



IBEW LOCAL 103 – BOSTON CHAPTER, NECA

AREAWIDE WORKPLACE SAFETY SUBSTANCE ABUSE TESTING PROGRAM

I INTRODUCTION

In order to protect workers and enhance the safety and productivity of the workplace the International Brotherhood of Electrical Workers and the National Association of Electrical Contractors have jointly mandated that all IBEW local unions and NECA contractors nationwide adopt area-wide substance abuse testing policies in accordance with required minimum policy standards ensuring scientific validity, fairness, confidentiality, with a strong rehabilitative component, and consistent with applicable federal, state and local laws and regulations. In addition, IBEW Local 103 and the Boston Chapter, NECA have previously supported a substance abuse and assistance program as one of our fundamental principles. Therefore, Local 103 and the Boston Chapter, NECA have agreed to undertake adoption and implementation of such an area-wide substance abuse policy for signatory contractors employing IBEW Local 103 members, consistent with the mandatory IBEW/NECA minimum standards and in compliance with applicable law, and in compliance with current and future IBEW/NECA collective bargaining agreements.

A current copy of this policy will be provided to each IBEW Local 103 member and to each signatory contractor. This policy shall be posted at the IBEW Local 103 Union Hall, 256 Freeport Street, Dorchester, MA 02122. Additional information can be obtained from the IBEW Local 103 Business Manager's office at 617-436-3710.

The Program Administrator, an independent contractor who provides administration of the sample collection, testing, notification, treatment coordination, and regulatory compliance for this policy, is Modern Assistance Programs, Inc., 1400 Hancock Street, 2nd Floor, Quincy, MA 02169 (tel. 617-774-0331). The Program Administrator shall designate a person or persons as "the Medical Review Officer" who shall be sufficiently trained in the science of the various drug tests to verify positive test results under this policy. The Program Administrator may be replaced at the discretion of the Joint Conference Committee.

II PROGRAM COVERAGE

This area-wide Workplace Safety Substance Abuse Testing Program (the "Program") is a voluntary program available to all IBEW Local 103 members (or members of other IBEW local unions working within IBEW Local 103's jurisdiction under a travel card) with respect to employment by any signatory contractors working within IBEW Local 103's jurisdiction. The program applies with respect to covered employment under the Collective Bargaining Agreements negotiated between the Electrical Contractors Association of Greater Boston, Inc. – Boston Chapter, N.E.C.A. and IBEW Local 103, and with respect to such other collective bargaining agreements referencing participation in the Program as may be entered into by Local

103 and the Boston Chapter from time to time. Testing under the Program is independent of any mandatory pre-employment testing policy initiated by the Local 103 Local Joint Apprenticeship Training Committee.

III EMPLOYEE RIGHTS AND RESPONSIBILITIES

Participation in the Program allows an IBEW Local 103 member to be included within a Certified Drug-Free Pool (the "Certified Pool") of members eligible for employment by those signatory contractors working within IBEW Local 103's jurisdiction who have voluntarily elected to participate in the Program. Election by a member to participate in the Program constitutes an election to submit to substance abuse testing under the protocols set forth in the Program. Such election shall be in writing on a form approved by the Program Administrator. Each member in compliance with the Program shall be issued a current Certified Drug-Free Workplace Identification Card ("Certified Pool ID Card") to be provided to a contractor upon commencement of covered employment and as requested at regular intervals thereafter to assure current compliance. A member may withdraw from the Program by written withdrawal election at any time, but shall be immediately ineligible for employment with those contractors participating in the Program and limiting employment to members within the Certified Pool. No discrimination as to wages, hours, or benefits (including without limitation access to Employee Assistance Program benefits) shall arise from the election, non-election or withdrawal of any member to be included within the Certified Pool.

IV EMPLOYER RIGHTS AND RESPONSIBILITIES

- (i) Employers must be signatory contractors in good standing to participate in the IBEW Local 103\Boston Chapter NECA Workplace Safety Substance Abuse Testing Program.
- (ii) Signatory contractor's have four options under the Program:
 - a. Require that all employees, both current and future employees, comply with the Program
 - b. Require that all employees, both current and future employees, for a designated project comply with the Program.
 - c. Require that all new employees referred by Local 103 come from the Certified Drug-free Pool.
 - d. Specify no preference in hiring regarding an applicants status in the Program.
- (iii) Signatory Employers wishing to hire workers through the Certified Drug-free Pool must designate such in writing to the Referral Agent of Local 103.
- (iv) Signatory Employers participating in the Program must remove employees from the job that fall out of compliance with the Program.
- (v) Signatory Employers shall make a good faith effort to re-employ workers upon receipt of a return-to-work release from the Program Administrator.

