

SAMPLE POLICY Fit for Duty

POLICY & PURPOSE:

The Company has an obligation to protect the health and safety of all individuals by ensuring that all workers performing work are fit for duty, as defined in this document. It is intended to outline the responsible parties and necessary actions to assess an employee's physical or mental capabilities, necessary follow-up and return to work.

This policy is not meant to substitute company disability and other related policies.

DEFINITIONS:

“Alcohol” refers to beer, wine and distilled spirits, and includes the intoxicating agent found in medicines or other products.

“Decision-critical” refers to a position in which incapacity due to impairment could impact performance, relationships, attendance, reliability and quality. Consequences may not be immediately apparent but potential harm exists.

“Drug” means any substance, including but not limited to alcohol, illicit drugs, medications, or other substances the use of which has the potential to change or adversely affect the way a person thinks, feels or acts. For purposes of this procedure, drugs of concern are those that inhibit a worker's ability to perform work safely and productively.

“Drug Paraphernalia” means any personal property associated with the use of any drug, substance, chemical or agent, the possession of which is unlawful

“Extreme Fatigue/Stress” means physical and/or mental exhaustion that reduces a person's alertness such that a safety hazard is created or results in an inability to safely perform work.

“Fit for Duty” means that a worker is able to safely and/or acceptably perform assigned duties without any limitations resulting from, but not limited to: the use or after-effects of illicit drugs, alcohol, and/or medications; the misuse of and/or failure to take prescribed medications; and/or extreme fatigue/stress. It is a condition where a worker is physically, physiologically and psychologically capable and competent of performing their task safely.

“Illicit Drug” means any drug or substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law (e.g. street drugs such as marijuana and cocaine).

“Medication” refers to a drug obtained legally, either over-the-counter or through a medical practitioner's prescription.

“**On duty**” is the time period commencing from when a worker reports to perform work up until the time he or she ceases to perform work for the day, and includes lunch, break times and times between the portions of split crews. On Duty also includes the time period in which an individual is required to be performing work or is on stand-by to perform work.

“**Safety-sensitive**” refers to a position in which incapacity due to impairment could result in direct and significant risk of injury to the employee, others or the environment.

“**Worker**” means a person who performs work or supplies services for the Company.

RESPONSIBILITIES:

Employer

1. Define and enforce the procedures and requirements of this document.
2. Ensure qualified and objective fit for duty evaluations are conducted where required.
3. Determine service provider and procedures for alcohol and/or drug testing.
4. Ensure all parties are properly trained to enforce and fulfill their duties.

Supervisor

1. Monitor and observe workers to ensure they present as fit to perform work. This may include but is not limited to:
 - a. Attendance
 - b. Performance
 - c. Behaviour
2. Initiate the steps required to be followed when presented with reasonable suspicion (circumstances or knowledge) that indicate a worker may not be fit for duty. May include liaising with human resource or occupational health and safety managers.
3. Remove a worker deemed not fit for duty from the workplace in a safe manner. This may include but is not limited to:
 - a. Arranging transportation for the worker
 - b. Calling 911 if there is an immediate safety threat
4. Review and communicate results of evaluation to employee.
5. Implement any reasonable accommodation upon return to work as deemed necessary.
6. Maintain the confidentiality of an employee’s medical information.

Worker

1. Report fit for duty and remain fit while on duty on or offsite.
2. Perform responsibilities in a safe and effective manner, with or without accommodations during the entire time at work.
3. Notify supervisor when not fit for duty.
4. Notify supervisor when a coworker is observed acting in a manner that indicates the coworker may not be fit for duty.
5. Report the loss of a valid driver’s license or impaired driving charge and/or suspension to their supervisor immediately if required to drive a motorized vehicle for work.

