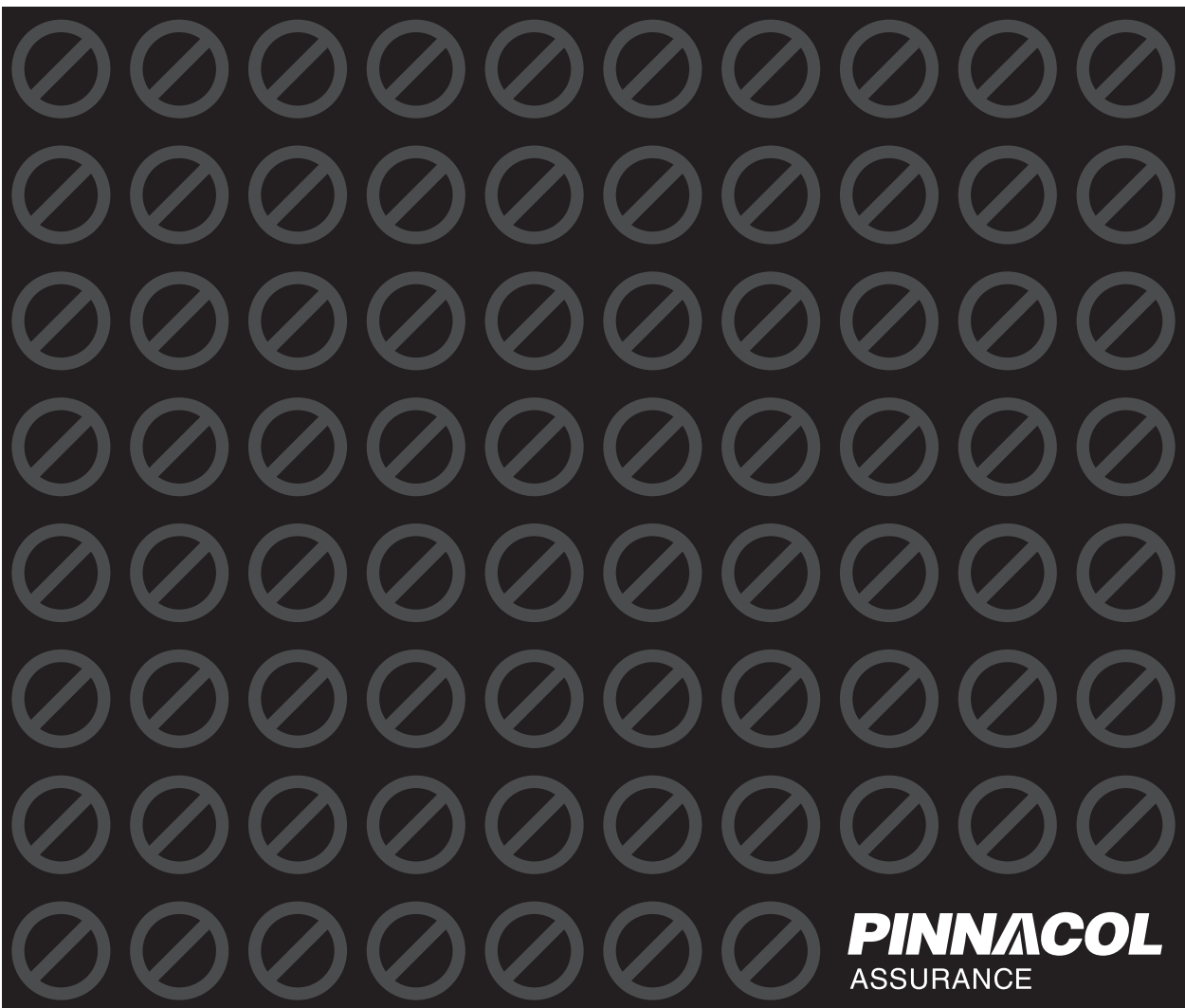




# **DRUG-FREE WORKPLACE POLICY**



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**DISCLAIMER:**

Pinnacol Assurance is providing this resource for informational purposes only. It is not designed for use by any reader, business or enterprise, nor is this intended to be legal advice on what a drug policy should or should not contain. This sample policy is designed to be illustrative of the types of policies used and is written in general terms, without specific consideration given to individual needs or circumstances. Provisions included may not be applicable to the specific reader or business situation, and specific provisions that are applicable may have been omitted from this sample. These materials are not to be used as a substitute for legal or management advice on what is necessary for a valid, binding drug policy. Pinnacol will not be held responsible for any consequences arising out of the use of this sample document, and recommends that before implementing a drug policy advice be obtained from a learned professional knowledgeable in this area.

