

June 19, 2002

## **DRUG, ALCOHOL AND SEARCH POLICY OF THE MISSISSIPPI STATE VETERANS AFFAIRS BOARD**

The Mississippi State Veterans Affairs Board (the "Board") recognizes that employees with drug and/or alcohol abuse problems make up only a small fraction of the work force. The Board regrets any inconvenience the administration of this policy may cause to employees because of the drug and alcohol abuse problems of a few. The Board believes, however, that the benefits derived from reducing the number of accidents, increasing safety of all employees, and improving resident care, outweigh any inconvenience or loss the rest of us must experience as a result of this policy. Accordingly, The Board expects full cooperation of all employees at all Veterans Affairs Board offices and facilities in implementing and carrying out the directives set forth in this policy.

### **1.Purpose**

To provide quality service to residents and their families, as well as a safe and healthy work environment by maintaining a drug free workplace. You are hereby advised that the Board has implemented a drug, alcohol and search policy and conducts a testing program, pursuant to Mississippi House Bill No. 84 of 1994 (MISS. CODE ANN. §§71-7-1 through 71-7-33), and you are hereby advised of the existence of said Act.

### **2.Prohibited Conduct**

It is the policy of the Board:

- A. That the use of drugs and/or alcohol by employees during working hours is prohibited.
- B. That no Board employee shall be under the influence of drugs or alcohol, or in withdrawal from the use of drugs or alcohol, during working hours; provided, however, that employees are permitted to take at any time prescription medication as and in the manner prescribed by a physician, and nonprescription over-the-counter medication as needed and in accordance with manufacturer instructions, unless the physiological or psychological effects of the prescription or nonprescription medication as taken by the employee pose a threat to the health or safety of the employee taking the medication or

any other person, including residents and members of the public, or hamper the employee's ability to satisfactorily perform his or her job duties.

C. That Board employees are prohibited from manufacturing, possessing, using, selling, distributing, soliciting or transferring drugs, drug paraphernalia, prescription medication, nonprescription medication or alcohol on or in Board property, facilities, vehicles, machinery or equipment, or while performing Board business; provided, however, that employees are permitted to possess and use prescription medication prescribed to them by a physician if that medication must be taken during working hours, and to possess and use nonprescription over-the-counter medication if it is reasonably necessary for the employee to take the nonprescription over-the-counter medication during working hours to treat the symptoms of injury or illness.

D. That employees are prohibited from tampering with a drug or alcohol test or a report of its results.

E. That the following actions, even if not occurring on Board or facility premises or during working hours, endanger the Board's credibility and reputation and integrity for providing quality service and care and are prohibited by this policy:

1. Indictment and/or conviction for criminal offenses related to the manufacture, possession, use, sale, distribution, dispensation, receipt, or transportation of any controlled substances or illegal drugs.

2. Any other action involving alcohol or controlled or illegal substances that, in the opinion of the Board management, endangers the Board's reputation and credibility.

F. That residents, visitors, vendors and subcontractors are likewise prohibited from the misuse or abuse of alcohol or drugs, including manufacturing, possessing, using, selling, distributing, soliciting or transferring drugs, drug paraphernalia or alcohol on or in Board property or facilities, as well as being under the influence of drugs or alcohol on or in Board property or facilities.

### **3. Reporting of Convictions**

In accordance with the federal Drug Free Workplace Act of 1988, any employee who is convicted under a criminal drug statute for a violation occurring in the workplace must notify the Board within five days of the conviction. Thereafter, the Board will notify the principal representative or official of any federal agency from which it receives grants within 10 days after receiving notice of such conviction. Violations of the Drug Free Workplace Policy will subject employees to discipline up to and including termination or may require the employee to satisfactorily complete an approved drug rehabilitation program.

### **4. Definitions**

**Applicant.** A person who has completed all required employment forms and has been extended a conditional offer of employment.

**Drug.** Illegal drugs, prescription medication and nonprescription medication as those terms are defined in this plan.

**Illegal drugs.** Any substance, other than alcohol, which has physiological and/or psychological effects on a human being and which is not a prescription medication or nonprescription medication, including: controlled substances as defined in 21 U.S.C. §§802 and 812; any counterfeit substance, depressant or stimulant substances, marijuana, narcotic drugs, opiate, opium poppy, poppy straw, controlled substance analogue, listed chemical, chemical mixture or anabolic steroid as defined in 21 U.S.C. §802; and, volatile substances which produce the physiological or psychological effects of an illegal drug through deliberate inhalation, ingestion, injection or absorption.

