



# Policy & Procedure Chapter 68

## *Drug and Alcohol Free Workplace*

Effective Date: 7/1/2001

Revised: 08/23/2018

Accreditation Standards:

---

### 68.0 PURPOSE

- A. The Sheriff's Department is committed to protecting the safety, health and well-being of its employees and the citizens of, and visitors to, Boone County. With the safety sensitive role that the Sheriff's Department has in its law enforcement duties, and the associated legal, ethical and moral responsibilities, the Department adopts the *Drug and Alcohol Free Workplace* policy as established by the Boone County Fiscal Court. This policy shall apply to all employees of the Department.
- B. In addition, the Department also includes a report and review procedure that shall apply to all sworn personnel.

68.1 PROCEUDRE: The Boone County *Drug and Alcohol Free Workplace* policy:

### **Section I: Purpose and Goals**

- A. Realizing and accepting the legal, ethical and moral responsibilities associated with maintaining and running a county-wide government for all citizens of Boone County, Kentucky; as well as running and maintaining a safe and healthful workplace for its employees; and understanding the potential for physical as well as monetary damage associated with the abuse of illicit substances, illegal drugs and alcohol to its employees, to the County as a place of employment and in turn, to the citizens of Boone County, Kentucky as a whole; and with the intention to ensure that employees of the County understand that compliance with the stipulations set forth in this policy are conditions of employment with the County; the County is fully committed to doing its best to protect the safety, health and well-

being of all employees of the County, to the overall citizenry of Boone County, Kentucky and to other individuals who make use of the County's facilities.

- B. Likewise, it is the County's additional purpose(s) and intent to accomplish the following with the establishment of this policy:
1. As a recipient of Federal Funds, to comply with the Drug Free Workplace Act of 1988 (PL100-690. Title V, Schedule D).
  2. To comply with Federal Department of Transportation regulations regarding employees holding Commercial Drivers Licenses (CDL).
  3. To comply with all applicable federal and state laws and regulations.
  4. To reduce the number of accidents and injuries to employees, other persons and property.
  5. To reduce absenteeism and tardiness, and to increase the productivity of all employees of the Court.
  6. To help ensure the reputation of the County as a whole and of the County's employees throughout the community.
  7. In line with the County's stated goals and objectives, to provide leadership in helping to stem the tide of the abuse of alcohol, illicit substances and illegal drugs throughout Boone County and the Commonwealth of Kentucky as a whole.
- C. It is with these stated goals in mind that the Boone County Fiscal Court issues this policy, declaring itself a *Drug and Alcohol Free Workplace* and hereby issues these accompanying rules regarding drug and alcohol use in the workplace for the County.
- D. The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the workplace.

## Section II: Definitions

- A. Accident-- an unexpected and undesirable event resulting in damage or harm. For the purposes of this policy, the resulting damage or harm may constitute an injury which requires off-site medical attention be given to a person or damage to a vehicle or other property.
- B. Alcohol-- means any intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol. This includes over-the-counter and prescribed medications which contain more than one-half (1/2) of one percent (1%) of alcohol by volume.
- C. Alcohol Testing-- the testing for alcohol content by an Evidential Breath-Testing Device (EBT) or other Department of Transportation (DOT) approved device. DOT approved devices and procedures will also be used for non-DOT alcohol tests.
- D. Drug-- means a controlled substance as defined in KRS 218A.010(6) and as established in 902 KAR Chapter 55, or as described for Sheriff's employees in form Q-3 including:
1. Amphetamines
  2. Cannabinoids (THC)
  3. Cocaine
  4. Opiates
  5. Phencyclidine (PCP)
  6. Benzodiazepines
  7. Propoxyphene
  8. Methaqualone
  9. Methadone
  10. Barbiturates
  11. Synthetic Narcotics
  12. Illicit Substances as defined in KRS 351.010
  13. Volatile Substances as defined in KRS 217.900(1)
- E. Drug or Alcohol Rehabilitation Program-- means a service provider that provides confidential, timely, and expert identification, assessment, treatment and resolution of employee drug or alcohol abuse.
- F. Drug Test-- means a chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for the purpose of determining the presence or absence of a drug

or its metabolites or alcohol pursuant to standards, procedures, and protocols established by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).

