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## **IBEW LU#292**

# **ELECTRICAL INDUSTRY UNIFORM DRUG/ALCOHOL TESTING PROGRAM 2018**

**HIGHLIGHTS OF THE ELECTRICAL INDUSTRY DRUG/ALCOHOL  
TESTING PROGRAM**

**PURPOSE**

Purpose of the program is to increase work place safety, job performance, and provide a means to provide help to people with a substance abuse problem.

**PROGRAM**

This Electrical Industry Drug/Alcohol Testing Program will be given to all existing employees and new hires. Employees will sign the acknowledgement form at the back of this program.

**TESTING**

Testing will only be done under the following conditions:

1. Applicants. (see definitions)
2. Reasonable suspicion of substance abuse. Determination of reasonable suspicion will be made using the checklist provided in this program. Only people who have completed a reasonable suspicion training class and identified themselves as such will be allowed to use the checklist. Employers will need to arrange for the required training of their designated individuals.
3. If an employee is involved in a work place accident or a work place injury.
4. Customer required testing that is consistent with the Minnesota Drug and Alcohol Testing in the Workplace Act.
5. Treatment program testing.

Standards for the tests will be as follows:

1. The threshold detection level will be that of the federal Department of Transportation or customer requirements.
2. Employers will not discriminate against a patient enrolled in the medical cannabis registry program based on a positive drug test for cannabis components or metabolites, unless the patient used, possessed, or was impaired by medical cannabis on the premises of the place of employment or during the hours of employment, as provided in Minn. Stat. § 152.32, subd. 3(c).

Collection

1. Employers may only use testing laboratories as permitted by the Minnesota Drug and Alcohol Testing in the Workplace Act.
2. Employers will set up accounts at collection and testing laboratories before any tests are required.

Payment for testing

1. Employer will pay for initial and confirmatory testing.
2. Employee or applicant will pay for any additional testing of that sample.

## **EMPLOYEES OR APPLICANTS WHO TEST POSITIVE**

1. All employees who test positive for the first time on an initial and confirmatory test will be referred to the Employee Assistance Program for evaluation and recommendation which is to be followed.
2. An applicant that is tested prior to employment for a specific job requiring testing and who tests positive on an initial and confirmatory test will have their conditional offer of employment withdrawn and will not be hired. The applicant is encouraged to seek the Employee Assistance Program.

### Employees will be terminated for cause, under the following conditions:

1. Failure to cooperate with the testing procedures as described in this program.
2. Employee found selling or distributing drugs covered under this program on the company premises.
3. Employee refuses to participate in recommended treatment after being referred to the Employee Assistance Program or fails to successfully complete the treatment program.
4. Second positive initial and confirmatory test with the same employer.

## **GRIEVANCE**

All aspects of the program shall be subject to grievance procedures under the Inside Construction and Maintenance Agreement.

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## ELECTRICAL INDUSTRY DRUG/ALCOHOL TESTING PROGRAM

### I. PROGRAM STATEMENT

The employer, the employees, and the union have a joint interest in workplace safety and in job performance. The dangers and costs which alcohol and other chemical abuses can create in the electrical contracting industry in terms of safety and productivity are significant. The parties to this agreement resolve to combat chemical abuse in any form and agree that to be effective, programs to eliminate substance impairment should contain a strong rehabilitation component. The parties recognize the employers' right to adopt and implement this drug and alcohol program subject to all applicable laws and regulations, procedural safeguards, scientific principles, and legitimate interests of privacy and confidentiality. When drug and alcohol testing is performed, all testing shall be conducted in accordance with the procedures outlined in the aforementioned program.

This program applies to all employees and applicants with the sole exception being drivers who are covered by the Department of Transportation's Drug and Alcohol Testing Regulations.