V SCOPE OF TESTING:

The Program provides for initial, bi-annual, reasonable cause, and random testing for all members within the Certified Pool, with at least 25% of the Certified Pool being tested randomly each calendar year. Selection of members for random testing shall be done by the Program Administrator via a computer program which includes identifiers for all members within the Certified Pool.

The Program provides for testing for all members within the Certified Pool, including:

- (i) Regular, periodic testing determined by the members entry date into the Certified Pool, or other administratively rational date determined by the Program Administrator, to assure all members within the Certified Pool have current Certified Pool ID Cards;
- (ii) Testing required by the member's employment at a job site that is subject to law, regulation or contract that includes mandatory testing for all personnel on site, or testing required by law for a member involved in a workplace accident;
- (iii) Testing as suggested or required by the substance abuse treatment provider for any member (whether the treatment is as a result of a prior positive test result or the member's voluntary entry into the Employee Assistance Program); or

The Program also provides for reasonable cause testing for all members within the Certified Pool. "Reasonable Cause" means a reasonable ground for to believe a member may be under the influence of a substance of abuse.

The cost of initial, bi-annual, reasonable cause, and random testing will be borne by the Program. The cost of testing due to failure to report for random testing, of testing required due to a prior positive test, or for appealing a prior positive test, shall be the responsibility of the member.

VI SUBSTANCES TO BE TESTED FOR

Screening tests shall be performed by Oral Fluid Testing. The cut-off limit for positive test results for screening tests shall be based on current Department of Transportation standards:

Alcohol
Marijuana
Cocaine
Amphetamines
Metamphetamine (including ecstasy)
Opiates
PCP
Benzodiazepines
Barbituates
Plus, methadone and suboxone

Those not reporting for their random test will be required to take a urine test within five days as directed by the Program Administrator. Those not reporting for the urine test will be required to take a hair follicle test within 10 days of notification of the random test.

VII CONSEQUENCES OF TESTING

Action to be taken for refusal or failure to submit to a test: A member in the Certified Pool who refuses to submit to a test for probable cause shall be removed from the Certified Pool for a minimum period of one (1) week. A member of the Certified Pool who fails to submit to a random or permitted arbitrary test shall be removed from the Certified Pool for a minimum period of one (1) week. The intentional adulteration of a collection sample shall be deemed a refusal or failure to submit to a test, and the failure of two consecutive samples from a member which are diluted or otherwise inadequate for valid testing shall be deemed conclusive evidence of adulteration. Members notified of their selection for random testing shall be required to report for testing within thirty-six (36) hours. Members who are out of the jurisdiction, or who are excused by the Program Administrator from reporting on the basis of good cause, shall report for random testing within thirty-six (36) hours of their return to the jurisdiction or the elimination of the good cause. When not absent from the jurisdiction, it is the member's responsibility to notify the Program Administrator of a valid excuse for not reporting for random testing. Reinstatement into the Certified Pool after removal for failure of, or refusal to submit to, a test will be conditioned upon a new negative test results. The return-to-work release will be based on said negative test results. These tests may be urine or hair at the discretion of the administrator.

Action to be taken while awaiting results: A member who has been subject to probable cause testing may be suspended by the contractor pending results of the test. No consequences shall accrue to a member with a valid Certified Pool Card under the Program pending results of a random or arbitrary test, PROVIDED, HOWEVER, that nothing in the Program shall impair a contractor's rights under the Collective Bargaining Agreement to suspend, terminate or refuse employment to a member.

Action to be taken upon confirmed positive test: A member with a confirmed positive test result shall be contacted by the program Administrator for a face-to-face interview. The member will be suspended from the Certified Pool until the Administrator issues a Release to Work Certificate. A positive test during the treatment period prescribed by the Administrator or any second positive test within a six-month period will result in the member being suspended from the Certified pool for a 52 weeks period. At the discretion of the Administrator the member may be restored to the Certified Pool at the end of that time.

VIII APPEAL PROCEDURE

A member who requests an appeal of a verified positive test result, must take a confirmatory hair follicle test within 10 days of notification that he/she has a positive confirmatory test. Those members wishing to appeal the results of a positive test result, or decisions of the Program Administrator, may appeal to the Joint Conference Committee, which shall hear the appeal within fourteen (14) days. The member may present witnesses or other evidence to contest the accuracy or validity of the positive test result.

IX SAMPLE COLLECTION

All sample collections shall be done at such time and places as determined by the Program Administrator. Efforts will be made to make the process as convenient as possible to the member so as to maximize program participation.

Participants are required to comply with sample collection policies as established by the Program Administrator.

If adulteration of a sample is suspected, collection personnel may take reasonable additional steps to ensure the integrity of samples, in compliance with law. Appropriate documentation of the basis of the suspicion (e.g., abnormal temperature range, observation of the presence of masking or dilution agents, etc.) shall be made.