- G. Employee Assistance Program (EAP)-- means an established program providing:
1. Professional assessment of employee personal concerns.
  2. Confidential and timely services to identify employee alcohol or drug abuse.
  3. Referrals of employees with alcohol or drug abuse issues for appropriate diagnosis, treatment, and assistance.
  4. Follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.
- H. Illicit Substance-- means those prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs.
- I. Medical Review Officer (MRO)-- means a licensed physician with knowledge of substance abuse disorders, laboratory testing, and chain of custody collection procedures, and who has the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information.
- J. Qualified Laboratory-- means a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA).
- K. Reasonable Suspicion-- as used in this policy, the term reasonable suspicion means, a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific, objective and articulable facts and reasonable inferences drawn from those facts in light of experience, training, or education.
- L. Refusal to Submit-- means the failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath

testing; or, the failure to provide adequate urine for controlled substances testing without a valid medical explanation after the employee receives notice of the requirement of urine testing; and/or engaging in conduct that clearly obstructs the testing process.

- M. Safety Sensitive Position(s) -- Those jobs that would involve exceptional care and due diligence in the area of Public Safety to the County's citizenry and to all employees of the County.
- N. Substance Abuse Professional-- A licensed or certified psychologist, social worker, employee assistance professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.
- O. Volatile Substance-- means any glue, cement, paint or other substance as described in KRS 217.900(1).

### **Section III: Applicability**

- A. This policy is intended to apply whenever anyone is representing or conducting business for the County and applies to all employees for whom the Fiscal Court pays Workers Compensation Insurance Premiums including and all employees of all duly elected Officers of the County, herein after known as "employees". This policy applies during all working hours, while on call or paid standby and while performing work on behalf of the County while on or off County property.  
The positions identified below as being "Safety Sensitive" include, but are not limited to, those regulated under 49 CFR Part 40 :

1. Employees of the County Jailer
2. Animal Control Officers
3. Code Enforcement Officers
4. Paramedics
5. Emergency dispatchers & dispatch supervisors
6. Firefighters
7. Emergency Medical Technicians (EMT)
8. Heavy equipment operators
9. Lifeguards
10. Personnel driving CDL regulated vehicles
11. Mechanics who work on these regulated vehicles
12. Aviation employees

13. Operators of non-CDL vehicles who transport senior citizens, the handicapped and children
14. Employees who supervise children and child related activities
15. Employees of Boone County Sheriff

*While this program includes those federally mandated employees, this Drug and Alcohol-Free Workplace Policy is not intended to replace and shall be separate from any Drug and Alcohol-Free Workplace Policy previously adopted and implemented by the County which may have included only federally regulated employees.*

#### **Section IV: Policy Requirements**

- A. The County shall conduct substance abuse awareness training for all employees. This substance abuse awareness training shall consist of the following minimum requirements:
  1. Upon a conditional offer of employment with the County, each applicant shall view the County Certified Drug Free Workplace Training PowerPoint/Video, shall be provided a copy of and will be asked to read the County's Drug & Alcohol-Free Workplace policy. All current employees will also be asked to read and sign the *Certification of Acknowledgement – Drug & Alcohol-Free Workplace Policies and Procedures Form*.
  2. Initial training shall consist of at least 1-hour for all employees.
  3. Annual refresher training shall be conducted for all employees in substance abuse awareness and shall consist of no less than thirty (30) minutes.
  4. All alcohol and substance abuse awareness training shall include, at a minimum, information concerning:
    - a) Alcohol and drug testing policy and procedures;
    - b) The effects of alcohol and drug use on an individual's health, work and personal life;
    - c) The disease of alcohol or drug addiction;

- d) Signs & symptoms of an alcohol and drug problem;
- e) The role of co-workers and Supervisors in addressing alcohol or substance abuse; and
- f) Referrals to an employee assistance program.

In addition to all of the above training, all supervisory personnel shall receive an additional thirty (30) minutes each year of alcohol and substance abuse education and awareness training. This additional supervisory training will be documented using the *Supervisory Training Certification Certificate*. This additional supervisory training shall consist of at least, all of the following:

1. Recognizing the signs of alcohol and substance abuse in the workplace;
2. How to document signs of employee alcohol or substance abuse;
3. How to refer employees to an employee assistance program or other alcohol and substance abuse treatment program; and
4. Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol.

