

# **Sample**

## **Drug and Alcohol Prevention Program**

### **Industrial Code Rule 60**



**Workplace Safety & Loss Prevention Program  
Building 12, Room 167  
W. Averell Harriman Campus  
Albany, NY 12240**

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## **Required Elements of a Drug and Alcohol Prevention Program under the Workplace Safety and Loss Prevention Incentive Program (WSLPIP)**

Section 134(6-10) of the Workers' Compensation Law (WCL) was changed in 2007 to give employers more reasons to put safety and loss prevention programs into practice. The program gives employers a cut in workers' compensation costs. They are eligible for this cut if they have a Safety Incentive Program, a Drug and Alcohol Prevention Program, and/or a Return to Work Program. The following employers may take part in the program:

- An employer insured by any authorized insurer who issues workers' compensation policies or the New York State Insurance Fund (except those in a recognized safety group) who:
  - Pays annual workers' compensation insurance premiums of at least \$5000
  - Has an experience rating of under 1.30 for the preceding year
- An individually self-insured employer
- A group self-insured employer, as authorized by the Chair of the Workers' Compensation Board

Employers who must have a safety and loss prevention program under NYCRR 59 may not take part in the program.

To ensure that your Drug and Alcohol Prevention Program meets the requirements for Incentive eligibility, your program should contain the following elements:

- A policy statement in which the employer communicates to all levels of management and to all employees the intent and objectives of the program, including:
  - (i) the problems which the program is designed to prevent;
  - (ii) management's commitment to addressing those problems and to protecting the safety, health and well-being of all employees and individuals in the workplace;
  - (iii) recognition that alcohol abuse and drug use pose a threat to workplace safety and health; and
  - (iv) a clear message that the use of alcohol and drugs in the workplace and impairment on the job are prohibited.
- A confidential procedure for the timely identification and referral to counseling and treatment of employees with drug and alcohol problems that may affect job performance.
- Confidentiality for all who utilize the program and for the storage and handling of employee records.
- Provisions for the involvement of employees in the structure and operation of the program to facilitate their commitment to achieving its goals and objectives. Such involvement shall be accomplished through the designation of one or more employee representatives and the recognized representatives of each collective

bargaining unit, where applicable.

- An assurance that collective bargaining rights, where applicable, are not diminished by the program.
- Specific procedures to facilitate case monitoring and follow-up services.
- Written plans and procedures to ensure employee safety during emergency situations related to drug and alcohol abuse.
- An orientation program for new supervisors and employees that communicates the intent and specific elements of the program.
- A training program for supervisors and employees to develop an awareness and understanding of the problems associated with the abuse of drugs and alcohol in the workplace, the responsibilities of all affected supervisors and employees in the implementation of the program, the rights of all employees, and the procedures for return to work.
- An effectiveness analysis of the program and its operations.
- Strategies for maintenance and promotion of the program.
- Designation of a contact at the employer for employees to use when seeking assistance under the employer's Drug and Alcohol Prevention Program.
- The final, approved Drug and Alcohol Prevention Program plan must be provided to the designated employee representative(s) in each workplace location or to the recognized representative of each collective bargaining unit, where applicable and must be made available to all employees upon request.
- The Drug and Alcohol Prevention Program must be documented in writing and communicated in languages and methods clearly understood by all employees.

This document outlines a Drug and Alcohol Prevention Program for use by a business seeking the Workplace Safety and Loss Prevention Incentive Program (WSLPIP) credit. Employers may use this model, in whole or in part, depending on their business needs. To qualify for a credit under the WSLPIP, a Drug and Alcohol Prevention Program must meet the requirements in Industrial Code Rule 60-1.14. A list of the requirements is found on pages two and three of this document.

## **I. Policy Statement**

All workers need to know that the use of drugs or alcohol in the workplace or impairment on the job is not allowed. These behaviors pose a threat to workplace safety. They are also a threat to the health of the user and his or her coworkers. Management is committed to dealing with the problems posed by workplace drug and alcohol use. Management is also committed to protecting the safety, health and well-being of all workers in the workplace.

*[Insert a summary that describes the two or three most significant aspects of your agency's mission. The purpose of the summary is to explicitly describe how drug and alcohol use adversely impacts the accomplishment of your agency's mission. Identify the problems that the Drug and Alcohol Prevention Program is designed to prevent.]*

We have put policies in place that address these problems. The Drug and Alcohol Prevention Program includes policies and procedures for: (1) worker education; (2) supervisory training; (3) identification of workers with drug and/or alcohol problems that threaten workplace safety and health; and (4) worker assistance. We also assure workers that your personal dignity and privacy will be respected in reaching our goal of a safe and healthy workplace. Therefore, all worker contact with the Program will be confidential.