### II. DEFINITIONS

- A. Company Premises - The term "Company Premises" as used in this program includes all property, facilities, land, buildings, structures, automobiles, trucks, and other vehicles owned, leased, or used by the company, or that the company has responsibility for, including any job site.
- B. Prohibited Items & Substances - Prohibited items and substances include illegal drugs, defined as controlled substances under Minn. Stat. § 152.01, subd. 4), alcoholic beverages, and drug paraphernalia in the possession of or being used by an employee on the company premises. The moderate, responsible use of alcohol at company-approved meetings, in connection with business meals, travel or entertainment, or in an appropriate company-sponsored social setting, is not prohibited by the Program, provided it does not impair an employee's job performance. The use of prescribed medical cannabis off premises outside of working hours is not prohibited and is protected from discrimination under Minn. Stat. § 152.32, subd. 3(c).
- C. Employee - Individuals, who perform work including, but not limited to, management, supervision, engineering, craft workers, and clerical personnel.
- D. Applicant - A person, who has been given a conditional offer of employment contingent upon the person passing a drug or alcohol test.
- E. Accident - Any event resulting in injury to person or property to which an employee contributed.
- F. Reasonable Suspicion - A belief based on specific facts and rational inferences drawn from these facts sufficient to lead someone to suspect that the person is using drugs or alcohol. Criteria for determination is listed on the "Checklist for Reasonable Suspicion."
- G. Individual Reasonable Suspicion Orientation Program - A class to train individuals to recognize and handle reasonable suspicion situations.
- H. Checklist for Reasonable Suspicion - A pre-approved form used to document suspicious substance abuse behavior and appearance.
- I. E.A.P. - Employee Assistance Program
- J. Evaluator - A non-bargaining individual trained in Reasonable Suspicion who will fill-out the Reasonable Suspicion Checklist.

### III. CONFIDENTIALITY

- A. All parties to this program have only the interest of employees in mind, and therefore, encourage any employee with a substance abuse problem to come forward and voluntarily accept our assistance in dealing with the illness. An employee assistance program will provide guidance and direction for you during your recovery period. If an

employee volunteers for help, the company will make reasonable efforts to return the employee to work upon recovery. The company will take action to assure that the employee's illness is handled in a confidential manner.

- B. All actions taken under this program will be confidential and disclosed only to those with a "need to know" pursuant to Minn. Stat. Section 181.954.
- C. When a test is required, the specimen will be identified by a code number, not by name, to insure confidentiality of the donor. Each specimen container will be properly labeled and made tamper proof. The donor must witness this procedure.
- D. Unless an initial positive result is confirmed as positive, it shall be deemed negative and reported by the laboratory as such.
- E. The handling and transportation of each specimen will be properly documented through strict chain of custody procedures, as well as other reliable and fair safeguards as required by Minn. Stat. Section 181.953.

#### IV. RULES -- DISCIPLINARY ACTIONS -- GRIEVANCE PROCEDURES

- A. Rules - All employees must report to work in a physical condition that will enable them to perform in their jobs in a safe and efficient manner. Except for medications taken pursuant to a physician's prescription, employees shall not:
  - 1. Use, possess, dispense, or receive prohibited substances on company premises; or
  - 2. Report to work with any amount above the thresholds of prohibited substances in the program in their system.
- B. Discipline - When the company has reasonable suspicion to believe an employee is under the influence of a prohibited substance, for reasons of safety, the employee may be suspended until the employee's test results are available. If the employee's test results prove negative, the employee shall be reinstated with back pay and with no adverse personnel action taken against the employee.

In all other cases:

- 1. When applicants test positive for prohibited substance use the conditional offer of employment will be withdrawn and will not be hired. An applicant who has tested positive for prohibited substances is encouraged to seek the Employee Assistant Program.
  - 2. Employees who test positive for the first time on an initial and confirmatory test will be offered an opportunity to participate in an appropriate counseling or rehabilitation program recommended by the EAP. However, if the employee refuses to participate in the treatment program recommended by the EAP or fails to successfully complete the program, the employee will be terminated.
  - 3. Employees who test positive for a second time on an initial and confirmatory test will be terminated.
  - 4. Employees have the right to refuse to undergo drug and alcohol testing. However, any refusal shall result in disciplinary action up to and including termination.
  - 5. Employees found selling, distributing, or using prohibited items and substances as defined in this program on Company premises will be terminated. The moderate, responsible use of alcohol at company-approved meetings, in connection with business meals, travel or entertainment, or in an appropriate company-sponsored social setting, is not prohibited by the Program, provided it does not impair an employee's job performance. The use of prescribed medical cannabis off premises outside of working hours is not prohibited and is protected from discrimination under Minn. Stat. § 152.32, subd. 3(c).
- C. Prescription Drugs - Employees using a prescription medication should confer with their physician to determine whether the medication may impair the employee's ability to perform the essential functions of the job safely,

including mental or motor functions. If the employee and the physician determine that the medication may impair the employee's ability to perform the essential functions of the job safely, the employee should notify a supervisor of such medication use. Upon being informed of such medication use, the company will engage in an interactive process with the employee to attempt to make a reasonable accommodation of the employee's needs which may include making an appropriate reassignment. However, if a reassignment or other reasonable accommodation is not available, the employee will be placed on temporary medical leave until released as fit for duty by the prescribing physician.