*Note: The County's Drug & Alcohol-Free Workplace Program shall include controlled-access maintenance in the Human Resources Department, of business records including the names and position titles of all employees and supervisory personnel trained under the program as described above, and the names of all persons who presented alcohol and substance abuse awareness training, for review by the Office of Worker's Claims.*

*Note: Should any portion of this policy dealing with the actual administration of this policy be amended, employees shall be provided with copies of any administrative change or modification and given an opportunity to ask questions and obtain answers regarding any administrative change(s) in this policy. However, changes may not be made to the policy that would circumvent any requirements associated with 803 KAR 25:280.*

## **Section V: Drug and Alcohol Testing**

- A. The County currently utilizes *St Elizabeth Business Health located at 4123 Olympic Blvd. Erlanger, KY* as its laboratory of choice for the collection of urine samples in the case of testing for controlled substances, and for the administration of breathalyzer tests for alcohol concentration. *St Elizabeth Business Health* is also the County's third-party administrator of choice for the random selection category of testing. Employees are selected by *St Elizabeth Business Health* using a statistically valid method of selection of specific employee codes. This random testing will be reasonably spaced over a twelve (12) month period. Because of the random nature of the selection process, any employee may be tested more than once, or not at all. Once collected, all urine samples are forwarded for analyzation to Medtox, which is a laboratory approved by the National Laboratory Certification Program (NLCP) under the United States Department of Health and Mental Services Substance Abuse and Mental Health Services Administration (SAMHSA).

Employees who test positive for illegal drugs or legal drugs without a valid medical or bio-medical explanation as provided a Medical Review Officer of the Fiscal Court's choosing shall subject to the disciplinary policies of their respective employer.

- B. The County shall administer alcohol and drug tests in circumstances which include but are not be limited to the following:
1. **Pre-Employment Testing**

Breath alcohol and urine drug testing shall be required of all new hire applicants after their receipt of a conditional offer of employment. After receiving the conditional offer of employment, applicants will have 48-hours in which to submit to testing at a testing facility of the County's choosing. The County requires that every newly hired employee test free of controlled substances and have a breath alcohol concentration of not more than 0.02. Each offer of employment by the County shall be conditional upon the passing of controlled substance and alcohol tests.

Refusal by any applicant for employment with the County to take the controlled substance test will result



in the conditional offer of employment being withdrawn. All testing under this policy will be in accordance with Testing Protocols described elsewhere in this policy.

- a) An applicant with a confirmed positive test for controlled substances and/or alcohol in a concentration of 0.02 or greater, which is not legitimately explained to and accepted by a Medical Review Officer of the County's choosing, shall not be considered for employment.
- b) Any applicant who fails a controlled substance test shall not be considered for future employment with the County.
- c) Any applicant who refuses to take a controlled substance test shall be disqualified from future consideration for employment.
- d) Any applicant who tampers with, or attempts to tamper with, a urine specimen in any manner shall be disqualified from current and future consideration of employment with the County.
- e) An applicant whose positive test is confirmed and upheld by the Medical Review Officer (MRO) may request that the same sample be retested at the employee's expense at a County approved laboratory

Individuals undergoing pre-employment testing shall not begin official employment with the County until after all test results are received and shown to be negative. Upon receipt of the test result, positive or negative, the Judge/Executive or his/her designee shall inform the appropriate Department Head of the results.

## 2. Random Testing

Employees in a Safety Sensitive position shall be required to participate in a statistically valid, unannounced random selection process, which will subject them to mandatory drug and/or alcohol testing. This category of testing will conduct random tests for alcohol at a rate of no more than ten percent (10%) for non-federally regulated Safety Sensitive positions.

Employees holding positions in which a Commercial Driver's License (CDL) is required, must also be tested at a minimum rate of ten percent (10%) for alcohol annually to satisfy Department of Transportation (DOT) requirements. In the case of random testing for drug use, non-federally regulated Employees shall be tested at a rate of no more than twenty percent (20%). Employees holding positions in which a CDL is required, must be tested for drugs at a rate fifty percent (50%) annually to satisfy DOT requirements.

All employees in federally regulated Safety Sensitive positions shall be selected from a pool that is separate from the random selection pool for other non-federally regulated Safety Sensitive positions. The Judge/Executive shall utilize a third party to conduct the random selection of Safety Sensitive employees, including employees holding a CDL, to be tested. This random testing shall be unannounced and will take place throughout each calendar year.

