



## DRUG-FREE WORKPLACE POLICY

### Clerk of the Circuit Court and Comptroller

---

The Clerk of the Circuit Court and Comptroller (Clerk) office is a Drug-Free Workplace and has a zero tolerance policy regarding the use of illegal drugs and/or alcohol in the workplace or while engaged in work-related activities. This policy is established pursuant to Fla. Stat. § 440.101.02, Florida's "Drug-Free Workplace Act".

Pursuant to this policy, when a conditional job offer is extended to a candidate during the recruitment and hiring process, the candidate will be required to submit to a pre-employment drug test(s) to detect the presence or absence of any drug, including alcohol, or its metabolites which, by way of this policy, are prohibited. Additionally, during the course of employment, all Deputy Clerks *may* be required to submit to a drug test(s) to detect the presence or absence of any drug, including alcohol, or its metabolites which, by way of this policy, are prohibited. The types of tests conducted are defined and explained within this policy. At any time a drug and/or alcohol test is requested, the Clerk reserves the right to have the employee escorted to and from the testing facility by Human Resources or a member of leadership.

Reporting to work having used or being under the influence of alcohol or unauthorized substances, regardless of when or where they were ingested or injected is prohibited.

A mandatory drug and alcohol test(s) is required following on-the-job injuries or accidents. Any Deputy Clerk who tests positive for the presence of a prohibited drug and/or alcohol *may* be terminated. Additionally, any Deputy Clerk who tests positive for the presence of a prohibited drug and/or alcohol following an on-the-job injury or accident may be disqualified from receiving some benefits under the Florida Workers' Compensation Law.

The purposes of this policy are as follows:

- (a) establish and maintain a safe, healthy working environment for all Deputy Clerks;
- (b) reduce the incidents of injury to person or property;
- (c) reduce absenteeism, tardiness and poor job performance; and
- (d) provide reasonable accommodations for any Deputy Clerk who seeks rehabilitation in overcoming any addiction to, dependence upon, or problem with alcohol or drugs. Accumulated PLT time may be used to supplement time off for rehabilitation purposes.

Pursuant to this policy, the Clerk may require a Deputy Clerk to submit to a test for the presence of drugs and/or alcohol. If drugs and/or alcohol are found to be present in the Deputy Clerk's system at a level prescribed by this policy, the Deputy Clerk *may be* terminated and may forfeit eligibility for medical and indemnity benefits under the workers' compensation law. All Deputy Clerks are hereby notified that it is a condition of employment to refrain from reporting to work or working with the presence of illegal or unauthorized drugs and/or alcohol in his or her body, and if an injured Deputy Clerk

refuses to submit to a drug and/or alcohol test, the Deputy Clerk forfeits eligibility for medical and indemnity benefits. A Deputy Clerk will be terminated for refusing to take a drug and/or alcohol test, for diluting or substituting urine or other sample submitted for drug testing or refusal of escort to and from a test facility. If a Deputy Clerk is sent for a drug and/or alcohol test, it is that Deputy Clerk's responsibility to secure transportation from the test facility to his/her home or other residence or when reporting back to work.

## **6.2 General Definitions**

- (a) "Alcohol" - means ethyl alcohol (ethanol). References to use of alcohol include use of a beverage, mixture or preparation containing ethyl alcohol.
- (b) "Drug" - means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph.
- (c) "Drug test or test" - means any chemical, biological, or physical instrumental analysis administered, by a laboratory certified by the U.S. Dept. of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites. The Clerk's office testing facility is: Quest Diagnostics – 6140 West Corporate Oaks Drive, Crystal River, FL 34429. 866-697-8374.
- (d) "Prescription or nonprescription medication" - means a drug or medication obtained pursuant to a prescription or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments or injuries.
- (e) "Specimen" - means a tissue, hair, or a product of the human body capable of revealing the presence of alcohol and/or drugs or their metabolites, as approved by the U.S. Dept. Food & Drug Administration or the Agency for Health Care Administration.
- (f) "Drug Rehabilitation Program" - means a service provider, that provides confidential, timely, and expert identification, assessment, and resolution of drug and/or alcohol abuse.
- (g) "Initial Drug Test" - means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the U.S. Food & Drug Administration or the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.
- (h) "Medical Review Officer or MRO" - means a licensed physician, employed or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results, and who has the necessary medical training to interpret and evaluate a Deputy Clerk's positive test result in relation to the Deputy

Clerk's medical history or any other relevant biomedical information. The Clerk's office's MRO is: First Lab, Natalie P. Hartenbaum, 100 High Point Drive, Suite 102, Chalfont, PA 18914 1800-732-3784.

