

POLICY MANUAL

Subject: Employee Substance Abuse

Effective Date: 12/01/01

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Review Dates: 3/14 cdb

Revision Dates: 10/02 CSF; 6/03 CSF;
02/07 cdb; 09/08 cdb; 01/12 cdb; 01/13 cdb

POLICY:

Cumberland Heights is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any Cumberland Heights employee illegally uses drugs on or off the job, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore, Cumberland Heights has established the following policy, pursuant to T.C.A. Section 50-9-100 et. seq.:

1. It is a violation of company policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job;
2. It is a violation of company policy for any employee to report to work under the influence of or while possessing in his or her body, blood, or urine, illegal drugs in any detectable amount;
3. It is a violation of company policy for any employee to report to work under the influence of or impaired by alcohol;
4. It is a violation of the company policy for any employee to use prescription drugs illegally (i.e. to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed). Examples of this may include, but are not limited to, use of prescription drugs that have not been specifically prescribed to the employee or taking more of a prescription than specifically prescribed. Please note that nothing in this policy precludes the appropriate use of legally prescribed medications; and
5. Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of Cumberland Heights' supervisors to address changes in employee performance or behavior that suggests an employee has a drug problem. Although it is NOT the supervisor's job to diagnose and/or counsel the employee regarding personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at Cumberland Heights.

As a condition of employment, employees must abide by the terms of this policy and must notify Cumberland Heights in writing of any conviction of a violation of a criminal drug statute, other than a misdemeanor, no later than five calendar days after such conviction.

It should be further noted that this policy applies to all employees and interns.

It is the responsibility of every employee to notify the testing laboratory of any administrative or civil action brought pursuant to TCA Section 50-9-100 et. seq., Drug-Free Workplace Programs.

The provisions of this policy are subject to any applicable collective bargaining agreement or contract and include the right of appeal to the applicable court.

Employee Assistance Program (EAP)

Cumberland Heights offers an Employee Assistance Program (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral, and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary costs may be covered by the employee's medical insurance; but the cost of such outside services are the employees' responsibility.

Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to supervisors without the expressed written consent of the employee, nor will it be included in the permanent personnel file.

Participation in the EAP will not effect an employee's career advancement or employment, nor will it protect an employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not a substitute for discipline.

The EAP can be accessed by an employee through self-referral or through referral by a supervisor. Information about the EAP is available to employees for their confidential use upon hire and during their orientation period as well as being accessible via the Cumberland Heights' Intranet and through ADP.

Confidentiality

1. The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.
2. This does not prohibit Cumberland Heights or the laboratory conducting the test from having access to employee drug or alcohol test information or using such information when consulting with legal counsel. Neither does it prohibit disclosure among management as is reasonably necessary for making disciplinary decisions.

Employee Drug Testing

Cumberland Heights has adopted testing practices to identify employees who illegally use drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the circumstances provided in the procedures below.

PROCEDURE:

General Procedures for New Employee Drug Testing

1. All new employees at Cumberland Heights will undergo testing for substance abuse as a condition of employment. Any new employee with a confirmed positive test result will be denied employment.
2. New employees will be required to submit voluntarily to a urinalysis (or urine drug screen) at a contracted laboratory or medical facility chosen by Cumberland Heights, and, by signing a consent agreement, will release Cumberland Heights from liability (see Employee Substance Abuse Testing Program Consent and Release Form).
3. If the physician, official or lab personnel have reasonable suspicion to believe that the new employee has tampered with the specimen, the new employee will not be considered for employment.
4. Cumberland Heights will not discriminate against any persons for employment because of a past history of drug or alcohol abuse. It is the CURRENT illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that Cumberland Heights will not tolerate.

What is Reasonable Suspicion?