Employees are selected by a third party administrator using a statistically valid, random method of selection using specific employee codes. Because of the random nature of this testing process, employees may be selected for testing more than once or not at all. Once an employee is notified that he/she has been selected for testing, the employee must proceed immediately to the testing site of the County's choosing.

### 3. Reasonable Suspicion Testing

A reasonable suspicion test shall be based on a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, training or education. The reasonable suspicion testing shall be based upon:

- a) While at work, direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
- b) While at work, abnormal conduct, erratic behavior, or a significant deterioration in work performance;

- c) A report of drug or alcohol use provided by a reliable and credible source;
- d) Evidence that an individual has tampered with a drug or alcohol test during employment with the County;
- e) Information that an employee has caused, contributed to or been involved in an accident at work;
- f) Evidence that an employee has used, possessed, sold, solicited, or transferred illegal or illicit drugs or used alcohol while on the County's premises or while operating the County's vehicle, machinery or equipment.

The Judge/Executive, Sheriff or his/her designee shall be notified immediately of any indication of reasonable suspicion. Both the observing Department Supervisor and the Judge/Executive, Sheriff or his/her representative will review the policies and procedures herein and if necessary make arrangements with a testing facility of the County's choosing to conduct reasonable suspicion drug and/or alcohol testing as soon as possible. If a representative from the Office of the Judge/Executive or Sheriff is not available, the observing Supervisor shall obtain the assistance of another County Supervisor or other credible and reliable source and together they shall complete the *Reasonable Suspicion Form*, and forward it to the Judge/Executive or Sheriff. If after completing the form, it is determined that there is in fact, reasonable suspicion that the employee is under the influence of drugs and/or alcohol, the observing Supervisor or his/her designee will notify the employee and accompany him/her to the testing site.

When a reasonable suspicion test is ordered, the employee must submit to testing within 45 minutes of being notified that he/she will be tested. The observing Supervisor and/or designee shall remain at the testing site with the employee being tested, until the collection process is completed. Any employee who is tested for reasonable suspicion shall be placed on leave with pay until the results of the test are known. After submitting to the drug/alcohol test, the employee may not return to work until the results of

## Chapter 68

the test are known and only then if the results are negative. Only the Judge/Executive, Sheriff or his/her authorized designee may order a reasonable suspicion test.

#### 4. Post- Accident Testing

Drug and alcohol testing will be conducted following an employee's involvement in an accident on or off the County's premises while on duty, or in the course of employment for the County, which requires off-site medical attention, to be administered to a person.

An accident not necessarily requiring that off-site medical attention be given to a person but which results in property damage may require post-accident drug and alcohol testing. The determination of the necessity of post- accident testing when off-site medical attention is not administered to a person shall be made solely at the discretion of the Judge/Executive, Sheriff or his/her designee.

An employee involved in an accident while on an out-of-town assignment, shall notify his/her Department Director or the Director's designee as soon as possible but no later than two (2) hours after the accident occurred. The Department Head shall notify the Judge/Executive or his/her designee to discuss possible drug/alcohol testing requirements. Following the same reporting time parameters, Sheriff Department staff should notify their Supervisor or designee who reports to Patrol Commander , the Patrol Commander is then responsible to notify and discuss with Sheriff or the his/her designee.

#### 5. Return-To Duty Testing

In all cases, it shall be at the discretion of the Judge/Executive or Sheriff, or their designee, subject to all applicable laws and regulations, as to whether to allow an employee who has violated any provision of this policy to continue in as an employee.

In the event that an employee, who has tested positive for alcohol without a valid medical reason for

a positive test, as confirmed by a Medical Review officer of the County's choosing, is allowed to enter a controlled substance/alcohol abuse rehabilitation program, the employee may be allowed to return to work only under the following circumstances:

- a) The employee may resume regular duties only after the employee tests negative in an alcohol and/or controlled substance test administered by the County-approved laboratory and can provide a release to return to work from an appropriate substance abuse treatment facility or confirmation of continued and on-going participation in a recognized substance abuse assistance program. An employee must test negative within a reasonable period of time from receipt of the initial test results not to exceed forty-five (45) days. Any repeat occurrence of substance abuse or violation of any other aspect of the County's Drug Free Workplace Policy will result in immediate termination.
- b) Prior to returning to work, the employee shall be required to meet with the Judge/Executive, Sheriff or his/her authorized designee to receive an explanation of the terms of continued employment; and to sign a written *Return-to-Work Agreement*, detailing the terms under which the employee will be allowed to return to work.
- c) Such agreement shall stipulate that the employee may be required at any time, to submit to interviews and/or evaluation by the professional staff at an appropriate chemical dependency treatment facility approved by the recognized Employee Assistance Program (EAP). The return-to-work agreement will also stipulate that the employee be required to submit to unannounced controlled substance and/or alcohol testing for up to twelve (12) months after resuming duties.

## 6. Follow-up Testing

Any employee returning to work from successful completion of an Employee Assistance Program (EAP) treatment program for alcohol-related

problems, or an alcohol rehabilitation program, shall be required to undergo one (1) year of quarterly drug and alcohol testing. The frequency of the follow-up testing shall consider recommendations of any involved Substance Abuse Professional (SAP) but shall be not less than once per quarter (every three months) for at least one (1) year. All follow-up testing may be requested at any time and shall be unannounced.

C. Testing Protocol- The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (SAMHSA). Test results will be obtained by a qualified laboratory as defined elsewhere in this policy and results shall undergo a medical review as follows:

1. All test results shall be submitted for medical review by a Medical Review Officer (MRO) of the County's choosing, who shall consider the medical history of the employee or applicant, as well as relevant biomedical information.
2. If there is a positive test result, the employee or applicant shall be given an opportunity to report to the MRO the use of any prescription or over-the-counter medication.
3. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO may certify that the test results do not indicate the unauthorized use of alcohol or a controlled substance.
4. If the MRO determines, after appropriate review, that there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or a prohibited drug, the MRO shall refer the individual tested to the Judge/Executive, Sheriff or his/her authorized representative for further proceedings in accordance with the County's Drug Free Workplace Policy.

*Note: MRO determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures outlined in the U. S. Department of Health and Human Services (SAMHSA) "Medical Review Officer Manual for Federal Drug Testing Programs".*

D. The testing process is as follows :

1. Any employee who has been ordered to undergo testing for drugs and/or alcohol shall receive an *Alcohol and/or Drug Testing Notification Form*.
2. Employees shall report to the collection site of the County's choosing immediately after being provided the notification to test. In the case of reasonable suspicion testing, a supervisor or designee shall escort the employee to the collection site. Drug testing shall be conducted by urine sample while alcohol testing shall be performed using a breath alcohol testing/screening device. Drug and alcohol analysis shall be performed by a trained technician. All testing shall follow the prescribed standards, procedures and protocols set forth by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Administration (SAMHSA).
3. To ensure that the test specimen is actually that of the donor, collection site staff shall require positive identification of the test subject.
4. Alcohol  
The County shall require all tests for alcohol to be performed by a certified Breath Alcohol Technician (BAT).
5. Drugs  
An eleven (11) panel urine test shall be conducted and shall include analysis for the following substances:
  - a) Amphetamines;
  - b) Cannabinoids/THC;
  - c) Cocaine;
  - d) Opiates;
  - e) Phencyclidine (PCP)
  - f) Benzodiazepines;

- g) Propoxyphene;
- h) Methaqualone;
- i) Methadone;
- j) Barbiturates;
- k) Synthetic Narcotics

## **Section VI: Prohibited Activity**

- A. Prohibited activities involving the use of alcohol or controlled substances are listed in the following paragraphs.
- B. The Boone County Fiscal Court and Boone County Sheriff reserve the right to define and interpret prohibited activities that specifically include, but may not be limited to:

### 1. Alcohol

Prohibited conduct involving the use of alcohol includes the following:

- a) The performance of or being immediately available to perform work duties while having an alcohol concentration greater than 0.02.
- b) The consumption of alcohol or products containing alcohol during the performance of or being immediately available to perform work responsibilities.
- c) The performance of, or being immediately available to perform those responsibilities designated as Safety Sensitive, within four hours after using alcohol.
- d) The transportation of alcoholic beverages within County owned vehicles or equipment is strictly prohibited.
- e) The use of alcohol for eight hours immediately following an accident requiring a post-accident



alcohol test or until a post-accident test is administered, whichever occurs first.