- (i) "Confirmation/Confirmed Drug Test" - means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.
- (j) "Dilute" – A dilute specimen, by definition, is a urine specimen that has a creatinine of less than 20 g/dl and a specific gravity of 1.003 or less. These 2 tests are routinely performed on every urine sample that is tested at the Lab. If the specimen meets the above criteria, it is reported as a "Dilute specimen". When urine is "dilute", it is possible that drugs in their system may not be detected. Hence, the result isn't negative absolute.

### **6.3 Prescription and Nonprescription Medications; Consumption of Hemp Products**

No prescription drug shall be brought upon County premises by any person other than the person for whom the drug is prescribed to by a licensed medical practitioner, and shall be used only in the manner, combination, and quantity as prescribed. Deputy Clerks must keep all prescribed medicine in its original container, which identifies the drug, date of prescription, and the prescribing doctor.

Deputy Clerks are responsible for informing their physician of job duties and responsibilities, so the physician can make a determination as to if the prescription or non-prescription medication(s) will interfere with the job performance, and if any limitations of duty are necessary. The Department Director may change the Deputy Clerk's job assignment during the period of time a prescription and/or non-prescription medication is being taken as treatment where a medical determination has been made that the Deputy Clerk poses a direct threat to his/her safety or the safety of another Deputy Clerk.

If the individual's primary duties involve operation of a vehicle or operation of machinery, the Deputy Clerk is responsible for reporting the use of a prescription that may interfere with job performance.

Deputy Clerks have the right to consult with the Medical Review Officer on technical information regarding prescription or non-prescription medication for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the Deputy Clerk. If in the opinion of the MRO drug level compromises the ability to perform job duties, MRO will notify Clerk and the Deputy Clerk's physician.

The consumption of food and food-products containing hemp may cause a Deputy Clerk to test positive. A test result that is positive as a result of a Deputy Clerk's consumption of food or food-products containing or made from hemp or hemp products will be reported as a positive test and subject the Deputy Clerk to discipline, up to and including termination.

### **6.4 Prohibitions**

**THE FOLLOWING CONDUCT IS ABSOLUTELY PROHIBITED:**

1. Use, possession, manufacture, distribution, dispensation or sale of illegal drugs, unauthorized prescription drugs, and/or drug paraphernalia on County premises or on Clerk business, in Clerk supplied vehicles, or during working hours;
2. Unauthorized use, possession, manufacture, distribution, dispensation or sale of illegal drugs, unauthorized prescription drugs, and/or drug paraphernalia on County premises or Clerk business, in Clerk supplied vehicles, or during working hours;
3. Unauthorized use, possession, manufacture, distribution, dispensation or sale of alcohol on County premises or Clerk business, in Clerk supplied vehicles, or during working hours;
4. Storing in a locker, desk, automobile or other repository on Clerk premises any illegal drug, drug paraphernalia, any controlled substance, or alcohol whose use is unauthorized;
5. Being under the influence of an unauthorized controlled substance, illegal drug or alcohol on County premises, in a County or Clerk supplied vehicle, or during working hours. "Under the influence" of alcohol is defined as a blood alcohol content of .04; "being under the influence" of an unauthorized controlled substance or illegal drug is defined as testing positive at a specified ng/mL level;
6. Possession, use, manufacture, distribution, dispensation or sale of illegal drugs off County premises that adversely affects the Deputy Clerk's work performance, his own or others' safety at work or the Clerk's regard or reputation in the community;
7. Switching or adulterating any urine sample submitted for testing;
8. Refusing consent to testing or to submit a breath, saliva, urine or blood sample for testing when requested by management; refusing transport to test facility; or refusing to secure transport from testing facility to his/her home or other residence;
9. Refusing to submit to an inspection when requested by management;
10. Failing to adhere to the requirements of any drug and/or alcohol treatment or counseling program in which the Deputy Clerk enrolled;
11. Conviction under any criminal drug and/or alcohol statute during employment;
12. Failure to notify the Clerk of any conviction under any criminal drug and/or alcohol statute within five days of the conviction;
13. Failure to keep prescribed medicine in its original container;
14. Refusing to sign a statement agreeing to abide by the Clerk's Substance Abuse Policy;
15. Refusal to complete a Consent Form prior to testing; Refusal to complete