**Prescription medication.** Any substance prescribed by a duly licensed physician or other medical practitioner licensed to issue prescriptions for use by the employee possessing the medication.

**Nonprescription medication.** Any substance which is authorized by federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments or injuries.

**Paraphernalia.** Anything commonly used in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug.

**Alcohol.** Ethyl alcohol.

**Under the influence.** Affected in any detectible way.

**Board property.** All offices, facilities, homes, land, buildings, structures, fixtures, installations, vehicles and equipment, whether owned, leased or used by the Board.

**Drug or alcohol test.** A chemical test administered to determine the presence or absence of alcohol, drugs or their metabolites in a person's body.

**Initial test.** A test on a specimen to determine the presence or absence of alcohol, drugs, or their metabolites in the specimen.

**Confirmation test.** A test on a specimen to verify the results of a prior drug or alcohol test on a specimen.

**Collection site.** The facility or location designated by the Board where employees' specimens for drug and alcohol testing are collected.

**Collection site person.** An individual authorized to collect specimens in accordance with this policy and trained in specimen collection procedures in accordance with the *Alcohol and Drug Regulations* of the Mississippi State Department of Health.

**Chain of custody.** Procedures to ensure and account for the integrity of a specimen by tracking its collection, handling and storage from point of collection to point of final disposition.

**Medical Review Officer ("MRO").** A licensed physician who is responsible for receiving laboratory results generated by the Board's drug and alcohol testing program who has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an employee's positive confirmation test result together with his or her medical history and other relevant biomedical information.

**Employee.** Any person who supplies a service for remuneration or pursuant to any contract for hire to the Board.

**Neutral selection.** A mechanism for selecting employees for drug or alcohol tests that: (i) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (ii) does not give an employer discretion to waive the selection of any employee selected under the mechanism.

**Reasonable suspicion.** A belief that a person is using or has used drugs in violation of the Board's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

- (a)Observable phenomena, such as direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of a drug;
- (b)Abnormal conduct or erratic behavior while at work, absenteeism, tardiness or deterioration in work performance;
- (c)A report of drug use provided by reliable and credible sources and which has been independently corroborated;
- (d)Evidence that an individual has tampered with a drug and alcohol test during his employment;
- (e)Information that a person has caused or contributed to an accident while at work; and/or
- (f)Evidence that a person is involved in the use, possession, sale, solicitation or transfer of drugs while working or while on Board property or operating Board vehicles, machinery or equipment.

**Specimen.** A tissue or product of the human body chemically or electronically capable of revealing the presence of drugs in the human body.

**Safety sensitive position.** Any job position at the Board where the employee has direct contact with residents or is involved in hands-on resident care, is engaged in activities affecting public health or safety, is engaged in law enforcement or carries firearms, or has access to sensitive information.

## **5. Penalty for Violation**

Violating *The Drug, Alcohol and Search Policy of the Mississippi State Veterans Affairs Board* shall be grounds for disciplinary action, up to and including termination. Any Board employee who refuses to submit to a drug test in accordance with this policy may be subject to disciplinary action, up to and including termination. Residents, vendors, subcontractors and visitors are subject to expulsion and/or debarment from Board facilities for violation of this policy.

## **6. Types of Testing**

### **A. Pre-Employment**

All job applicants are subject to drug and alcohol testing. Any offer of employment with the Board will be conditioned on the applicant testing negative on a drug and alcohol test. Applicants who begin work for the Board are subject to discharge if their pre-employment drug and alcohol test is positive. Prior to the collection of a specimen from an applicant, the applicant will be required to read and sign the following statement, which will be provided on a separate sheet of paper:

I, \_\_\_\_\_, have received and read the *Drug, Alcohol And Search Policy of The Mississippi State Veterans Affairs Board* and notice provided to me pursuant to Part IX of the *Alcohol and Drug Regulations* of the Mississippi State Department of Health. I understand the policy and the notice, and I agree to submit to specimen collection and drug and alcohol testing according to the terms of the policy. I understand that my refusal to sign this statement or my refusal to submit to required specimen collection and drug and alcohol testing in accordance with the policy shall be a basis for rejecting my application for employment by the Board, and I waive any rights I may have arising from rejection of my application on that basis.

An applicant's refusal to sign this statement will be a sufficient basis for rejecting his or her application. However, an applicant's refusal to sign this statement will not bar the Board from administering a drug or alcohol test to the applicant and will not invalidate the results of any initial or confirmation test.

