



## NOTICE OF POLICY CHANGE

To: All Employees

From: Clinton County Board of County Commissioners  
Mike Curry, President  
Kerry R. Steed, Vice President  
Patrick Haley

Date: November 2, 2016

Re: Revised Drug-Free Workplace Policy Effective November 2, 2016

On June 8, 2016, Ohio Sub HB 523 was enacted, which authorizes certain health providers to prescribe limited types of medicinal marijuana to qualifying patients. Ohio's medical marijuana law took effect on September 8, 2016. Clinton County has established and maintains a Drug-Free Workplace Policy that is unaffected by the Ohio Sub HB 523 or Ohio's medical marijuana law.

Clinton County has a zero-tolerance policy for employees who are impaired by prescription medication or who are under the influence of illegal drugs or alcohol while at work. Employees who are using marijuana with a valid prescription or authorized by Ohio law are not exempt from this policy.

The use of marijuana with or without a valid prescription or as authorized by law will be treated the same as the use of all other illegal drugs or the abuse of legal drugs. Employees using illegal drugs, including marijuana for any purpose including medicinal, are still subject to all provisions of this policy and may be terminated for such use.

Employees are advised of the following:

1. Clinton County does not permit or accommodate an employee's use, possession, or distribution of medical marijuana;
2. Clinton County may refuse to hire or may discharge, discipline or take other action against an individual because of that person's use, possession, or distribution of medical marijuana;
3. An employee who tests positive for or refuses to submit to a drug test may be disqualified for compensation and benefits under the Ohio Workers' Compensation Act;
4. Because use, possession or distribution of marijuana is a violation of the Drug-Free Workplace Policy, employees who are discharged for those reasons will be considered to have been discharged for just cause for purpose of unemployment compensation or other post-termination pay or benefits.

The Drug-Free Workplace Policy continues to apply regardless of whether the employee's use, possession, or distribution of marijuana was obtained or conducted in Ohio or other states.

### ACKNOWLEDGMENT

I acknowledge that I have read and understand this Memorandum regarding Medical Marijuana & the Drug-Free Workplace Policy. I have received, read and understand the full policy as revised November 2, 2016 and agree to follow its terms.

\_\_\_\_\_  
Employee Name (Print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

## CLINTON COUNTY DRUG-FREE WORKPLACE POLICY

REVISED EFFECTIVE NOVEMBER 2, 2016

APPROVED BY CLINTON COUNTY BOARD OF COUNTY COMMISSIONERS 11/2/16

### Drug-Free Workplace

Employees who believe that they may have an alcohol or drug addiction problem are encouraged to seek professional treatment and assistance. No employee who seeks such treatment or assistance *prior to detection* will have his job security, promotional opportunities, or other job conditions jeopardized by a request for treatment. The individual's right to confidentiality and privacy will be recognized in such cases. The County will reasonably accommodate a recovering employee's alcohol or drug addiction in accordance with federal and state law.

Treatment pursuant to this accommodation policy will not result in any special regulations, privileges, or exemptions from standard administrative procedures, practices, or policies including disciplinary action. The County may take disciplinary action for any violations of work rules, regardless of the effect of alcohol or drug abuse. Nothing in this policy shall be construed to condone or exonerate employees from their misconduct or poor performance resulting from a drug or alcohol problem.

The County maintains a drug and alcohol free workplace<sup>1</sup> in order to eliminate the inherent risks and liability to the County, the affected employee, co-workers and the public. Employees are hereby notified that the manufacture, distribution, dispensing, possession, use or being under the influence of alcohol, drugs or other controlled substance is strictly prohibited during working hours at any location where employees are conducting County business. Also prohibited is the illegal use of legal substances.

In order to further the County's objective of maintaining a safe, healthful, and drug-free workplace, the County may require an employee to submit to a urine and/or blood test if there is reasonable suspicion to believe that an employee is under the influence of a controlled substance or alcohol. Refusal to submit to a drug or alcohol test and/or to release the results of the same shall be considered insubordination and will be construed as a positive test result.

Employees are put on notice that an employee who is under the influence of drugs or alcohol may forfeit their right to obtain workers compensation benefits. The law establishes a rebuttable presumption that if an injured worker tests positive for the use of drugs or alcohol, the worker will have to prove the use of drugs or alcohol did not cause the accident. A refusal to test for the use of drugs or alcohol will also establish the presumption. Employees who are involved with a workplace accident may be required to undergo drug and/or alcohol testing in accordance with this policy.

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<sup>1</sup> As set forth in detail in paragraph B 8 below medical marijuana use as authorized by state law is not exempted from the County's drug and alcohol free workplace policy, constitutes a violation of this policy, and employees are subject to discipline up to and including discharge for any violation of this policy, including use of medical marijuana.