the Chain of Custody Form after submission of a urine or blood specimen.

16. Operating a motor vehicle or machinery while under the influence of any illegal drug, unauthorized prescription drug, and/or alcohol while on County premises, Clerk business, or in transit to or from a testing facility under this policy.

## **6.5 Conditions Under Which Drug Tests Will Be Conducted**

**A. “Reasonable suspicion drug testing”** - means drug testing based on a belief that a Deputy Clerk is using or has used drugs in violation of the Clerk’s policy. The suspicion may be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug and/or alcohol.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug and/or alcohol use, provided by a reliable and credible source.
4. Evidence that an individual has tampered with a drug test during his/her employment with the Clerk.
5. Information that a Deputy Clerk has caused, contributed to, or been involved in an accident while at work.
6. Evidence that a Deputy Clerk has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on Clerk premises or while operating Clerk vehicles, machinery or equipment.

**B. “Follow-up”** - means that if the Deputy Clerk in the course of employment enters an alcohol and drug rehabilitation program, the Clerk will require the Deputy Clerk to submit to a drug test as a follow-up to such program unless the Deputy Clerk voluntarily enters the program. In that case, the Clerk has the option not to require follow-up testing. If follow-up testing is required, it will be conducted at least once a year for a 2-year period after completing the program. Advance notice of a follow-up testing date will not be given to the Deputy Clerk to be tested.

**C. “Pre-employment and conditional job offer drug testing”** – Once a conditional job offer is extended during recruitment and hiring, the candidate will be required to submit to a pre-employment drug test(s) to detect the presence or absence of any drug, including alcohol, or its metabolites which by way of the policy are prohibited.

- D. “Worker’s Compensation: On-the-job injury Medical and Report Only Claims”** - A mandatory drug and alcohol test is required for all medical and report only claims resulting from an on-the-job injury or accident. Additionally, any Deputy Clerk who tests positive for the presence of a prohibited drug and/or alcohol following an on-the-job injury or accident *may* be disqualified from receiving some benefits under the Florida Workers’ Compensation Law.

## **6.6 Testing Procedures**

### **A. Drugs for Which a Test Will Be Conducted**

ALCOHOL -- (booze, hootch, drink, beer, liquor, wine, moon shine). All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick’s Nyquil is 25% (50-proof) ethyl alcohol. Comtrex is 20% (40 proof). Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).

AMPHETAMINES -- (bennies, black beauties, crystal, speed uppers, crank) Obetrol, Biphetamine, Desoxyn, Dexedrine Didrex.

CANNABINOIDS -- (marijuana, hashish, maryjane, grass, reefer, pot, dope, etc.) Marinol (Dronabinol, TEC).

COCAINE -- (coke, crack, blow, nose candy, toot, snow) Cocaine HCl topical solution (Roxanne).

PHENCYCLIDINE -- (PCP, angel dust).

METHAQUALONE -- (ludes, qualude, optimil, parest, somnafac, sopor)

OPIATES -- (heroin, horse, smack, powder) Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate) Percodan, Vicodin, etc.

BARBITURATES -- (barbs, rainbows, downers, goofballs, reds, yellows, blues) Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad, etc.

BENZODIAZEPINES – Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Hacion, Paxipam, Restoril, Centrax.

METHADONE -- Dolophine, Methadose

PROPOXYPHENE -- Darvocet, Darvon N., Dolene, etc.