Reasonable suspicion occurs when the employer is led to believe that an employee is illegally using drugs or abusing alcohol. "Reasonable suspicion" is based on a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:

- a. observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- b. abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- c. a report of substance abuse provided by a reliable and credible source;
- d. evidence that an individual has tampered with any substance abuse test during his/her employment;
- e. information that an employee has caused or contributed to an accident while at work; or
- f. evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

General Procedures for Reasonable Suspicion in the Workplace/On the Job

Any employee reporting to work visibly impaired will be deemed unable to perform the required duties and will not be allowed to work. Any claim of reasonable suspicion should be reported to the employee's supervisor, another manager/senior staff member, and/or Human Resources.

- a. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status.

- b. Next, the supervisor and another manager/senior staff member will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred.
- c. If, in the opinion of the supervisor and another manager/senior staff member, the employee is considered impaired, the employee will be transported to a contracted laboratory or medical facility accompanied by the supervisor or designee along with another employee. A drug and/or alcohol test may be in order.
- d. Cumberland Heights will use all reasonable measures not to allow an impaired employee to drive.
- e. A drug and/or alcohol test should be obtained.
- f. Refusal to allow testing will be considered a positive result.

General Procedures for Reasonable Suspicion outside the Workplace/Off the Job

In the event that a claim of reasonable suspicion has been reported by a reliable and credible source to any employee's supervisor or another manager/senior staff member and/or to Human Resources and the employee under suspicion is NOT currently in the workplace, there may be sufficient cause to believe that the employee could be deemed unable to report to work.

- a. If possible, the person receiving the claim of reasonable suspicion will immediately consult with the employee's supervisor and/or Human Resources to evaluate the claim.
- b. Next, the employee's supervisor along with another manager/senior staff member or Human Resources will contact the employee to privately discuss the claim of reasonable suspicion, including whether substance abuse has occurred. The employee will be allowed to respond to the claim.
- c. If, in the opinion of the supervisor and another manager/senior staff member, the employee claim is considered to have reason to be suspicious, the employee will be asked to report to a contracted laboratory or medical facility, preferably accompanied by another individual of the employee's choosing. A drug and/or alcohol test may be in order.
- d. Cumberland Heights will use all reasonable measures to convince an impaired employee not to drive him/herself.
- e. A drug and/or alcohol test should be obtained.
- f. Refusal to allow testing will be considered a positive result.

What Happens After a Reasonable Suspicion Drug Test?

Within **seven (7)** days of the circumstances which warranted reasonable suspicion drug testing, as described above, those circumstances shall be documented in writing by the employee's supervisor. A copy will be given to the employee and one copy will be maintained in a confidential file in Human Resources.

Employees reported as having a positive test will be referred to the EAP. They may also be subject to disciplinary action, up to and including termination.

What Are Other Circumstances that would warrant a Drug Test?

When employees have caused and/or contributed to an on-the-job injury that resulted in a loss of work-time, which means any period of time during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider, Cumberland Heights may send employees for a substance abuse test. In addition, Cumberland Heights may send employees for a substance abuse test if:

- a. They are involved in on-the-job accidents where personal injury or damage to company property occurs; or
- b. As part of a follow-up program to treatment for drug abuse, for a minimum of one (1) year.

What are the Circumstances that would warrant an Alcohol Test?

The consumption or possession of alcoholic beverages on any Cumberland Heights' premises is prohibited.

Any employee whose normal faculties is impaired due to alcoholic beverages, or whose blood alcohol level tests positive (0.10% by weight for non-safety sensitive positions or 0.04% for safety sensitive positions), while on duty or while conducting Cumberland Heights' business shall be guilty of misconduct, and shall be subject to discipline up to and including termination.

The same procedures for reasonable suspicion will apply. All blood alcohol testing will be conducted at a contracted laboratory or medical facility.

Refusal to Submit

Failure to submit to a required substance abuse and/or blood alcohol test also is misconduct and shall be subject to disciplinary action, up to and including termination.

Information Provided by Employees Prior to and During Testing

Employees will be provided with a Treatment Authorization Form for the contracted laboratory or medical facility by Human Resources. For those employees who are being tested for reasonable suspicion outside of the workplace, the contracted laboratory or medical facility will be notified by Human Resources and a Treatment Authorization Form will be provided to the contracted laboratory or medical facility.

