

## Liberty Healthcare Corporation and Affiliates (Liberty) Standard Operating Policies

<b>Title:</b>	<b>Drug Policy</b>	<b>Effective Date:</b>	<b>03/01/2012</b>
<b>Author:</b>	<b>Camille Tanner</b>	<b>Last Review Date:</b>	<b>06/22/2021</b>
<b>Location:</b>	<b>All Locations</b>	<b>Last Revision Date:</b>	
<b>Functional Area:</b>	<b>Human Resources</b>		

### POLICY

Liberty Healthcare Corporation (hereinafter “Liberty”) prohibits the use, possession, or sale of illicit drugs in the workplace or when conducting Liberty business and requires its employees and prospective employees to be free from illicit drugs and to be free from the influence of alcohol in order to assure the safety of its operations, employees, and communities in which it operates, and to protect the clients/individuals for whom we provide service.

### PURPOSE

Liberty is committed to achieving a safe work environment free from drug abuse and the influence of alcohol through education, intervention and, if appropriate, disciplinary measures.

### PROCEDURE

#### Employee Assistance

Liberty considers each employee a valuable team member and makes available to its employees’ programs for their development as well as programs of assistance. For chemically dependent employees, Liberty provides assistance with their illness, with sensitivity and confidentiality. An employee with substance abuse related problems may refer himself or herself or be referred by a supervisor, to the Employee Assistance Program, in which case the employee's treatment may be administered. Any costs associated with this treatment that are not covered by the health insurance plan will be the employee's responsibility. Participation in such programs, however, will not reduce or eliminate any discipline for a violation of this Policy but is intended solely as a means to avoid violating this Policy.

#### The Alcohol/Drug Testing Policy - What Employees Need to Know

##### 1. **What is prohibited?**

The following activities are prohibited during working hours or while on Liberty business, Liberty premises or on any Liberty worksite, including private vehicles parked on Liberty owned or leased premises or worksites:

- a. The possession, use, consumption, sale, purchase, transfer, distribution and/or transportation of a Controlled Substance.
- b. The possession, distribution, transportation, consumption, sale, purchase and/or transfer of any alcoholic or brewed beverage (except when authorized in advance in writing).
- c. Being under the influence of alcohol, Controlled Substances, or otherwise intoxicated, regardless of whether consumed or used during or outside of work time, including lunch.

##### 2. **Who is subject to testing?**

All employees and prospective employees are subject to testing pursuant to this Policy.

##### 3. **Under what circumstances can testing be required?**

- a. Pre-Employment testing - All prospective applicants for employment may be required, following a conditional offer of employment, to sign a Medical Examination Authorization and complete a drug and alcohol test pursuant to the procedures in this Policy.

- b. Random selection basis- All employees shall be subject to testing on a "Random selection basis." "Random selection basis" means a mechanism for selecting employees for alcohol or drug testing that results in an equal probability that an employee from the employees who are subject to the selection process will be selected, this does not give Liberty discretion to waive the selection of any employee selected under the mechanism.
- c. Reasonable Suspicion Testing - "Reasonable suspicion" means a belief that an employee is using or has used drugs or alcohol in violation of Liberty's written policy drawn from the specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:
  - 1. observable phenomena, such as: the physical symptoms or manifestations of being under the influence of a drug or alcohol use while at work or on duty;
  - 2. a report of drug or alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated;
  - 3. evidence that an individual has tampered with a drug or alcohol test during his employment with the current employer;
  - 4. evidence that an employee is involved in the use, possession, sale, solicitation, manufacture or transfer of drugs while on duty or while on the employer's premises or operating Liberty's vehicle, machinery or equipment.
- d. Occupational Injury - All cases of occupational Injuries requiring medical treatment are subject to testing or accidental circumstances resulting in property damage in excess of \$500.
- e. Motor vehicle accident - testing will occur if an accident occurs while driving employer's vehicle.
- f. Scheduled Periodic Testing - Liberty may require an employee to undergo drug or alcohol testing if the test is conducted as a routine part of a routinely scheduled employee fitness-for-duty medical examination or is scheduled routinely for all employees.
- g. Post-Rehabilitation Testing - Liberty may require an employee to undergo drug or alcohol testing without prior notice for a period of up to 2 years commencing with the employee's return to work following participation in a drug or alcohol dependency treatment program.