- B. Individuals to be tested** -- All Deputy Clerks and candidates of whom a conditional job offer is extended during recruitment and hiring are subject to testing under this policy.

- C. Voluntary notification of drug use and/or abuse** -- A Deputy Clerk who has not previously tested positive for drug and/or alcohol use, or entered a drug and/or alcohol rehabilitation program, and who comes forward voluntarily seeking treatment shall not be subject to discipline solely for coming forward. All such Deputy Clerks should contact the Human Resources Director, and are urged to seek help immediately.

Once a test has been scheduled, all Deputy Clerks are required to cooperate with the designated Medical Review Officer to provide information regarding prescriptive and over-the-counter medications, which could cause a positive result.

- D. Refusal to Test** -- If a Deputy Clerk refuses to submit to a test for drugs or alcohol, he/she may forfeit his/her eligibility for all workers compensation, medical and indemnity benefits and will be terminated from employment.

- E. Initial Test** -- The initial screen for all drugs shall use an immunoassay procedure or equivalent, or a more accurate scientifically accepted method approved by the U.S. FDA or the Agency for Health Care Administration. The initial test for alcohol shall be an enzyme oxidation methodology. The following cutoff levels shall be used when first screening specimens to determine whether they are positive or negative for these drugs or metabolites. All levels equal to or exceeding the following shall be reported as positive.

Alcohol	.04 g/dL%
Amphetamines	1,000 ng/mL
Cannabinoids	50 ng/mL
Cocaine	300 ng/mL
Phencyclidine	25 ng/mL
Methaqualone	300 ng/mL
Opiates	2,000 ng/mL
Barbiturates	300 ng/mL
Benzodiazepines	300 ng/mL
Synthetic Narcotics:	
Methadone	300 ng/mL
Propoxyphene	300 ng/mL

No Deputy Clerk shall be terminated solely on the basis of a positive initial test.

- F. Confirmation Test** -- All specimens identified as positive on the initial tests shall be confirmed using a second test, a gas chromatography/mass spectrometry (GC/MS) test or an equivalent or more accurate scientifically accepted method approved by the Agency for Health Care Administration or the U.S. FDA as such technology becomes available in a cost-effective form. The following confirmation cutoff levels shall be used when analyzing specimens to determine whether they are positive or negative for these drugs or metabolites. All levels equal to or exceeding in the following shall be reported as positive:

Alcohol	.04 g/dl%
Amphetamines	500 ng/mL
Cannabinoids	50 ng/mL
Cocaine	150 ng/mL
Phencyclidine	25 ng/mL
Methaqualone	150 ng/mL
Opiates	300 ng/mL

Codeine	2,000 ng/mL
Morphine	2,000 ng/mL
6-Acetylmorphine 2	10 n/g/mL
Barbiturates	150 ng/mL
Benzodiazepines	150 ng/mL
Synthetic Narcotics:	
Methadone	150 ng/mL
Propoxyphene	150 ng/mL

If these tests confirm the presence of drugs or alcohol in the specimen of a Deputy Clerk, that individual will be terminated.

**G. Collection Site Procedures - Chain of Custody**

1. As part of the Drug Free Workplace, the Clerk will only utilize a laboratory licensed or certified by the Agency for Health Care Administration.
2. The laboratory will be required to follow Florida law and the rules established by the Agency for Health Care Administration.

**H. Awaiting Test Results**

Any time a Deputy Clerk is required to submit to a drug and/or alcohol test, the Deputy Clerk will be placed on Administrative Leave Without Pay until the test result is received by the Clerk's Office. If the Confirmation Test result is positive, the Deputy Clerk's employment will be terminated. If the Confirmation Test result is negative, the time taken as Administrative Leave Without Pay will be reclassified as Administrative Leave With Pay, and the Deputy Clerk will receive compensation for the period of time so designated.