6. Responsibly use all medications (including medical cannabis).
 - a. Investigate (through their doctor or pharmacist) whether a medication can adversely affect performance or the safe operation of any equipment or machinery, including vehicles.
 - b. Take appropriate steps to minimize associated risk, which would include notifying their supervisor of their inability to perform work safely.
7. Self-disclose in advance if an addiction exists or there may be adverse effects of medication so that accommodation can be discussed without fear of reprisal.
8. Responsible for taking appropriate action(s) to avoid extreme fatigue or stress while on duty.
 - a. Ensure sufficient rest periods prior to starting work.
 - b. Utilize breaks provided within and between shifts to rest and recuperate.
9. Recognize symptoms of fatigue and/or stress and report such to supervisor.
10. Cooperate with any investigation.
11. Provide relevant medical and psychological information when required.

Contractor/Subcontractor

1. Contractors and/or Subcontractors are expected to adhere to this document as applicable, and to ensure, by enforcing these requirements, that their workers do the same.

PROCEDURE:

Prohibitions

The following (not limited to) are prohibited while on duty:

- Reporting for duty or remaining on duty under the influence of drugs, illicit drugs or alcohol.
- Consuming any drugs, illicit drugs or alcohol during work and/or breaks.
- Possession of prescribed medications without a legally obtained prescription.
- Intentional misuse of medications (e.g. using the medication not as prescribed, using someone else's medication or combining medication and alcohol use against direction).
- Using, possessing, distributing, offering or selling drugs, illicit drugs, drug paraphernalia, medication or alcohol (trafficking).

Investigations

If workers are thought to be impaired, found in possession of a banned substance in the workplace or self-disclose use of such, an investigation is required to determine whether there is:

- A breach of policy
- A safety issue
- An accommodation issue

All workplace investigations must be objective, unbiased, factual and keep the privacy of the worker in mind. The following steps should be taken:

Note: This document is provided as example only and does not constitute legal advice.

1. The worker should be interviewed first to explain their signs of impairment and provide an explanation.
2. Employee Assistance Program (EAP) information should be offered.
3. All parties who had interaction with the worker or information about the impairment should be interviewed and asked specifically about the behaviour being exhibited.
4. The supervisor must prepare a written report setting out the nature of the investigation and the results again maintaining confidentially as much as possible.

Note – Worker may need to be reassigned or administratively suspended during investigation process. If sent home, they should be provided with an escort.

Professional evaluation of an employee’s physical, emotional or mental capacities is required to determine his or her ability to perform essential job functions. Such evaluations are to be conducted by an independent, licensed health care professional. Results of the evaluation should be deemed appropriate by the Company to help determine whether the worker may return to work with or without accommodation.

Reasonable Suspicion

All employees, and especially supervision, need to be aware of the signs and symptoms of on-the-job impairment. Employees having observable difficulty performing his/her duties in an effective manner that is safe for the employee and/or for his or her co-workers, or posing a serious safety threat to self or others must be assessed. In addition to the information and depth training program associated with this document, the following signs and symptoms, especially in combination, may be a reason to prompt action.

	Indicators
Physical	<ul style="list-style-type: none"> • Deterioration in appearance and/or personal hygiene • Unexplained bruises • Sweating • Complaints of headaches • Tremors • Diarrhea and vomiting • Abdominal/muscle cramps • Restlessness • Frequent use of breath mints/gum or mouthwash • Odour of alcohol on breath • Slurred speech • Unsteady gait

<p>Psychosocial Impacts</p>	<ul style="list-style-type: none"> • Family disharmony • Mood fluctuations • Inappropriate verbal or emotional response • Irritability • Confusing or memory lapses • Inappropriate responses/behaviours • Isolation from colleagues • Lack of focus/concentration and forgetfulness • Lying and/or providing implausible excuses for behaviour
<p>Workplace performance and professional image</p>	<ul style="list-style-type: none"> • Calling in sick frequently • Moving to a position where there is less visibility or supervision • Arriving late for work, leaving early • Extended breaks, sometimes without telling colleagues they are leaving • Forgetfulness • Errors in judgement • Deterioration in performance • Excessive number of incidents/mistakes • Non-compliance with policies • Doing enough work to just “get by” • Sloppy, illegible or incorrect work • Changes in work quality

Alcohol and Drug Testing

When an investigation is conducted into whether or not a worker is fit for duty, the alcohol and/or drug testing procedures will assist the Company in complying with their obligations under applicable legislation including the Occupational Health and Safety Act and the Human Rights Code.