#### 4. **What are the testing methods?**

The testing method differs depending on the substance being tested for and the level of testing being performed. All employees may undergo an initial test. For initial alcohol testing the applicant or employee may be required to produce a saliva specimen. For initial drug testing, the applicant or employee will be required to produce a urine specimen. If either initial test yields a "negative" finding, meaning no impermissible levels of drugs or alcohol have been detected, then that employee or applicant shall not be required to undergo confirmatory testing.

If, however, the initial test yields a "positive" finding, meaning that impermissible levels of either drugs or alcohol have been detected, then the employee will undergo a confirmatory test. For confirmatory alcohol testing, the employee or applicant shall undergo evidential breath testing. For confirmatory drug testing, like the initial drug testing, a urine specimen will be analyzed.

#### 5. **What are the collection procedures?**

All sample collection and testing for alcohol and drugs pursuant to this Policy shall be conducted in accordance with the following conditions:

- a. Samples shall be collected and tested only by individuals deemed qualified.
- b. The collection of samples shall be performed under reasonable and sanitary conditions.
- c. A sample shall be collected in sufficient quantity for splitting into two separate specimens, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen.
- d. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no representative of Liberty shall directly observe an applicant or an employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably

calculated to prevent institutions or interference with the collection or testing of reliable samples.

- e. Sample collection shall be conducted under chain of custody procedures. A written record of the chain of custody of the sample shall be maintained from the time of collection of the sample until the sample is no longer required.
- f. Sample collections and storage shall be performed so as to reasonably preclude the probability of sample contamination or adulteration.
- g. Sample testing shall conform to scientifically accepted analytical methods and procedures.

**6. What are the consequences of refusing to undergo testing?**

An applicant or an employee who refuses to sign a Medical Examination Authorization and submit to an alcohol and/or drug test shall be presumed to be under the influence of or using alcohol and/or drugs and shall be discharged without recourse. An employee discharged on the basis of a refusal to undergo alcohol or drug testing shall be considered to have been discharged for misconduct for purposes of unemployment compensation benefits as provided by law.

**7. Which substances will be tested for and what quantity would establish a "positive" initial test result?**

The following list of alcohol and drugs will be screened for during the initial test. The quantity in parentheses represents the amount required to establish a positive initial test result:

- a. Alcohol (ethanol) (.04% blood alcohol level).
- b. Marijuana Metabolites (50 ng/ml).
- c. Cocaine Metabolites (300 ng/ml).
- d. Opiate/Synthetic Narcotics (300 ng/ml. 25 ng/ml if immunoassay specific for free morphine). This category includes codeine, hydrocodone, hydromorphone, meperidine (1000 ng/ml shall be a positive result for meperidine). methadone, oxycodone, propoxyphene, heroin and morphine.
- e. Phencyclidine (25 ng/ml).
- f. Amphetamines (1,000 ng/ml). This category includes amphetamines, methamphetamines, methylenedioxymphetamine, and phentermine.
- g. Barbiturates (300 ng/ml). This category includes amobarbital, butalbital, pentobarbital, and secobarbital.
- h. Benzodiazepines (300 ng/ml). This category includes diazepam, chlordiazepoxide, alprazolam and clorazepate.
- i. Methaqualone (300 ng/ml).

**8. What are the consequences of a "positive" initial test result?**

**Confirmatory Drug Testing**

As described above (See Question 4), if an applicant or employee produces a positive" drug sample during the initial test, that employee or applicant will undergo a confirmatory drug test. The confirmatory drug test will analyze a urine specimen utilizing gas chromatography/mass spectrometry ("GC/MS") techniques. All confirmatory urine drug testing shall be performed by a testing facility that is certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists. GC/MS confirmation will employ internal standardization, quantitative procedures using the following cutoff values for reporting a "positive" confirmatory test result:

- a. Marijuana Metabolites (15 ng/ml) (Delta-9-tetrahydrocannabinol-9-carboxylic acid).
- b. Cocaine Metabolites (159 ng/ml) (Benzoylecgonine).
- c. Opiate/Synthetic Narcotics, (300 ng/ml) (this category includes the list of drugs at part d) of Question 7, however, a confirmatory test level of 500 ng/ml shall be used for meperidine).
- d. Phencyclidine (25 ng/ml).
- e. Amphetamines (500 ng/ml) (this category includes the list of drugs at part (e) of Question 7).
- f. Barbiturates (200 ng/ml) (this category includes the list of drugs at part (g) of Question 7).

- g. Benzodiazepines (300 ng/ml) (this category includes the list of drugs at part (h) of Question. 7).
- h. Methaqualone (300 ng/ml).