Strict chain of custody shall be observed for all sample collection, including sealing of sample in tamper-evident containers and labeling of containers with identifying information in preparation for shipment to a laboratory. The member shall be present during the sealing and labeling of the member's sample. A chain of custody form identifying the member, sample, date of collection, purpose of testing and identity of each individual having custody of the sample shall be completed and supplemented through every step in sample collection, shipping, laboratory receipt, storage and testing.

Samples awaiting shipment, during transport and awaiting testing at the laboratory shall be maintained in an environment that protects samples from conditions (including temperature extremes and exposure to contaminants) that may cause deterioration of the sample for testing purposes, in accordance with current standards of best practice.

X SAMPLE TESTING

All testing must be performed by a laboratory (or equivalent facility) that complies with testing standards and protocols as set forth in U.S. Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing. No positive screening test results shall be reported unless confirmed by confirmatory testing. Test results and laboratory reports shall be provided in confidence to the Program Administrator, but to no other persons without the consent of the member, unless disclosure is otherwise required by law.

XI NOTIFICATION AND CONFIDENTIALITY

The Program Administrator will notify a member of any positive test result by telephone, with a confirmation by mail. The member shall be entitled to request from the Program Administrator the laboratory report on which the positive test result is based. The member shall have ten (10) days from receipt of notice to contact the Program Administrator, to contest or explain the positive results. Failure to contact the Program Administrator within such time constitutes a waiver of the Member's right to contest or explain the results.

Upon entry into the Program, a contractor shall designate as its representatives individuals who will be the only persons entitled to receive, communicate and act upon the information regarding a member's current compliance with the Program. All documentation of a member's status shall be separately maintained by the contractor in a secure manner. The Program Administrator shall notify the Referral Agent as to a member's compliance with the Program, but shall not provide any other specific information or laboratory report from which specific test results can be

derived. The Referral Agent shall communicate such information to the member, and to the contractor then employing the member.

The Program Administrator may, subject to approval of the Joint Conference Committee, establish a regularly updated, secure, verification system, available to members, to designated representatives of contractors participating in the Program, the Referral Agent, and other Joint Conference Committee designees. Such secure verification system shall provide information with respect to a member's current status within the Certified Pool, for the purposes of assuring that only members with the Certified Pool are employed by participating contractors for work on jobs limited to Certified Pool members. Such verification system shall not provide any information regarding positive test results, participation in any Employee Assistance Program, or other confidential information not necessary to its purpose.

XII EMPLOYEE ASSISTANCE PROGRAM

Aside from the humanitarian aspects, one of the motivations for a substance abuse testing program is to not lose our skilled workforce. If a non-compliant worker has no opportunity to rehabilitate himself and again become eligible for employment, those skills will be lost. The rehabilitation component called for here may be satisfied through a number of avenues, including referral to outside agencies for help, and it does not necessarily require the parties to establish their own program. Notwithstanding the requirement that workers who have completed the rehabilitation called for under the program shall become eligible for employment, a release does not guarantee reemployment with the former employer, and a contractor's policies may provide that workers who use, possess, sell, distribute or transport prohibited substances will be terminated and not be eligible for re-employment with that firm.

A Member may request employee assistance evaluation and counseling by contacting:

Modern Assistance Programs, Inc.
1400 Hancock Street, 2nd Floor
Quincy, MA 02169
617-774-0331

In no event shall the Joint Conference Committee, IBEW Local 103, NECA, any contractor, or any agent or officer of any of the foregoing dictate or control the treatment recommended or provided to a Member by a substance abuse evaluator or treatment provider under the Employee Assistance Program. In no event shall the Joint Conference Committee, IBEW Local 103, NECA, any contractor, or other party be liable for any errors or omissions of the substance abuse evaluator or treatment provider in connection with services provided to a Member under the Employee Assistance Program.

XI GENERAL PRINCIPLES

- (i) The results of tests included in this Program shall be considered medical records and held confidential to the extent permitted by law. However, this information may be divulged for grievance, arbitration, and/or litigation with respect to these matters.
- (ii) It is understood that the Joint Conference Committee, IBEW Local 103, NECA, or any participating contractor shall not be responsible for ascertaining or monitoring the drug-free status of any employee or applicant for employment.
- (iii) No employee or employer may modify any document involved with the administration of this Program.
- (iv) The parties shall share jointly the costs of this Program.

This Program shall go into effect _____, 2005 and shall remain in effect until changed or terminated by the parties to this Agreement.

For Local Union 103, IBEW

For the Boston Chapter, NECA

Michael Monahan, Business Manager

Glenn W. Kingsbury, Executive Manager

John Dumas, President

David R. MacKay, President

Philip DeCola

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