
- b. Before returning the employee to employment, take the following steps:
 - i. Refer the employee to the City of Marshfield's EAP for assessment and a determination of whether participation in a treatment program is necessary;
 - ii. Obtain written verification from a substance abuse professional that the employee has complied with any required rehabilitation or treatment program; and
 - iii. Re-test to verify that the employee's alcohol concentration is below 0.02;
- c. The employee will subsequently be given at least six random tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039, the employee will be removed from the safety-sensitive position for a minimum of 24 hours following the administration of the test.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee will submit to the examination. The test will be considered enforceable for purposes of this policy, if the testing officer is a qualified BAT and if the EBT that was used for the test has been certified by the State of Wisconsin or a local law enforcement agency.

B. TESTING FOR CONTROLLED SUBSTANCES

The City of Marshfield has established its anti-drug program through its "Alcohol-Free and Drug-Free Workplace Policy" which strictly prohibits the unlawful manufacture, distribution, dispensing, possession, or unauthorized use of a controlled substance in the workplace.

Furthermore, any abnormal conduct that may create a reasonable suspicion that an employee is under the influence of a controlled substance is addressed in the "Reasonable Suspicion Testing" section described previously in this policy.

For purposes of this policy and the Federal Regulations, the City of Marshfield will utilize a 5-panel drug screen consisting of the following drugs:

- a. Tetrahydrocannabinol (marijuana drug)
- b. Cocaine
- c. Amphetamines
- d. Opiates (including heroin)
- e. Phencyclidine (PCP)

In instances where there is reason to believe an employee is abusing a substance other that the five drugs listed above, the City reserves the right to test for additional drugs under the City's own authority using standard laboratory protocols.

Drug testing is conducted by analyzing an employee's urine specimen (through a DHHS certified testing lab). This procedure will include split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a certified lab. Only the "primary" is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be re-tested at the same lab or be sent to another certified laboratory for analysis, at the employee's expense. An employee who fails to notify the medical review officer (MRO) within 72 hours of receiving the results of the positive test of the employee's desire to have the split specimen tested shall be deemed to have waived the employee's right to seek testing of the split specimen.

In some cases the employee may be unable to provide a urine specimen. After a reasonable waiting period (not to exceed one hour) the supervisor may terminate the testing procedure. The City of Marshfield will proceed with laboratory testing based on blood specimen alone.

1. PREPARATION FOR DRUG TESTING

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug testing under the federal law. These procedures are subject to change in the event the Federal Highway Administration or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- a. When the employee enters the collection site, the employee will be required to provide positive identification (i.e. photo I.D.).
- b. The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated "donor" bathroom.
- c. The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).
- d. If the test result of the primary specimen is positive, the employee may request, within 72 hours of receiving the positive test result, that the medical review officer (MRO) direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.
- e. An employee will be removed from the safety-sensitive position pending the result of the test of the split specimen.
- f. If the result of the test of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.
- g. Employees will be required to complete and sign various forms used to document the testing and chain of custody process.
- h. Refusal by an employee to complete and sign the test and chain of custody forms, to provide urine, to provide an adequate amount of urine (to be decided on a case-by-

case basis), or other failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including termination.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. RESULTS OF POSITIVE TEST

Any employee who tests positive for controlled substances is subject to discipline, up to and including termination.

As with an alcohol misuse violation, the City of Marshfield is required to act upon a positive drug test result in the following manner:

- a. Remove the employee from the safety-sensitive position. This removal will only take place after the employee has been allowed to meet or speak with an MRO to determine that the positive drug test did not result from the unauthorized use of a controlled substance;
- Refer the employee to the City of Marshfield's EAP for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made;
- c. Employee must be evaluated by a substance abuse professional or MRO and determined to be fit to return to work prior to their release of the employee;
- d. Employee must have a negative result on a return-to-duty drug test. Follow-up testing to monitor the employee's continued abstinence from drug use will be required if the employee is determined as needing rehabilitation.

VIII. PRESCRIPTIONS AND MEDICATIONS

Before performing work-related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug especially if it contains any measurable amount of alcohol or if it carries a warning label that indicates the employee's mental functioning, motor skills, or judgement may be adversely affected by the use of this medication. A written report of this notification is to be filed by the supervisor with the Human Resources Specialist. It is the responsibility of the employee to inform their physician of the type of safety-sensitive function that they perform in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of their duties or operation of City of Marshfield equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol while on duty or who tests positive for alcohol will be removed from his/her position, and subject to the provisions of this policy, even though the reason for the positive alcohol test is the fact that the employee's prescription medication contains alcohol.

A legally prescribed drug is one in which the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City business is prohibited by the City policy.

IX. CONFIDENTIALITY OF RECORDS

The City of Marshfield respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this policy and the identity of any employee participating in the City of Marshfield's EAP or other assessment or treatment program will not be revealed by the City of

Marshfield to anyone except as required by law. The City of Marshfield will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City of Marshfield will ensure that any lab or agency used to conduct testing under this policy will maintain the confidentiality of employee test records. However, the lab or testing agency will disclose information related to a positive drug or alcohol test of an individual to the City. The City may disclose this information to the employee or to the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas.

The medical review officer (MRO) will not reveal individual test results to anyone except the City of Marshfield, unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the City of Marshfield relevant information as to whether the employee has tested positive for alcohol or a controlled substance. The City may disclose this information to the employee or to the decision maker in a lawsuit, grievance or other proceeding on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas; or upon the tested employee's written authorization and consent.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those employees who have a legitimate need to review the records of a particular employee.

EDUCATION

As required by Federal Regulations, supervisors of CDL holders will be required to attend two hours of drug and alcohol education. One hour will cover alcohol misuse and the other hour will cover controlled substances use. The training shall cover the physical, behavioral, speech, and work performance indicators of probable alcohol misuse and use of controlled substances.

For employees who possess CDL's, the City of Marshfield will provide 2 hours of drug and alcohol training also. This training will focus on the effects of alcohol misuse and drug use on an employee's personal life, and health and safety in the workplace. Training will also cover signs and symptoms of alcohol or drug use and abuse and how to obtain help for a problem.

SYSTEM CONTACTS

Any employee having questions with respect to the scope of this policy and its contents, may contact:

Human Resources Specialist (715) 387-6597 City Hall Plaza 630 South Central Marshfield, WI 54449.

Medical Review Officer Partners In Health Wolfram G. Schynoll, M.D. 2661 County Hwy I Chippewa Falls, WI 54729 (715) 726-3604

Substance Abuse Professional
Marshfield Clinic
Department of Psychiatry and Behavioral Health
Dan Danielson, M.D.
Jerry Olson, M.D.
Tina Desota, M.D.
1000 North Oak Avenue
Marshfield, WI 54449
(715) 387-5442

DHHS Certified Laboratory Primary Specimen Marshfield Clinic 1000 North Oak Avenue Marshfield, WI 54449 (715) 389-4700

DHHS Certified Laboratory Split Specimen Partners In Health Wolfram G. Schynoll, M.D. 2661 County Hwy I Chippewa Falls, WI 54729 (715) 726-3604

EMPLOYEE ACKNOWLEDGEMENT FORM

Detach and return this page to the Human Resources Specialist.

I acknowledge that I have received the City of Marshfield Drug and Alcohol Testing Policy and that this policy has been reviewed with me in a training session conducted by the Human Resources Specialist. I understand that the terms described in this policy may be altered, amended, or changed by the City of Marshfield to comply with the federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations, with or without prior notice.

PRINTED NAME
SIGNATURE
DATE