A positive result of a confirmation test for the presence of drugs, alcohol or their metabolites is a sufficient basis for rejection of an applicant for employment. Successful completion of a drug and/or alcohol test does not insure employment with the Board.

### **B. Neutral Selection**

The Board may test employees on a neutral selection or random basis.

### **C. Reasonable Suspicion**

All Board employees are subject to reasonable suspicion drug testing under this plan. Reasonable suspicion shall be determined by any supervisor or member of the Board's management.

If the Board has reasonable suspicion that an employee is using drugs or alcohol in violation of this policy, he or she may be required to submit to a drug and/or alcohol test. An employee will not be required to submit to a drug and/or alcohol test under this provision unless the reasonable suspicion that he or she has used or is using drugs or alcohol in violation of this plan is based on specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. An observation checklist, such as found in Appendix A, may be completed in connection with each reasonable suspicion test.

## **7. Specimen Collection Procedure**

Individuals will be directed to a collection site for drug and/or alcohol test specimen collection. All drug and/or alcohol testing will be conducted during or immediately after the regular work period, if applicable, and this time will be considered time worked for employees the purpose of determining compensation and benefits.

The collection site person will be responsible for maintaining the integrity of the specimen collection and transfer process and insuring the privacy of the employee/applicant. Collection sites will conduct specimen collection in accordance with the *Alcohol and Drug Regulations* of the Mississippi State Department of Health.

An employee, job applicant or other individual shall be allowed to provide notice to the Board of currently or recently used prescription or nonprescription drugs at the time of the taking of their specimen to be tested, and such information shall be placed in writing upon the employer's drug and alcohol testing custody and control form prior to initial testing. Providing this information will not preclude the administration of the drug and alcohol test but will be taken into account in interpreting any positive confirmed results.

## **8. Responsibilities of the Laboratory**

The laboratory which conducts drug tests under this plan is certified by the Mississippi State Department of Health, and it will conduct all tests under this program in accordance with the *Alcohol and Drug Regulations* of the Mississippi State Department of Health. Samples that yield positive results on confirmation shall be retained by the laboratory for 90 days from the time the results were mailed or otherwise delivered to the Board. Within this 90-day period, the employee or applicant may make a written request that the sample be retested at the employee's expense at a certified laboratory chosen by the employee.

## **9. Testing Standards**

### **A. Initial Test**

Under this plan, the initial test on specimens for the presence of marijuana, cocaine, opiates, phencyclidine, amphetamines, and any other substance for which the United States Department of Health and Human Services has established an approved protocol and positive threshold, or their metabolites, will employ an immunoassay which meets the requirements of the United States Food and Drug Administration for commercial distribution. Initial alcohol testing will be by evidential breath testing or saliva testing. Initial cutoff levels specified in Appendix B will be observed. These cutoff levels are subject to change.

If an initial drug and alcohol test is negative, no confirmation test will be conducted.

### **B. Confirmation Test**

If the specimen provided by the employee or applicant tests positive for the presence of drugs and/or alcohol listed in the preceding paragraph, or their metabolites, in the initial test, the specimen will be subjected to a confirmation test. The confirmation test for drugs will employ gas chromatography/mass spectrometry at the cutoff levels specified Appendix C. The confirmation test for alcohol will employ a blood test at the cutoff levels listed in Appendix C. These cutoff levels are subject to change.

## **10. Notification to MRO of Test Results**

The laboratory shall report confirmation test results only to the Board's Medical Review Officer ("MRO") within five (5) working days of receiving a specimen. The report, which will be signed and certified as accurate by the person responsible for the day-to-day operations of the certified laboratory or the person responsible for attesting to the validity of test results, will identify the drugs, alcohol or metabolites for which testing has been conducted, and it will indicate the Board's specimen number and the specimen identification number assigned to the specimen by the laboratory. The report shall

indicate only that the confirmation test result was negative, if that be the case, or that it was positive for specific drugs, alcohol or metabolites, if that be the case.

Any employee may request a copy of the test result report. The request must be in writing and should be directed to the Personnel Director at State Veterans Affairs Board, 3466 Highway 80 East, P.O. Box 5947, Pearl, MS 39288-5947.

### **11. Responsibilities of the Medical Review Officer**

The MRO will review the test results received from the testing laboratory to determine whether a result is positive. The MRO shall notify the employee/applicant in writing of the drug test results within five (5) days of receiving them, which notification will include an explanation of the consequences of the results and options available to the employee/applicant if the results are positive. An employee/applicant who receives a positive confirmed test result may contest the accuracy of that result or explain it in writing within 10 working days of receiving notification of the test results. That contest may include another test on the specimen at the employee/applicant's expense. If the employee/applicant's explanation is unsatisfactory to the MRO, a written explanation as to why and the test results will be placed in the employee's personnel and medical file, or the applicant's application file.