This policy applies to all workers while on the job. This policy also applies when a worker's off-job or off-premises conduct affects the [Company]. Effects could be impaired work performance, or damage to the public confidence in or the reputation of the [Company]. If you would like to take part in this program, please contact [Program Contact Name] at XXX-XXXX.

*Signature (Owner or Chief Executive Officer)*

## II. Designated Program Contact

The [*Company*] will designate a Program Contact for workers to use. Workers will contact this person when they want help under the Drug and Alcohol Prevention Program. The Program Contact plays a chief role in preventing and resolving worker drug and alcohol use by:

- Showing the [*Company's*] commitment to stopping drug and alcohol use;
- Giving workers a chance, with proper help, to halt their drug use;
- Giving instructive materials on drug and alcohol use and abuse issues to supervisors and workers;
- Taking part in staff and supervisor trainings;
- Helping supervisors detect workers who have drug or alcohol related performance and/or conduct problems;
- Making referrals to suitable treatment and rehabilitative facilities; and
- Following up with workers during rehabilitation to track their progress and encourage them to finish the program.

Specifically, the Program Contact will--

1. Put a confidential procedure in place to identify workers who have drug and alcohol problems that may affect job performance;
2. Put a confidential procedure in place to refer workers who have drug and alcohol problems to counseling and treatment;
3. Put a confidential procedure in place for all workers who use the program and for the storage and handling of records;
4. Develop procedures for case monitoring and follow-up services.

### **III. Procedure for timely identification and referral**

Workers will be referred to the Program Contact for services if they are found to be using drugs or alcohol at the worksite. Services are available to all workers, not just those who have been sent by a supervisor. The Program Contact will give some counseling and rehabilitation services to workers who use the program. The Program Contact will also make referrals for broader services if needed. The Program Contact will give training regarding drug and alcohol use. The Program is open to [*Company*] workers and their families.

#### **a. Supervisors**

Supervisors will be trained to recognize and deal with drug or alcohol abuse and impairment in the workplace. Training will also teach about worker behavior patterns that could signal use of drugs or alcohol. First-line supervisors will:

1. Attend trainings on drug and/or alcohol use in the workplace;
2. Refer workers to the Program for help in getting counseling and rehabilitation services;
3. Help higher-level supervisors and the Program Contact assess worker performance and/or personnel problems that may be linked to illegal drug use; and
4. Help the Program Contact return workers to work after they get counseling or rehabilitation services.

#### **b. Grounds**

A supervisor should make referrals to the Drug and Alcohol Prevention Program when:

- There is a reasonable suspicion that a worker is using or has used drugs and/or alcohol at the worksite; or
- A worker has worked part or all of his or her shift under the influence of drugs and/or alcohol.

Workers may seek help from the Program of their own accord. However, a supervisor may require a worker to take part in the Program. This will happen when a worker has been observed behaving in a way that threatens the safety and health of the workplace. Reasonable suspicion may be based upon:

1. Observations, such as direct viewing of drug use or possession and/or the physical symptoms of being under the influence of a drug;

2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for a drug-related offense, or the naming of a worker as the focus of a criminal investigation into illegal drug possession, use, or trafficking;  
or
4. Information either given by credible sources or independently confirmed.

Although reasonable suspicion does not require certainty, mere "hunches" are not enough to meet this standard.

### **c. Documentation**

When a worker is suspected of using illegal drugs, the proper supervisor must address it. The supervisor will gather all information, facts, and circumstances that led to and support this suspicion.

*[Companies should add a higher-level approval requirement here that fits with the organizational structure. This may be the next level supervisor or another higher-level individual. This person should make the finding that a reasonable suspicion of illegal drug use exists. Their finding will be based on the data the supervisor gives.]*

The decision that a reasonable suspicion exists must be made by *[the higher-level approver]*. Then, the supervisor will promptly write a report that describes the incident(s) that led to the reasonable suspicion. This report should include:

- The dates and times of reported drug related incidents;
- Credible sources of information; and
- The rationale of referring the worker to the Program.

This report will be stored in the worker's personnel file. It will remain confidential.

### **d. Range of Consequences**

The *[Company]* will discipline workers that use or are impaired by illegal drugs or alcohol on the job or on company property. Such behavior is a threat to the safety and health of the workplace. The harshness of the discipline will depend on the facts of each case.

