

Ohio Bureau of Workers' Compensation

30 W. Spring St.

Columbus, OH 43215-2256



Bob Taft

Governor

ohiobwc.com

James Conrad

Administrator/CEO

1-800-OHIOBWC

Dear New Employer:

On Oct. 13, 2004, new legislation will allow employers to seek disallowance of a workers' compensation claim filed by an injured employee who tested positive for alcohol or a controlled substance (drug) not prescribed by the employee's physician. This statute is referred to as the "rebuttable presumption" law because the positive substance test or a refusal to submit to a test is considered proof that intoxication from alcohol or under the influence of a drug was the cause of the employee's injury.

Simply put, once this new law is in effect, if an injured employee tests positive or refuses to test, the burden of proof is on the employee to provide sufficient evidence to show that the injury was not caused by alcohol intoxication or by being under the influence of drugs.

Section 4123.54 (B) of the Ohio Revised Code directs the Ohio Bureau of Workers' Compensation to provide employers making their premium payment each payroll period with a written notice that is on the bottom of the Certificate of Coverage that employers receive when they take out coverage and each half year thereafter when premium is paid. This notice informs employees they may not be eligible for workers' compensation benefits if they are injured while under the influence of drugs or intoxicated. Employers must post this notice along with their Certificate. To seek disallowance of a workers' compensation claim caused by alcohol and/or drugs, you – as an employer – must post the written notice that you will find attached to your Certificate of Coverage; **failure to do so may result in your company forfeiting its rights to this protection.**

Beyond the statutory notice, BWC suggests employers create a written substance abuse policy that outlines for your employees when testing may occur and the consequences for failing a test. A written policy serves as a deterrent and may also protect your company from legal liabilities related to testing while protecting employees' rights and, ultimately, their safety at work. On the reverse side of this letter, you will find what we believe are the core components for a written substance abuse policy.

I also strongly recommend that you go one step further by implementing BWC's Drug-Free Workplace Program (DFWP). With this program, employers can not only reduce drug and alcohol use at work but also save up to 20 percent annually on their premiums while keeping their employees safe at work. Elements of this program include: a written substance abuse policy; annual employee education; supervisor training; drug and alcohol testing; and a list of local resources to turn to for help.

Employers involved in DFWP have clearly benefited from the program by realizing a reduction in accidents and associated costs; a decrease in theft; and an overall increase in employee productivity, all of which positively impacted their bottom lines. For businesses with 25 employees or fewer, BWC has created Drug-Free EZ, which streamlines requirements while maintaining the benefits of DFWP.

There is little doubt drugs and alcohol create costly and potentially deadly burdens in the workplace; substance use and abuse is often the silent and unseen cause of work-related accidents. I encourage you to contact my staff at 1-800-OHIOBWC, or log on to ohiobwc.com to find out more about how BWC can help you control your costs and reduce injuries caused by substance abuse. Don't wait for an accident to happen; BWC is committed to helping Ohio employers provide their workers not only with a drug-free workplace, but also a safe workplace.

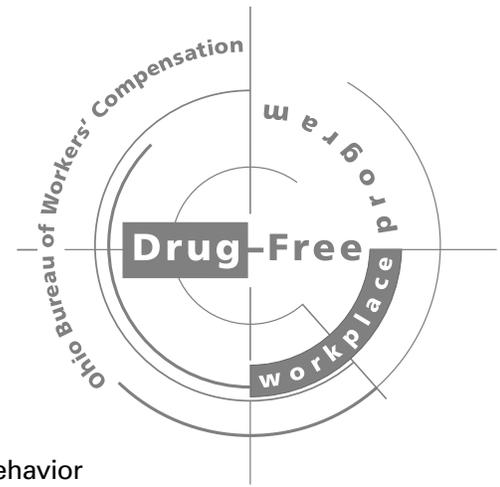
Sincerely,

A handwritten signature in black ink that reads 'James Conrad'. The signature is written in a cursive, flowing style.

James Conrad
Administrator/Chief Executive Officer
Bureau of Workers' Compensation

Written substance policy

BWC recommends employers protect themselves from legal liabilities related to drug and alcohol testing, and protect their employees' rights with a written substance policy. A written substance policy not only holds employees accountable for safe behavior at work but also serves as a strong deterrent for preventing substance abuse in the workplace.



BWC recommends a written substance policy include, at minimum, the following components:

- A reason for the policy, such as establishing a drug-free policy and testing procedure to promote employee safety, health, productivity and the prevention of workplace injuries;
- A commitment both to discussion of the policy prior to its implementation and periodic discussion thereafter for current and new employees;
- A list of substances for which testing will occur, such as alcohol and controlled substances, medications not prescribed by the employee's physician or not taken as prescribed, and over-the-counter medications;
- A statement that explains prohibited employee conduct and the consequences for employees who violate the policy (including that an employee's refusal to submit to testing is equivalent to a positive result);
- A statement that supervisors will receive training on testing procedures prior to implementation of the policy;
- A commitment to annual education of employees on the dangers of substance use and a discussion of the written policy to ensure everyone understands and complies.

Employers should have legal counsel review the policy before it is enacted. For more information on other services BWC provides to reduce substance abuse in the workplace, call **1-800-OHIOBWC** or log on to **ohiobwc.com**.