- f) Refusal (which is defined elsewhere in this policy), to submit or cooperate with any of the required testing types.
- g) The operation of a County-owned vehicle following consumption of alcoholic beverages may be considered a violation of this policy and may result in disciplinary action which may include termination of employment.
- h) Alcoholic beverages in open or closed containers are strictly prohibited in County owned vehicles and equipment.

*Note: Employees attending training programs and/or conferences related to their employment with the County or Sheriff may participate in social functions associated with the program or conference. If alcoholic beverages are present at the social function and the employee chooses to engage in consumption of said beverage(s), he/she shall do so at his/her own discretion. Employees who choose to engage in the consumption of alcoholic beverages as part of a work related social function shall do so in a responsible manner, maintaining a conduct that would not reflect adversely upon the County or Sheriff. Any unbecoming conduct by an employee who has chosen to consume alcohol at such conference or training program that has an adverse effect upon the County or Sheriff may be subject to disciplinary action up to and include termination of employment.*

*Note: Alcohol includes any intoxicating agent in beverage alcohol, methyl, and isopropyl alcohol whether used for medicinal purposes or not. Many over-the-counter and prescription medications contain high percentages of alcohol.*

## 2. Drugs or Controlled Substances

Prohibited conduct involving the use of drugs or controlled substances includes, but may not be limited to the following:

- a) The illegal or unauthorized use of prescription drugs is strictly prohibited. It is a violation of the County's Drug Free Workplace Policy to intentionally misuse and/or abuse prescription

### Chapter 68

medications. Appropriate disciplinary action which may include termination of employment shall be taken if job performance deterioration and/or other accidents occur as the result of the intentional misuse and/or abuse of prescription medication.

All doctors' statements and related medical information shall be confidential and maintained in a separate medical file in the Human Resources Department.

- b) Testing positive for any of the prohibited substances during the performance of or upon being immediately available to perform work responsibilities.
- c) Refusal (as defined elsewhere in this policy) to cooperate with any of the requested testing types.
- d) Tampering with or attempting to alter, or actual altering of a test specimen is strictly prohibited and is grounds for immediate termination from employment with the County.

### 3. Volatile Substances

The intentional misuse, manufacture, sale, distribution, dispensation, or possession of a volatile substance as defined in KRS 217.900 which includes any glue, cement, paint or other substance containing a solvent or chemical having the property of releasing toxic vapors or fumes which when intentionally inhaled may cause a condition of intoxication, inebriation, stupefaction, dulling of the brain or nervous system, or distortion or disturbance of auditory, visual, or mental processes while at work, while on County property, or while conducting County business while off County property, is strictly prohibited and is considered cause for immediate discipline, which may include termination. Such misuse shall also be reported to law enforcement officials.

## **Section VII: Searches**

- A. When reasonable cause exists, the County and Sheriff reserve the right to conduct unannounced searches for controlled substances or alcohol anywhere on County property, including but not necessarily limited to:
  - 1. Lockers
  - 2. Desks
  - 3. File Cabinets
  - 4. County Vehicles and Equipment
  - 5. Stationary Container
  
- B. All searches must be conducted in the presence of a member of the County and/or the Boone County Sheriff's Office. Searches will be limited to a search that would be sufficient to locate the item(s) being sought. Employees who refuse to cooperate during such unannounced searches of County property shall be subject to disciplinary action, which may include termination.

## **Section VIII: Consequence of Engaging in Prohibited Conduct— Alcohol**

- A. The first time an employee, as a result of a random, reasonable suspicion, follow-up or post-accident test is found to have an alcohol concentration above 0.02, disciplinary action which up to an including termination will be administered, depending upon the circumstances, including the employee's willingness to voluntarily resolve any medical or psychological condition relating to the employee's conduct and to seek evaluation, counseling and possible treatment or rehabilitation for alcohol related abuse.
  
- B. Any second offense in which the employee's test for alcohol indicates a concentration above 0.02, shall be considered grounds for immediate termination.

## **Section IX: Consequence of Engaging in Prohibited Conduct— Drugs**

- A. Any employee who engages in prohibited conduct involving drugs or controlled substances and whose random, reasonable suspicion, post-accident, or follow-up test result indicates a non-medical, or biomedical explanation for the positive result as confirmed by the MRO, may be subject to discipline or immediately terminated.