However, such action may not be proper for a worker who admits to drug and/or alcohol use and gets help. If the worker gets counseling or rehabilitation and stops using drugs or alcohol in a way that affects the workplace, discipline may not be fitting. An exception is if the offense caused harm to people or property.

Disciplinary action must be consistent with any collective bargaining agreements. It may include:

1. Chastising the worker in writing;

2. Placing the worker in an enforced leave status;
3. Suspending the worker for 14 days or less;
4. Suspending the worker for 15 days or more;
5. Suspending the worker until the worker successfully finishes counseling or a rehabilitation program; or
6. Removing the worker from service.

**e. Initiation of Removal from Service**

The [*Company*] may take action to remove a worker for:

1. Refusal to get counseling or rehabilitation through the Program after an accident related to drug or alcohol use; or
2. Persisting in using drugs or alcohol in the workplace after a first finding of such use.

All letters to propose and decide on a mandatory removal action should be worked out with the [*personnel office*].

#### **IV. Confidentiality**

Any personnel records related to the Drug and Alcohol Prevention Program may be given to management for the purpose of auditing the Program. However, the results of any audit may not include identifying information on any worker. Otherwise, these records may not be disclosed without the prior written consent of the worker. Exceptions are:

1. To the Program Contact with which the worker is getting counseling or treatment;
2. To any management official within the [*Company*] whose duties require review of personnel records to process adverse personnel action against a worker; or
3. Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

In addition, statistical data will be given to [*Company*] personnel to comply with data collection and other reporting required by Industrial Code Rule 60. All identifying information will be removed from this data.

Any worker who participates in the Program will be able to view the personnel records about their involvement. They will also be able to view records of any services they got in the Program. Workers should ask for this access in writing.

All Program data about individual workers is confidential. It must be treated as such by anyone authorized to handle Program records. The Program Contact will maintain:

- All records; and
- Any other documentation needed to meet the intent of this Program.

All records and information about the individual workers taking part in this Program must:

- Remain secured and confidential;
- Be locked in cabinets or drawers; and
- Be accessible only to authorized staff who have a "need-to-know."

## **V. Involvement of workers and collective bargaining unions**

The Program will be more successful when labor organizations take part in and support it. In workplaces that are not unionized, management will name one or more representatives of employees to represent each worksite. This may also be done in addition to representatives of collective bargaining units. This will ensure that workers take part in the Program.

Management will seek ways that the representative(s) of employees and/or union representatives can help in Program processes. This may include:

- Letting workers know about rehabilitation facilities;
- Improving workers' trust in the Program;
- Helping with training and orientation;
- Casually educating coworkers about drugs and alcohol;
- Confronting users with their improper work behaviors;
- Giving information about how to contact the Program; and
- Supporting those who are becoming drug and alcohol free.

The Drug and Alcohol Prevention Program will not go against collective bargaining agreements that already exist.

## **VI. Case monitoring and follow up**

The Program Contact will follow up:

- With workers who voluntarily refer themselves for informal counseling or education;
- At intervals deemed proper by the Program Contact; and
- For the length of time deemed proper by the Program Contact.

This will ensure that the Program meets all of the worker's needs.

The Program Contact will also follow up:

- With involuntary referrals who received informal counseling or education;
- With the worker's supervisor;
- At intervals deemed proper by the Program Contact; and
- For the length of time deemed proper by the Program Contact.

This will ensure that the Program meets all of the worker's needs. It will also make sure that any drug or alcohol related performance issues are resolved.

The Program Contact will follow up:

- On all referrals that resulted in formal counseling and treatment given by professionals;
- With the treating professional or facility;
- At intervals deemed proper by the Program Contact; and
- To ensure that workers who take part in the Program comply with their treatment plans.

The Program Contact will not seek information from the treating professional or facility about a diagnosis or the details of a treatment plan.

A worker may have to be away from the worksite to take part in a treatment plan. After such worker has finished treatment, the Program Contact will work with the worker's supervisor to return the worker to the workplace.

## **VII. Emergency situations**

Situations involving alcohol and other drugs can be difficult to manage. It is important to proceed with caution and to document any actions you take.

If an employer or representative of the employer (such as a supervisor) sees the illegal distribution, possession, sale, transport or production of controlled and dangerous substances on company property:

- Call local law enforcement for help.
- These situations usually result in a uniformed officer responding to conduct an investigation, make an arrest (if proper) and prepare a report.
- Keep detailed records of the events in case criminal prosecution results from workplace behavior.