**I. Deputy Clerk Challenges**

1. Within five (5) working days after receipt of a positive confirmed test result from the medical review officer, the Clerk shall inform a Deputy Clerk in writing of such positive test result, the consequences of such results, and the options available to the Deputy Clerk or job applicant.
2. The Clerk shall provide to the Deputy Clerk, upon request, a copy of the test results.
3. Within five (5) working days after receiving notice of a positive confirmed test result, the Deputy Clerk may submit information to the medical review officer explaining or contesting the test results, and why the results do not constitute a violation of this policy.
4. If a Deputy Clerk's explanation or challenge of the positive test results is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the Clerk. The Deputy Clerk may submit information to the Clerk explaining or contesting the test results and why the results do not constitute a violation of this policy. If the Deputy Clerk's explanation or challenge of the positive test result is unsatisfactory to the Clerk, a written explanation as to why the Deputy Clerk's explanation is unsatisfactory, along with the report of positive results, shall be provided by the Clerk to the Deputy Clerk within 15 days of the receipt of the explanation

or challenge. All such documentation shall be kept confidential by the Clerk and shall be retained by the Clerk for at least one (1) year. A person may contest the drug test result pursuant to rules adopted by the Dept. of Labor and Employment Security.

5. In the event of a workplace injury and the Clerk's Workers Compensation company decision is to deny workers' compensation benefits due to a positive drug test, a Deputy Clerk may undertake an administrative challenge by filing a claim for benefits with a Judge of Compensation Claims. If no workplace injury has occurred, the person must challenge the test result in a court of competent jurisdiction. When a Deputy Clerk undertakes a challenge to the results of a test, it shall be the Deputy Clerk's responsibility to notify the laboratory and the sample shall be retained by the laboratory until the case is settled.
  6. Within seven (7) days after testing based on reasonable suspicion, the Clerk shall detail in writing the circumstances, which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the Deputy Clerk upon request and the original documentation shall be kept confidentially by the Clerk and retained for at least one (1) year.
  7. During the 180 day period after written notification of a positive test result, the Deputy Clerk who has provided the specimen shall be permitted by the Clerk to have a portion of the specimen retested, at the Deputy Clerk's expense. Such re-testing shall be done at another laboratory, licensed or approved by the Agency for Health Care Administration, chosen by the Deputy Clerk. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that performed the test for the Clerk is responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.
  8. Deputy Clerks have the right to consult the Medical Review Officer regarding prescription or non-prescription medication.
  9. The Clerk shall pay the cost of all drug tests, initial and confirmation, which it requires of Deputy Clerks. A Deputy Clerk shall pay the costs of any additional drug tests not required by the Clerk.
  10. All Deputy Clerks are responsible for notifying the laboratory of any administrative or civil action brought in relation to a test result hereunder.
- J. Negative Dilute Results** -- If the urine specimen is determined to be negative and diluted (urine specimen with a creatinine level of less than 20 g/dl and a specific gravity of 1.003 or less) the donor will be required, at the employer's request, to refrain from drinking excessive amounts of fluids and provide with minimum possible advance notice specimen to be tested. The second test shall become the test of record.

#### **6.7 Confidentiality**

The results of drug tests and all related information, reports, statements and memoranda will be treated as confidential, and distribution shall be limited to those having a "need to know." Results may be revealed to the proper authorities if the situation requires. Otherwise, such information shall be released only pursuant to a written consent form signed voluntarily by the Deputy Clerk.

#### **6.8 Effective Date—Notice to Deputy Clerks**

- (a) This policy is effective immediately upon notice to Deputy Clerks. Deputy Clerks will be subject to drug testing pursuant to the policy beginning thirty (30) days after the effective date of this policy.
- (b) Cut-off levels used by the testing laboratory when analyzing specimens to determine whether they are positive or negative for drugs and metabolites may change from time to time. The Clerk will follow recommendations established for the testing laboratory and will modify the Clerk policy to comply with any new standards.

#### **6.9 Reservation of Rights**

- (a) The Clerk retains the sole right to interpret, change, or discontinue this policy as may be necessary.
- (b) Nothing in this policy should be construed as creating a contract of employment. The at will employment relationship cannot be changed except in writing by the Clerk.
- (c) The Clerk reserves the right to test for any other schedule 1 drugs.