**Section X: Consequence of Engaging in Prohibited Conduct--  
Volatile Substances**

- A. Any employee who engages in prohibited conduct for volatile substances as described elsewhere in this policy may be subject to discipline up to and including immediate termination.

**Section XI: Consequences of Refusal to Submit to an Alcohol or  
Controlled Substance Test**

- A. An employee is considered to have refused to submit to testing when he or she:
1. Fails to appear for any test within a reasonable time; or
  2. Engages in conduct that clearly obstructs the testing process; or
  3. Fails to provide a urine specimen for drug testing or a breath specimen for alcohol; or
  4. Fails to provide enough urine for drug testing or an adequate amount of breath for alcohol testing and there is no medical explanation for the failure to produce; or
  5. In the case of directly observed or monitored drug test collection, the employee submitting the specimen fails to permit the observation or monitoring of his or her provision of the specimen; or
  6. Fails to or declines to take a second drug test when directed by an employer or collector ; or
  7. Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process; or
  8. Fails to cooperate with any part of the testing process.
- B. Failure to submit to an alcohol or controlled substance test as described above will result in immediate termination.
- C. A judgment of “refusal to submit” will not apply to pre-employment testing, unless the applicant has begun the testing process and leaves or engages in conduct that clearly obstructs the testing process.

## **Section XII: Off Duty Alcohol, Drug Use and/or Volatile Substance Intentional Misuse and Callback**

- A. In no way, is it the County's intent to interfere in the private lives of its employees. However, all employees should be aware that an employee's off-duty use of alcohol, illegal use of controlled substances, intentional misuse of prescription drugs or intentional misuse of volatile substances as described in this policy which result in excessive absenteeism, tardiness, or poor work performance shall be subject to discipline, which may include termination of employment. In the case of alcohol abuse, such employees may be subject to counseling or treatment through the County's Employee Assistance Program.
  
- B. The drug, alcohol, intentional misuse of prescription drugs and the intentional misuse of volatile substance prohibitions apply to employees who are on call for any special operation exhibiting a likelihood of requiring an employee to report to work (i.e. snow and ice removal). An employee who is called back to work to perform duties involving a higher level of ability and concentration regarding safety must report any:
  - 1. Off duty use of alcohol in the prior four (4) hours, and
  - 2. Medically prescribed use of a controlled substance
  
- C. An employee who is aware of a possible callback situation that may be reasonably expected, who engages in the off-duty use of alcohol may be subject to disciplinary action up to and including termination of employment. The illegal use of controlled substances or the intentional misuse of volatile substances may result in immediate termination if an employee was made aware of a possible call back situation.

## **Section XIII: Employee Assistance Program**

- A. Alcoholism and controlled substance addiction are recognized as diseases responsive to proper treatment. The County and Sheriff provides a level of care through its Employee Assistance Program (EAP). All employees shall be given information about the EAP including phone numbers at the time of his/her orientation.

1. All employees are strongly encouraged to voluntarily contact the Employee Assistance Program if they believe they might have a problem with drug or alcohol abuse.
2. Other resources for information:  
800 356-9996 ..... AI – Anon  
800 527-5344 ..... American Council on Alcoholism  
800 662-4347 ..... Center for Substance Abuse Treatment
3. If an employee covered by this policy has been identified by Substance Abuse Professional (SAP) as needing assistance in resolving problems associated with alcohol or controlled substances, the employee shall be subject to follow-up testing as prescribed elsewhere in this policy. The SAP shall be either a licensed physician, certified psychologist, social worker, employee assistance professional or addiction counselor.
4. Employees who voluntarily report a substance abuse problem prior to being required to take a controlled substance or alcohol test as defined in this policy, may not be subject to immediate termination as described elsewhere in this policy if they have voluntarily and conscientiously sought substance abuse assistance and have agreed to a treatment plan. However, if such an employee is allowed to stay on the payroll, he/she must understand that if the problem is not corrected and satisfactory job performance is not maintained, he/she shall be subject to disciplinary action which may include termination of employment. Failure to seek such assistance, or failure to abide by the terms of the treatment plan, shall be grounds for termination. Upon voluntarily reporting a substance abuse problem, the employee will be required to sign a *Substance Abuse Treatment Plan Form* that will further define conditions of continued employment.