## A. Drug-Free Policy

- 1) Controlled Substance: Means any controlled substance contained in Schedules 1 through V of Section 202 of the Controlled Substance Act (21 U.S.C. § 812; or as defined in § 3719.01 O.R.C.).
- 2) Conviction: Means any finding of guilt, including a plea of *nolo contendere* (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- 3) Criminal Drug Statute: Means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance. For purposes of this policy all definitions will be consonant with O.R.C. § 3719.01 *et seq.*
- 4) The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee which takes place in whole or in part in the employer's work place is strictly prohibited and will result in criminal prosecution and employee discipline.
- 5) Any employee arrested or convicted of any Federal or State criminal drug statute must notify the employer of that fact immediately, but in no event longer than five (5) calendar days, of the arrest or conviction.
- 6) Any employee who reports for duty in an altered or impaired condition which is the result of the illegal use of controlled substances and/or alcohol will be subject to disciplinary action up to and including removal. Any decision to take disciplinary action may be held in abeyance pending the completion by the employee of a drug rehabilitation program.
- 7) Any employee arrested or convicted of a drug or alcohol offense, who fails to timely report the arrest or conviction, may be terminated from employment and/or held civilly liable for any damage caused, including a loss of state or federal funds, resulting from the misconduct.
- 8) The County has a zero tolerance policy for employees who are under the influence of drugs or alcohol while at work. Employees who are using medical marijuana as authorized by Ohio law are not exempt from this policy in any way. The use of marijuana in any form for any purpose, authorized for medicinal purposes or unauthorized, will be treated the same as the use of all other Schedule 1 controlled substances, illegal drugs, or the abuse of legal drugs. Employees using Schedule 1 controlled substances or illegal drugs, including medical marijuana authorized by and in accordance with Ohio law, are still subject to all provisions of this policy and may be subject to discipline including termination for such use.

## B. Drug and Alcohol Testing

- 1) In order to maintain a safe and healthful work environment, the County reserves the right to set standards for employment and to require employees to submit to physical examinations including blood or urine tests for alcohol, illegal drugs, or the misuse of legal drugs where there is reasonable suspicion that an employee's work performance is, or could be, affected by the condition.

- 2) Where the County has a reasonable suspicion to believe that the employee is in violation of this policy, it may require the employee to go to a medical clinic, at the County's expense, to provide blood and/or urine specimens. Reasonable suspicion shall generally mean suspicion based on personal observation by a County representative, including descriptions of appearance, behavior, speech, breath, or inexplicable behavior.
- 3) If requested, the employee shall sign a consent form authorizing the clinic to withdraw a specimen of blood or urine and release the test results to the County. Refusal to sign a consent form or to provide a specimen will constitute insubordination and a presumption of impairment and may result in discharge.
- 4) Any employee who tests positive may request retesting of the original specimen at their own expense.
- 5) Employees who test positive for illegal substance abuse or misuse of legal drugs and/or alcohol may be offered rehabilitation through the County Employee Assistance Program. Any costs related to the rehabilitation shall be paid by the employee. Employees must take any available, accumulated, paid or unpaid leave during their absence. Failure to fully participate in or successfully complete such a rehabilitation program may result in disciplinary action.
- 6) Employees who return to work after the successful rehabilitation will be subject to random drug tests for a period of two years from the date of their return.
- 7) Employees subject to random drug tests who refuse to participate in the drug/alcohol testing and/or rehabilitation program or who continue to test positive for substance abuse will face additional disciplinary actions, up to and including discharge.
- 8) Any employee involved in an accident may be subject to post accident alcohol and drug/alcohol testing.
- 9) Employees who are required to hold a commercial driver's license (CDL) will be required to participate in the County's drug and alcohol testing program as required by federal law which includes pre-employment testing, post-accident testing, random testing, reasonable suspicion testing, and return-to-work testing. Policies and procedures for these programs will be consistent with federal law and will be made available to employees required to hold CDL's and their supervisors.

### **C. Discipline**

The County may discipline an employee, for any violation of this policy. Nothing herein shall be construed as a guarantee that the County will offer an opportunity for rehabilitation. Failure to successfully complete or participate in a prescribed rehabilitation program, if offered, shall result in the employee's discharge (including a refusal to test or a positive test result on a return to duty or follow-up test). No employee shall be provided more than one opportunity at rehabilitation. The County's decision whether to discharge an employee

shall be made on the basis of the circumstances surrounding the employee's positive drug or alcohol test and other considerations including but not limited to other misconduct resulting from the employee's substance abuse (e.g. injury, property damage) the employee's work record, and other factors traditionally considered when determining whether or not to retain an employee.

#### **D. Refusal to Test**

Employees who refuse to submit to the required testing shall be subject to disciplinary action up to and including discharge. A refusal to test for purposes of this policy shall include:

- 1) Failure to provide a sufficient sample provided there does not exist a valid medical explanation as to why the employee was unable to do so.
- 2) Any conduct that attempts to obstruct the testing process such as unavailability, leaving the scene of an accident without proper authorization, delay in providing a sample, adulterating, substituting or attempting to adulterate or substitute a specimen during the testing process, regardless of whether such attempt results in a negative or positive diluted sample.
- 3) Failure to execute or release forms required as part of the testing process.

#### **E. Prescription/OTC Medications.**

Employees must inform the County if they are taking any medication that may impair their ability to perform their job. Employees on such medications must provide a written release from their treating licensed medical practitioner indicating that they are capable of performing their essential job functions, with or without reasonable accommodation. Employees are prohibited from performing any County function or duty while taking legal drugs that adversely affect their ability to safely perform any such function or duty.

Employee use of prescription or over-the counter drugs must be utilized for medical reasons, taken at the dosage and frequency of use prescribed on the label, and, in the case of prescription drugs, prescribed to employees for medical reasons by a licensed medical practitioner. An employee's use of the prescription or over-the-counter drugs shall not affect the employee's job performance, threaten the safety, productivity, public image or property of the County or its employees, or result in criminal behavior.

Revised November 2, 2016