If a worker, under the influence of drugs or alcohol, exhibits threatening behavior:

- Call security personnel to resolve the issue.
- Threatening behavior is action:
  - That could harm the worker or a coworker; or
  - Could cause an incident that threatens the safety and health of people in the workplace.

If an incident threatens an entire workspace (such as a chemical spill):

- Conduct a partial or whole facility evacuation, as needed.
- Conduct this action in accordance with existing emergency action plans.

## **VIII. Orientation and training**

### **a. Supervisory Training**

Supervisors have a key role in creating and monitoring a drug-free workplace. Therefore, the [Company] will give provide supervisors and managers training. This training will help them recognize and address drug and/or alcohol use by workers. The purpose of supervisory training is to understand:

1. Company policies relevant to work performance problems, drug and/or alcohol use, and the Drug and Alcohol Prevention Program;
2. The responsibilities of offering drug and alcohol prevention services;
3. How staff performance and behavioral changes should be recognized and documented;
4. The roles of management, supervisors, personnel, employee representatives, and the Program Contact;
5. The ways to use the Drug and Alcohol Prevention Program; and
6. The process of returning workers to the workforce.

The [*appropriate division of the company*] will develop a training package. This training will make sure that all workers and supervisors are well-versed in the Drug and Alcohol Prevention Program. Training will be given on an on-going basis. This will make sure new supervisors are trained. This will also refresh the skills of supervisors who have been trained in the past.

Training is required of all supervisors. It may be given as a separate course. It may also be given as part of a larger supervisory training program. Training will be given as soon as possible after a person takes on supervisory duties.

### **b. Worker Education**

All workers should be trained in the Drug and Alcohol Prevention Program. The training plan should include education and training to all levels of the [Company] on:

1. Types and effects of drugs and alcohol;
2. Symptoms of drug and alcohol use and the effects of substance use on performance and conduct;

3. The role of the Drug and Alcohol Prevention Program and the Program Contact; and

4. Other relevant treatment, rehabilitation, and confidentiality issues.

Drug and alcohol education activities may include:

1. Distribution of written materials;
2. Videotapes;
3. Lunchtime staff forums; and
4. Staff drug and alcohol awareness days.

## **IX. Evaluation**

Evaluation is vital to:

- Finding the strengths and weaknesses in the Program;
- Maintaining the integrity and efficacy of the Program; and
- Ensuring that Program goals are always met.

Data from annual evaluations will be used to make constant improvements.

The Program Contact will perform an evaluation each year. He or she will review the prior year's personnel records related to the Program. The Program Contact will look at records about:

- the rate of participant worker retention
- how many counseling referrals were voluntary
- how many counseling referrals were involuntary
- terminations or suspensions resulting from failure to complete a drug or alcohol counseling program
- how many workers had recurrences
- the rate of drug or alcohol related accidents
- cost of counseling and rehabilitation services
- cost of Workers' Compensation premiums
- cost of medical and indemnity benefits paid

The Program Contact will compile this data into a report. The report will:

- Compare current year data with past year data;
- Draw conclusions about the appropriateness and effectiveness of the Program;
- Evaluate whether program objectives are consistently met; and
- Show only anonymous data.

Copies of this report will be given to:

- Management;
- Union representatives, if any; and
- Any worker who requests a copy.

The Program Contact will compile comments and suggestions that result from this report. These will be used in considering changes to the Program. If changes are made, new written copies of the Program must be provided to union representatives, if any, and any worker who requests a copy.

It may be proper to conduct evaluations more often than once a year. If the Program is quite large or covers many locations, it could be better to perform evaluations biennially or quarterly.

## **X. Maintenance and promotion of the program**

To maintain and promote the Program, we will have:

- Annual evaluations, at minimum, of the Program, including getting feedback, to determine its efficacy and to make improvements if needed; and
- Peer-to-peer promotion of the program through the naming of one or more representative(s) of employees.

In addition, the Company will:

- Post informative posters throughout the work location(s) with the Program Contact's contact information clearly showing;
- Support additional peer-to-peer promotion strategies developed and started by the representative(s) of employees; and
- Conduct annual refresher training, in large or small groups. This will:
  - Be conducted by the Program Contact, union representatives, if any, or supervisors;
  - Include and highlight any changes made as a result of the annual evaluation of the Program;
  - May be included as part of other workplace-wide trainings or during other assemblies of the workforce.