### **12. Consequences of a Positive Test Result**

A positive initial test result may subject the employee to suspension. A confirmed positive test result may subject the employee to discipline, up to and including termination. If the employee is not terminated, he or she may be referred to an employee assistance program or other program for the treatment of drug and alcohol abuse, and may be required to complete or participate in that program as a condition of further employment. The decision regarding what disciplinary action is appropriate is within the sole discretion of the Board.

### **13. Confidentiality**

All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the Board through its drug and alcohol testing program are confidential communications, except under certain circumstances as allowed by the Act.

This information is Board property, and it will be maintained in a separate file.

Information described above may be released:

- (1) if the employee or job applicant grants the Board permission to do so in writing;
- (2) if the Board's medical, supervisory or other personnel have a need to know;

- (3) if the information must be disclosed in any administrative, arbitral or judicial proceeding pursuant to applicable law because it is relevant to an issue in that proceeding;
- (4) if the information must be disclosed to a governmental unit as required by law, regulation, administrative or judicial order, or in accordance with compliance requirements of a federal contract;
- (5) if the information must be disclosed to a substance or alcohol abuse rehabilitation program for the purpose of evaluation or treatment of the employee; or
- (6) without a court order, if an immediate risk to public health or safety can be minimized by release, and with a court order if the risk is not immediate.

An employee's failure to sign a written consent to release information as permitted by and in accordance with this section may subject the employee to discipline, up to and including termination.

#### **14. Searches, Tests and Inspections**

The following policy shall be enforced to assist in deterring and remedying violation of Board policies, illegal conduct, and theft or improper use of property, including theft or misuse of residents', visitors' and employees' personal property, management company property, visitors' property, and property belonging to the State of Mississippi. This policy applies on all Board, State, and management company owned or leased property.

1. The Board may conduct unannounced searches for illegal drugs, alcohol, or stolen or misappropriated property at any time without reasonable suspicion. This may include searches of any State, Board or management company owned or leased property including but not limited to desks, lockers, work areas, storage areas, rooms and vehicles. All individuals are expected to fully cooperate during such searches.
2. Searches of employees, residents and/or visitors and their personal property may be conducted when there is reasonable suspicion to believe that such individual(s) may be in possession of non-permitted contraband and/or stolen or misappropriated property. Such searches will be limited to requesting the removal of hats, shoes, coats, or other outerwear, purses and other personal possessions for search purposes, and asking the individual to turn their pockets and observing what is in plain sight. Purses, briefcases, bags and any other parcels may also be completely searched when there is reasonable suspicion to believe that the individual(s) may have non-permitted contraband and/or stolen or misappropriated property in their possession.

3. Searches of vehicles may be conducted on any State, Board or management owned or leased property when there is reasonable suspicion to believe that illegal drugs, alcohol, or stolen/misappropriated property may be in the vehicle.

4. An employee's consent to such searches is required as a condition of employment and the employee's refusal to consent, or the employee's failure to fully cooperate in a search or investigation, may result in disciplinary action including termination even for a first occurrence. A resident's consent to such searches is required as a condition to admittance and continued residency. A resident's refusal to consent will result in non-admittance and may result in discharge if already admitted. A visitor's or vendor's refusal to consent may result in that individual being barred from the facility.

The decision to conduct an investigation or search and the manner in which it is carried out will be determined at the sole discretion of the Board. Individuals are required to cooperate fully in these investigations and/or searches and are required to submit to questioning or searches of the Board or its agent. Individuals are required to submit to tests and provide urine, blood, breath, saliva or other specimens upon request. Any refusal by an employee to answer questions, submit to testing, render a requested specimen or otherwise cooperate in a search, test or investigation, will be considered an act of insubordination which may result in discipline up to and including termination.

### **15. Nature of the Policy**

This policy does not create or set forth any contractual commitments or obligations by the Board for employment or other employment benefits to any applicant or employee. The policies described in this policy are subject to being modified, revoked, terminated or changed in whole or in part at any time, with or without notice, by the Board.

### **16. Employee Questions**

All questions regarding this policy should be directed to the Personnel Director at State Veterans Affairs Board, 3466 Highway 80 East, P.O. Box 5947, Pearl, MS 39288-5947.