### **Confirmatory Alcohol Testing**

Also, as described above (see Question 4) if an applicant or employee produces a "positive" initial alcohol test, that employee or applicant will undergo a confirmatory alcohol test. In the case of confirmatory alcohol test, an evidential breath testing device shall be used. A confirmatory alcohol test that reveals a blood alcohol level of .04% or higher will be deemed a "positive" result.

9. **What are the consequences of a "positive" confirmatory test result?**

If an employee's confirmatory test sample is "positive" for the presence of impermissible levels of alcohol, or drugs, that employee is subject to discipline, up to and including discharge from employment. If an applicant's confirmatory test sample is "positive" for the presence of impermissible levels of alcohol or drugs, that applicant may be refused employment with the Liberty. Any and all disciplinary decisions with respect to "positive" confirmatory alcohol and/or drug test, results are at the sole discretion of Liberty.

10. **What should an employee do if he or she is currently taking prescription or non-prescription medication?**

Individuals being tested shall note, at the time of collection the use of any prescription or non-prescription medications before a specimen is given and shall provide evidence that a prescription medication has been lawfully prescribed by a physician. The laboratory will report significant presence of all prescription and non-prescription medications. Individuals who fail to provide this advance notification and information will not be employed or, if employed, may be discharged if tested positive for any drugs or alcohol.

Use of medication prescribed for another person shall be considered to be illegally used and result in the individual not being employed or, if employed, discharged. Following notification of a positive test result, the applicant or employee shall have the right to explain, in confidence, the test results.

11. **What are the rights of an applicant or employee to explain, in confidence, the test results?**

Following a "positive" confirmatory test result, the applicant or employee shall be afforded the opportunity to explain, in confidence that result with a supervisory official of Liberty. An employee cannot be terminated, nor can an applicant be refused employment on the basis of a "positive" confirmatory test result unless that employee or applicant is first afforded the opportunity to explain the test results to a designated Liberty official.

12. **What are the rights of an applicant or employee to obtain all information and records related to that Individual's testing?**

Liberty shall maintain all drug and alcohol test results and related information, including, but not limited to, interviews, reports, statements and memoranda, as confidential records, separate from other personnel records. Such records, including the records of the testing facility, shall not be used in any criminal proceeding, or any civil or administrative proceeding, except in those actions taken by the employer or in any action involving the individual tested and the employer or unless such records are ordered released pursuant to a valid court order.

These results and related information shall be the property of Liberty and, upon request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. Liberty shall not release such records to any person other than the applicant, employee or appropriate Liberty official, unless the applicant or employee, in writing following receipt of the test results, has expressly granted permission for Liberty to release such records or pursuant to a valid court order.

13. **What are the confidentiality requirements of the Policy?**

A testing facility, or any agent, representative or designee of the testing facility, or any review officer, shall not disclose to Liberty, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of alcohol or drugs any information relating to: (a) the general health, pregnancy or other physical or mental condition of the applicant or employee or (b) the presence of any drug other than the drug or its metabolites that the Liberty requested be identified and for which a medically acceptable explanation of the positive result, other than the use of drugs, has not been forthcoming from the applicant or employee. A testing facility shall release the results of the drug or alcohol test, and any analysis and

information related thereto, to the individual tested upon his/her request.

**14. What are the procedures for appealing a test result or disciplinary action resulting from this Policy?**

Any applicant or employee wishing to challenge the results of a "positive" confirmatory test result may do so by requesting a retest at his or her own expense. If the retest reverses the findings of the challenged "positive" test, Liberty shall reimburse the applicant or employee for the costs of the retest.

Any drug or alcohol testing by Liberty shall occur during or immediately after the regular work period of current employees and shall be deemed work time for purposes of compensation and benefits for current employees. Liberty will pay all costs of testing for drugs and alcohol required by Liberty, including confirmatory tests and transportation if the testing is conducted at a place other than the workplace.

**15. How can an applicant or employee appeal a disciplinary action resulting from this Policy?**

If an applicant or employee feels aggrieved by any testing requirement or procedure, any test results or the penalty assessed, the applicant or employee may request a meeting with designated Liberty official.

**16. When Does the Policy Go into Effect?**

This Policy will become effective thirty (30) days after it has been posted and distributed to all affected employees. Any changes made to this Policy will become effective thirty (30) days after such changes are posted and distributed to all affected employees.

**Approved By:** \_\_\_\_\_

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Summary of Changes</b>
#1	03/01/2012	Camille Tanner	Policy Created
#2	06/05/2020	Camille Tanner	Policy reviewed with no changes needed
#3	06/22/2021	Camille Tanner	Reviewed, no changes