1. The employee will be instructed to report to the contracted laboratory or medical facility. New employees must report on or before their start date. All other employees should report as instructed by Human Resources.
2. It is suggested that prior to the drug and/or alcohol test the employee make note of any currently or recently used prescription or non-prescription medication or other relevant information that may alter or affect the outcome of a drug or alcohol test (see List of Drugs/Alcohol for which Employees are Tested). The information form should be kept by the employee for their personal use only. The information is not expected to be discussed with the specimen collector at the contracted laboratory or medical facility or with anyone at Cumberland Heights.
3. Employees will be required to remain on the premises of the contracted laboratory or medical facility until the drug and/or alcohol test is completed. Leaving the premises before the drug and/or alcohol test is completed voids the testing process and may be assumed to be a positive test result.
4. Employees will be provided two (2) copies of a Tennessee Drug Free Workplace Chain of Custody Form as verification that the employee has submitted a specimen. One copy is for the employee and the second copy should be returned to Human Resources. There are no results on this form; it is just proof that you have completed the test.
5. If the employee has a positive confirmed test result, a contracted Medical Review Officer (MRO) will attempt to contact the employee in order to privately discuss the findings with that person. The employee should keep the information noted above as a "reminder" to discuss this information with the MRO at that time.
6. The contracted Medical Review Officer (MRO) will take this noted information into account when interpreting any positive confirmed test results and/or may take action to verify any information

that he/she considers relevant to the confirmed positive test results. The information provided by the employee shall be treated as confidential and will NOT be given to the employer.

7. Employees have the right to consult with the contracted Medical Review Officer (MRO) for technical information regarding prescription and non-prescription medicine.
8. If the Medical Review Officer (MRO) determines, after review of all information, that a positive test is valid, s/he shall report results to the Human Resources as a positive test result.
9. All negative test results will be reported to Human Resources.
10. All drug and alcohol test results are maintained in a confidential file in Human Resources.

Opportunity to Contest or Explain Test Results

Employees who have a positive confirmed drug or alcohol test result may explain or contest the result to the contracted Medical Review Officer (MRO) within five (5) working days after receiving notification of the test result from the MRO. A person may contest the drug test result pursuant to rules adopted by the Tennessee Department of Labor.

If an employee's explanation or challenge is unsatisfactory to the MRO, the MRO shall report a positive test result back to Human Resources. The Human Resources Director will notify the employee's supervisor and/or the supervising executive manager.

Who pays for the drug testing?

Cumberland Heights will pay the cost of initial and confirmation testing which it requires of employees. The employee shall pay the costs of any additional drug or alcohol tests not required by the employer.

Where testing of a split-specimen is requested, the party requesting the re-test shall pay the cost.

List of Drugs/Alcohol for which Employees Are Tested

1. **Amphetamines** – "speed," "uppers," etc.
2. **Cannabinoids** – THC, marijuana, hashish, "pot," "grass," "hash," etc.
3. **Cocaine** – "coke," "crack," etc.
4. **Benzodiazepines** – Ativan, Valium, Xanax, anti-depressants, sleeping pills, "downers," etc.
5. **Phencyclidines** – PCP, "angel dust," etc.
6. **Opiates** – Narcotics, Heroin, Codeine, Morphine, "smack," "dope," etc.
7. **Propoxyphene** – Darvacet, etc.
8. **Barbituates** – Sleep aids, "barbs," "yellows," etc.
9. **Methadone**
10. **Methaqualone** – Quaaludes, Sopor, "ludes," "quads," etc.
11. **Alcohol** – (not required for new employee testing) any "alcoholic beverage," including all liquid medications containing ethyl alcohol (ethanol). Please read the label for content. For example, Vicks Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contac Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).

Required Training/Education

1. Every employee is required to complete an online annual training on the signs and symptoms of addiction titled "Drug Free Workplace-All Employees."
2. Every supervisor is required to complete an additional online annual training on how to detect and intervene on substance abuse in the workplace titled "Drug Free Workplace-Supervisors."