**APPENDIX B:**

**INITIAL TEST CUTOFF LEVELS**

<b>Controlled Substances</b>	<b>Initial Test Cutoff Levels (NG/ML)</b>
Marijuana Metabolites	50
Cocaine Metabolites	300
Opiate Metabolites	300
Phencyclidine	25
Amphetamines	1,000

The cutoff level for opiate metabolites will be 25 ng/ml if the immunoassay is specific for free morphine.

Prior to testing for any drugs or their metabolites other than those specified in the table above, the Board will publish initial test cutoff levels for the drugs or metabolites to be tested.

<b>Blood Alcohol Concentration</b>	Any detectable amount.
------------------------------------	------------------------

**APPENDIX C:**

**CONFIRMATION TEST CUTOFF LEVELS**

<b>Controlled Substances/ Metabolites</b>	<b>Confirmation Test Cutoff Levels (NG/ML)</b>
Marijuana metabolite	15
Cocaine metabolite	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines	
Amphetamine	500
Methamphetamine	500

The marijuana metabolite is Delta-9-tetrahydrocannabinol-9-carboxylic acid. The cocaine metabolite is benzoylecgonine.

Prior to testing for any drugs or their metabolites other than those specified in the table above, the Board will publish confirmation test cutoff levels for the drugs or metabolites to be tested.

<b>Blood Alcohol Concentration</b>	10 mg/dl
------------------------------------	----------

**Acknowledgment and Release Regarding the Drug, Alcohol  
and Search Policy of The Mississippi State Veterans Affairs Board**

I (please print), \_\_\_\_\_, acknowledge by my signature that I have received, reviewed and fully understand the *Drug, Alcohol and Search Policy of The Mississippi State Veterans Affairs Board*. I agree to abide by its terms, and I understand that my failure to do so will subject me to disciplinary action, up to and including termination. I understand that the only claims I will have arising out of administration of the *Drug, Alcohol and Search Policy of The Mississippi State Veterans Affairs Board* are those specified and described in Sections 71-7-23 and 71-7-25 of the Mississippi Code. I voluntarily waive any and all other claims of whatever kind I may have arising from the administration of the *Drug, Alcohol and Search Policy of The Mississippi State Veterans Affairs Board*.

EmployeeDate

WitnessDate

## APPLICANT AGREEMENT TO SUBMIT TO DRUG TESTING

I, \_\_\_\_\_, have read the *Drug, Alcohol and Search Policy of The Mississippi State Veterans Affairs Board* and notice provided to me pursuant to Part IX of the *Alcohol and Drug Regulations* of the Mississippi State Department of Health. I understand the policy and the notice, and I agree to submit to specimen collection and drug and/or alcohol testing according to the terms of the policy. I understand that my refusal to sign this statement or my refusal to submit to required specimen collection and drug and/or alcohol testing in accordance with the policy shall be a basis for rejecting my application for employment by The Mississippi State Veterans Affairs Board, and I waive any rights I may have arising from rejection of my application on that basis.

APPLICANT SIGNATURE

DATE

## **Notice of Implementation of Drug, Alcohol and Search Policy**

You are hereby advised that The Mississippi State Veterans Affairs Board (the Board") has implemented a drug, alcohol and search policy and conducts a testing program, pursuant to Mississippi House Bill No. 84 of 1994 (MISS. CODE ANN. §§71-7-1 through 71-7-33), and you are hereby advised of the existence of said Act. All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the Board through its drug and alcohol testing program are confidential communications, except under certain circumstances as allowed by the Act. An employee or job applicant shall be allowed to provide notice to the Board of currently or recently used prescription or nonprescription drugs at the time of the taking of the specimen to be tested, and such information shall be placed in writing upon the employer's drug and alcohol testing custody and control form prior to initial testing.

By receipt of this document, you are informed that the Board complies with all federal and state laws which require it to provide its employees with a drug-free workplace. The unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in any Board workplace or work site.

In accordance with the Drug Free Workplace Act, any employee who is convicted under a criminal drug statute for a violation occurring in the workplace must notify the Board within five days of the conviction. Thereafter, the Board will notify the principal representative within 10 days after receiving notice of such conviction. Violations of the Drug Free Workplace Policy will subject employees to discipline up to and including termination or will require the employee to satisfactorily complete an approved drug rehabilitation program.

All questions regarding this policy should be directed to the Personnel Director at State Veterans Affairs Board, 3466 Highway 80 East, P.O. Box 5947, Pearl, MS 39288-5947.