Grievance - All aspects of this program shall be subject to the grievance procedure of the Inside Construction and Maintenance Agreement.

## V. DRUG/ALCOHOL TESTING

The parties to this program agree that under certain circumstances, the company will find it necessary to conduct drug and alcohol testing. While "random" testing is not necessary for the proper operation of this program, it may be necessary to require testing under the following conditions:

- A. Applicant (see definition)
- B. The Employer shall require or request that an employee undergo drug or alcohol testing if the Employer has a reasonable suspicion that the employee:

Is under the influence of drugs or alcohol; Has violated the Employer's written work rules contained in this program prohibiting the use, possession, sale, manufacture, distribution, dispensation, transfer, or being under the influence, of alcohol or controlled substances (other than those used for bona fide medical purposes consistent with a doctor's prescription) while working, while on Company Premises (including meal breaks and other rest periods), or while using the Employer's machinery, equipment or vehicles;

Reasonable suspicion will be determined using the checklist for reasonable suspicion and used only by individuals that have completed the individual orientation program. During the process of establishing reasonable suspicion for testing, the employee has the right to request a representative to be present. Whenever possible, the employee's representative will be notified by the employer prior to a reasonable suspicion evaluation.

- C. Has sustained a work-related personal injury or caused another employee to sustain a work-related personal injury; or

Has caused a work-related accident or was operating or assisting another to operate machinery, equipment, or vehicles involved in a work-related accident.

- D. A pre-employment drug and alcohol test shall be administered to all applicants who have been given a conditional offer of employment if the employer's customer requires workers to pass a drug test prior to starting work.
- E. Employees who have been referred by the Employer for chemical dependency treatment or evaluation, or who participate in a chemical dependency treatment program under an employee benefit plan, if any, may be requested or required to undergo drug or alcohol testing, without prior notice, during the period of evaluation or treatment and for up to two years following completion of any prescribed treatment program paid by the employer.

Each employee and applicant will be required to sign an acknowledgement authorizing the test and chain of custody form, assuring proper documentation and accuracy. An employee or applicant has the right to refuse to sign the acknowledgement form authorizing the test, but ongoing employment by the company will be terminated and any conditional offer of employment will be withdrawn.

Prohibited substance testing will be conducted by an independent laboratory as permitted by Minnesota Statutes section 181.953. For an initial screening test for drugs or alcohol, the laboratory may use any scientifically reliable process allowed under Minnesota law. The applicable threshold detection levels will be those that are established by the federal Department of Transportation or customer requirements. If an initial test is positive, a confirmatory test using any scientifically reliable process allowed under Minnesota law will be given.

The company will inform the employee or applicant in writing of the test results within three (3) working days after receipt of a report from the testing laboratory. Also, within three (3) working days of a positive test result, the employee or applicant may submit to the company any information to explain the test result.

An employee or applicant may request a confirmatory retest of the original sample at the employee's or applicant's own expense within five (5) days after notice of a confirmatory test result. Within three (3) working days after receipt of a notice of the employee's or applicant's request for a confirmatory retest, the company will notify the original testing laboratory that the employee or applicant has requested a confirmatory retest of the original sample, or that the original laboratory transfer the sample to another laboratory licensed under Minnesota law to conduct the confirmatory retest.

The company will bear the costs of all testing procedures except confirmatory retests.

#### **VI. REHABILITATION AND EMPLOYEE ASSISTANCE PROGRAM**

If an employee tests positive for substance abuse on an initial and confirmatory test, the company will refer the employee to the E.A.P. for recommendations for treatment, and the employee welfare fund administrator will counsel the employee regarding medical benefits available under the health and welfare insurance program.

If treatment necessitates time away from work, the company shall provide for the employee an unpaid leave of absence for purposes of participation in a recommended treatment program. An employee who successfully completes a recommended rehabilitation program shall be reinstated to his/her former employment status, if work for which he/she is qualified exists.