#### **Section XIV: Records Retention, Release and Confidentiality**

- A. The County and Sheriff shall maintain records of activities related to these Drug Free Workplace policies and procedures. All employee records regarding drug or alcohol testing are considered confidential and will be kept under controlled access, separate and apart from the employees standard personnel file. Employee records may not be released except upon written request of release by the employee, the release is ordered by a

court or tribunal of competent jurisdiction or the release is to be used in a proceeding related to a benefit sought by the employee, such as worker's compensation or unemployment insurance.

- B. The County and Sheriff shall maintain records and documents of all alcohol and drug test results, schedules for follow-up tests and records relating to evaluation and referrals. These records shall be maintained for a period of at least five (5) years. The Judge/Executive, Sheriff or his/her authorized designee shall provide test result information or other pertinent information relating to an applicant or existing employee's alcohol or controlled substance tests upon the applicant or existing employee's written request, and shall do so within five (5) working days of being notified of the applicant or employee's request.

#### **Section XV: County Financial Assistance**

- A. The County and/or Sheriff will pay for all conducted tests as described in this policy except for a second controlled substance test (if requested by the employee) when that test confirms the initial test to be positive. Employees may utilize all service benefits available through the approved Employee Assistance Program (EAP) as described elsewhere in this policy. However, any other services that may be required by a Substance Abuse Professional which are not covered through the EAP will be at the expense of the employee being treated.

#### **Section XVI: Drug Free Workplace Policy Administration and Enforcement**

- A. It shall be the responsibility of the Judge/Executive, Sheriff or his/her authorized designee to administer and enforce this policy..

#### **Section XVII: Responsibility**

- A. All employees have an obligation to report violations of this policy to their immediate Supervisors, Department Supervisors or to the Judge/Executive, Sheriff or his/her authorized designee in order to maintain a safe and healthful work environment for themselves, for their fellow employees and for the Public-at-Large. Employees, upon conviction of criminal charges related to the use of drugs and alcohol must report by the next scheduled work day. Additionally, all employees must

immediately notify Supervisor of a suspension or termination of their motor vehicle operations license. All Supervisors and Department Supervisors are responsible for the drug and alcohol-free operation of their respective departments.

### **Section XVIII: Amendments**

- A. *The Boone County Fiscal Court may change, modify, amend or rescind any part of this policy at any time that deals directly with the actual administration of the policy itself. However, changes may not be made to the policy that would circumvent any requirements associated with 803 KAR 25:28*

#### **68.3      PROCEDURE:      Boone County Sheriff Report and Review**

- A. Prescription and over-the counter medications are not prohibited when taken in the recommended dosage and/or according to the prescriber's prescription. The Department recognizes that some medications may affect individuals in different ways.
- B. Sworn employees taking a prescribed or over-the-counter medication are responsible for consulting the prescribing provider and/or pharmacist for potential adverse effects that could interfere with the employee's safe performance of his/her law enforcement duties.
- C. If the employee has experienced, or does experience, any adverse effects from the use of the medication that will interfere with the safe performance of his/her law enforcement duties, the employee is required to submit a *Drug Notification Form* prior to returning to any duty. The form is to be submitted directly to the Sheriff or his designee.
- D. If the employee has already taken the prescribed or over-the-counter medication and is unable to determine if it will cause an adverse effect that could interfere with the safe performance of his/her law enforcement duties, the employee is responsible for utilizing the appropriate personnel procedure(s) to avoid creating an unsafe workplace condition. If after taking the medication, the employee does not experience any adverse effects that could interfere with the safe performance of his/her law enforcement duties, the employee may return to duty.



- E. The Department may request written medical authorization indicating that the employee may use such medication and is using the medication as prescribed. Additionally, the Department reserves the right to have a designated physician determine if the medication could compromise the employee's ability to safely perform his/her law enforcement duties. The Department's designated physician has the final determination as to whether the employee may return to duty.
- F. All forms, medical information, and physician statements shall be confidential and maintained in a separate medical file. Dissemination of information will be only on a need to know basis.
- G. Instances where safe job performance is adversely effected, accidents occur, or injury results due to the intentional violation of this policy, appropriate disciplinary action, up to and including termination, will be taken.
- H. The intentional misuse or abuse of any prescription or over-the-counter medication is strictly prohibited and will result in the appropriate disciplinary action, up to and including termination.