The following testing will be conducted for safety sensitive positions:

- Pre-employment
- Random

Testing may be conducted under the following circumstances:

- Reasonable cause to believe the employee is impaired by drugs or alcohol while at work
- Post incident

- Part of a return to work plan

The company uses a reputable and reliable Third-Party Administrator to conduct accurate and confidential testing and provide the results.

Return to Work & The Duty to Accommodate

The duty to accommodate only exists for medical issues like medicinal requirements and addiction but does not mean that the use of a substance is automatically accommodated.

An objective assessment from a medical professional is required on why the worker is unable to perform their job duties and may include the following details:

- When and how often they need to take the medicine?
- Does it need to be taken during on duty hours?
- How will it be taken (in what form)?
- Where will they take it?
- How long is it anticipated they need to take it?
- What are the side effects and restrictions when using and for how long?

The supervisor shall provide any reasonable and necessary accommodations upon return to work (e.g. re-assignment of duties for a specific period of time, a flexible work schedule, etc.) unless undue hardship exists. Undue hardship considerations include but are not limited to:

- Bona fide requirements of the position
- Residual impairment after use
- Level of use (amount, timing, duration)
- Work environment
- Safety-sensitive positions
- Ability to monitor and assess impairment

Continued employment may be contingent upon worker compliance with recommendations for periodic testing, professional counselling and treatment programs.

During this time, applicable leave policies and health plan benefits shall apply.

Violations

Proactive steps must be taken to determine whether misconduct (misuse/breach of policy) can be disciplined:

- Was the misconduct causally connected to impairment, mental illness and/or addiction (i.e. a disability)?
- Should the employer have been aware of the disability or should the employer have made reasonable inquiry of a mental illness?
- Is the worker authorized for medicinal use of marijuana?
- Should the worker have disclosed permitted use?
- Was the worker able (or should have been able) to disclose addiction prior to breach of policy?

In the case of a confirmed violation of this policy, the worker shall not perform any further or additional work and/or enter upon any Company premises or worksites with the Company's written permission.

If a Contractor/Subcontractor worker is being investigated, the Contractor/Subcontractor must provide a written safety program detailing how they will ensure adherence to this policy when performing further and/or additional work on the Company's premises. The decision to permit a Contractor/Subcontractor to perform further and/or additional work and to enter upon Company premises or worksites, is at the sole discretion of the Company.

Consequences

Workers that are in violation of this policy will be disciplined following the Company's corrective action protocol that can include verbal warnings, written warnings, suspensions as well as termination.

Contractor/Subcontractors may be in breach of their contract with the Company. This breach of contract may result in the Contractor/Subcontractor being required to pay liquidated damages pursuant to the terms of the contract to the Company, and/or suspension and/or termination of the contract.

Communication

This document will be communicated to all staff upon hire and made available for further reference in the health and safety manual. The Company shall ensure timely notice of changes as they arise and communicate such.

Training

All supervisors will take training on reasonable suspicion during orientation into a supervisory role as well as annual refresher training including review of this document. This training will include but is not limited to:

- Signs and symptoms of impairment
- Drug and paraphernalia identification
- Steps to take if concern arises
- How to investigate
- Drug and alcohol testing process
- Return to work provisions
- Duty to accommodate
- Violations and consequences
- Why caring is important
 - Getting to know each employee better provides better understanding of what is normal for them so abnormal is easily recognized
 - Builds trust with employees so they self-disclose which reduces incidents

Records

All documents and reports related to fit for duty evaluations and/or alcohol and drug testing will be kept confidential and secure in employee personnel files.

Evaluation

The Joint Health & Safety Committee or Health & Safety Representative will review at least annually, this document and any incident reports (names and identifying information to be blacked out) to ensure that effective evaluations are being conducted, the results are acceptable to all parties, and that the process is working as expected.