**THE UNION IS NOT RESPONSIBLE FOR ASCERTAINING THE DRUG-FREE OR ALCOHOL-FREE STATUS OF ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT.**



SUMMARY OF EMPLOYEE RIGHTS

1. You may not be asked to submit to a drug and alcohol test unless the employer has a reasonable suspicion, such as a work place accident, a personal injury, or other specific facts that lead the employer to believe that you are under the influence of alcohol or drugs. Employers may not request a test on an arbitrary basis which means the testing program must be enforced fairly and consistently.
2. You may not be tested unless you have had the opportunity to review the employer's program.
3. You have the right to refuse to be tested, but note that the employer has the right to terminate your employment if you refuse to be tested.
4. You have the right to contact your job steward and/or union representative to be present when an employer demands that you be tested, but this will not stop the testing procedures.
5. The specimen must be tested by a laboratory approved by Minnesota law.
6. If notified of a positive test result, you have the right to explain the results within three (3) working days, including the use of prescription medication. Note that an employer may not discharge or discriminate against you on the basis of medical history revealed to explain a positive test.
7. You have the right to request a confirmatory retest of the original sample at your own cost.
8. You have the right to request a copy of the test report.
9. You have the right to any information in your personnel file relating to the positive test.
10. The results of the test are confidential and can only be revealed to those in the company with a need to know or those authorized by you to receive the information.
11. If you test positive on an initial and confirmatory test for the first time, you must first be offered the opportunity to participate in a drug or alcohol counseling or rehabilitation program recommended by an Employee Assistance Program chemical use or dependency evaluation. An employer shall terminate those that refuse to successfully complete the recommended treatment program. The employee shall provide the Employer with proof of successful completion of the treatment program. An employer shall also terminate your employment if you have had a second positive initial and confirmatory test.
12. If you are suspended awaiting a confirmatory test or retest and you are later reinstated because the confirmatory test or retest is negative, you will be entitled to back pay and no adverse personnel action can be taken against you.
13. Positive test results may not be used against you as evidence in a criminal action.

Approved and Accepted;

Jan Ferguson 8-1-18  
IBEW 292 President DATE

Pat Rebutals 7/25/18  
IBEW 292 Business Manager DATE

David S. Smith 8/2/18  
Minneapolis Chapter, NECA President DATE

David Kraft 8/2/18  
Minneapolis Chapter Manager DATE

**SUMMARY OF EMPLOYER RESPONSIBILITIES UNDER  
MINNESOTA'S DRUG AND ALCOHOL TESTING LAW**

Listed below is a checklist outlining the responsibilities of Employers when testing employees for drugs and alcohol. The Minnesota Statute Section is listed under each item for further reference.

- Employers shall provide written notice of their testing policy to employees and applicants, and post notice of the policy in a conspicuous location. Minn. Stat. Sec. 181.952, Subd. 2
- Employers may not request or require an employee or job applicant to undergo drug and alcohol testing on an arbitrary basis. Minn. Stat. Sec. 181.951, Subd. 2
- Employers may require an applicant to submit to a drug test only as a condition of employment. If the job offer is withdrawn, the employer shall inform the job applicant of the reason for their action. Minn. Stat. Sec. 181.951, Subd. 2
- Employers shall only use the services of a testing laboratory that meets the licensing and accreditation criteria of the statute. Minn. Stat. Sec. 181.953, Subd. 1
- Employers shall pay for all required drug tests and may not request or required an employee or job applicant to pay for the cost of testing, except for a confirmatory retest. Minn. Stat. Sec. 181.953, Subd. 4, 9.
- Employers must comply with chain-of-custody procedures which require that:
  - a. Possession of a sample must be traceable;
  - b. At all times, the sample must be in the possession of, in view of, or placed in a secured area by a person authorized to handle the sample;
  - c. A sample must be accompanied by a written chain-of-custody record; and
  - d. Individuals relinquishing or accepting the sample must record the time the sample was transferred and must sign and date the chain of custody record at the time of transfer. Minn. Stat. Sec. 181.953, Subd. 5 and Minn. Rule 4740.1070, Subp. 8
- Before requesting an employee or job applicant to undergo testing, an employer shall provide a form which:
  - a. acknowledges that the employee or job applicant has seen the employer's testing policy.
- Within three (3) working days after receipt of a negative test result from the testing laboratory, an employer shall inform in writing an employee or job applicant who has undergone testing of:
  - a. a negative test result; and
  - b. the right to receive a copy of the test result report. Minn. Stat. Sec. 181.953, Subd. 7 and 8
- In the case of a positive test result, the employer may request that the employee or applicant indicate any over the counter or prescription medication or any other information relevant to the positive test result. Minn. Stat. Sec. 181.953, Subd. 6(b).
- In the case of a positive test result, the employer shall adhere to, and inform the employee or job applicant in writing of the following rights, whichever applies:

- a. that within three (3) working days after notice of a confirmed positive test result, the employee or applicant may submit information to the employer to explain the result. The employee or applicant may also request a confirmatory retest of the original sample at the expense of the employee or applicant within five (5) working days after receiving notice of the confirmed positive test result. Within three (3) working days after receipt of a notice requesting a confirmatory retest of the original sample, the employer shall notify the original testing lab of the request.
  - b. that the employee or applicant has the right to request and receive a copy of the test result report on any test.
  - c. That the employer may not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a, confirmatory test.
  - d. That the employer may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee unless the following have been met:
    - (i) the employer has given the employee an opportunity to participate in either a counseling or rehabilitation program; and
    - (ii) the employee has either refused to participate or has failed to successfully complete the program.
  - e. that an employee must be given access to information in the employee's personnel file relating to the positive test result reports.
  - f. that an employer may not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of medical history information revealed to the employer to explain a positive test result. An employer may discharge or discipline an employee for medical information learned as a result of a positive test if the employee had a duty to previously disclose such information and has not done so.
  - g. That if a job applicant has received a job offer made contingent on the applicant passing a test, the employer may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
  - h. That an employee suspended without pay pending the outcome of a confirmatory test must be reinstated with back pay if the outcome of the confirmatory test is negative. Minn. Stat. Sec. 181.953, Subd. 10(c).
- Test result reports and other information acquired in the testing process are private and confidential information and may not be disclosed without the written consent of the employee or job applicant tested. Minn. Stat. Sec. 181.954, Subds. 1 & 2
- Exceptions: See Minn. Stat. Sec 181.954, Subd. 3
- Positive test results from an employer testing program may not be used as evidence in a criminal action against the employee or applicant tested. Minn. Stat. Sec. 181.954, Subd. 4

**REASONABLE SUSPICION OBSERVATION  
SIGNS & SYMPTOMS OF DRUG USE & ALCOHOL USE**

**THIS FORM MUST BE COMPLETED PRIOR TO SENDING INDIVIDUAL TO TESTING SITE.**

Employee's Name: \_\_\_\_\_ Evaluator's Name: \_\_\_\_\_

Other witnesses: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ AM PM

**Description of incident that suggests reasonable suspicion of drug use and/or alcohol use:**

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**CHECK ALL THAT APPLY:**

Note changes in behavior, appearance, speech and/or body odor ONLY.

- | <u>Behavior</u>  | <u>Appearance</u>                                      | <u>Speech</u>  | <u>Body Odors</u>                  |
|--|--|--|------------------------------------|
| <input type="checkbox"/> stumbling, unsteady gait            | <input type="checkbox"/> flushed complexion            | <input type="checkbox"/> slurred, thick                | <input type="checkbox"/> alcohol   |
| <input type="checkbox"/> drowsy, sleep, lethargic            | <input type="checkbox"/> sweating                      | <input type="checkbox"/> incoherent                    | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> agitated, anxious, restless         | <input type="checkbox"/> cold, clammy, sweats          | <input type="checkbox"/> loud, boisterous              | <input type="checkbox"/> meth      |
| <input type="checkbox"/> hostile, belligerent                | <input type="checkbox"/> bloodshot eyes                | <input type="checkbox"/> nonsensical, silly            |                                    |
| <input type="checkbox"/> depressed, withdrawn                | <input type="checkbox"/> teary, watery eyes            | <input type="checkbox"/> rapid, pressured              |                                    |
| <input type="checkbox"/> unresponsive, distracted            | <input type="checkbox"/> dilated (large) pupils        | <input type="checkbox"/> excessively talkative         |                                    |
| <input type="checkbox"/> clumsy, uncoordinated               | <input type="checkbox"/> constricted (pinpoint) pupils | <input type="checkbox"/> exaggerated enunciation       |                                    |
| <input type="checkbox"/> tremors, shakes                     | <input type="checkbox"/> unfocused blank stare         | <input type="checkbox"/> cursing, inappropriate speech |                                    |
| <input type="checkbox"/> flu-like illness, complaints        | <input type="checkbox"/> disheveled clothing           |  |                                    |
| <input type="checkbox"/> suspicious, paranoid                | <input type="checkbox"/> unkempt grooming              |  |                                    |
| <input type="checkbox"/> hyperactive, fidgety                |  |  |                                    |
| <input type="checkbox"/> inappropriate, uninhibited behavior |  |  |                                    |

Other observations regarding behaviors, appearance, speech and/or body odor:

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To the best of my knowledge, the above information is true.

Signature of Evaluator filling out this form: \_\_\_\_\_ Date: \_\_\_\_\_



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I Acknowledge that I have received the "ELECTRICAL INDUSTRY UNIFORM  
DRUG/ALCOHOL TESTING PROGRAM 2018."

\_\_\_\_\_  
Member Signature DATE

\_\_\_\_\_  
Employer Representative DATE