At Pinnacol Assurance, we are committed to helping you protect the safety and health of your employees. One way to protect your employees and mitigate risk is by establishing a drug-free workplace policy.

This resource was designed to help you design, implement and enforce a drug-free workplace policy. When creating a drug-free workplace policy, consider the following:

- What is the purpose of this program and policy?
- Is this a zero-tolerance policy?
- Who is covered by this policy?
- What are your employees required to tell you?
- Does the policy include drug testing?
- Does the policy include searches?
- Who is responsible for enforcing the policy?
- How is the policy communicated to your employees?
- What are the consequences for violating the policy?
- Do you offer any type of employee assistance to employees who need help?

Portions of the sample policy contained in this book have been pulled from the elaws section of the U.S. Department of Labor's website. You may need to tailor this sample policy based on the needs and resources of your organization. In addition to the policy, there is a sample drug-free workplace policy acknowledgement statement for your employees to sign.

For more information about implementing a drug-free workplace program or to create your own drug-free workplace policy, visit the Department of Labor's website at [www.dol.gov/elaws/drugfree.htm](http://www.dol.gov/elaws/drugfree.htm). Or, to speak with one of Pinnacol's safety consultants, call the Safety On Call Line at **303.361.4700** or **888.501.4752**.



### SAFETY TIP

We recommend you post a "We Are a Drug-Free Workplace" sign at your place of business. Make sure it is posted in a highly visible spot for your employees and any job applicants.

The following pages contain a sample drug-free workplace policy. Portions of this policy were created using elaws from the Department of Labor's website. To customize and create your own drug-free workplace policy, visit [www.dol.gov/elaws/drugfree.htm](http://www.dol.gov/elaws/drugfree.htm).

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[Organization name] is committed to protecting the safety, health and well-being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol- and drug-free environment. This organization encourages employees to voluntarily seek help with drug and alcohol problems.

#### **COVERED EMPLOYEES**

Any individual who conducts business for the organization, is applying for a position or is conducting business on the organization's property is covered by our drug-free workplace policy. Our policy includes but is not limited to executive management, managers, supervisors, full-time employees, part-time employees, off-site employees and applicants.

#### **APPLICABILITY**

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the organization. Therefore, this policy applies during all working hours, whenever conducting business or representing the organization, or while on call or paid standby.

#### **PROHIBITED BEHAVIOR**

It is a violation of our drug-free workplace policy to use, possess, sell, trade and/or offer for sale controlled substances or alcohol. The presence of an amount of any controlled substance that results in a positive test is prohibited.

#### **CONTROLLED SUBSTANCES**

As used in this policy, controlled substances include any drug that is illegal under federal or state law, or that is legally obtainable but has not been legally obtained. The term includes prescribed drugs which are not being used for the prescribed purpose or in the prescribed manner. Examples include but are not limited to:

- Marijuana\*
- Cocaine
- Stimulants, depressants
- Opiates
- Crack, phencyclidine (PCP)
- Alcohol in one's body above the state's legal driving limit
- Amphetamines
- Narcotics, barbiturates

\* *Despite Article XVIII, Section 14, of the Colorado Constitution, marijuana for medical use is a Drug Enforcement Administration listed Schedule I controlled substance and therefore is prohibited.*

## NOTIFICATION OF CONVICTIONS

Any employee who is convicted of a criminal drug violation in the workplace must notify the organization in writing within five calendar days of the conviction. The organization will take appropriate action within 30 days of notification.

## SEARCHES

Entering the organization's property constitutes consent to searches and inspections. If an individual is suspected of violating the drug-free workplace policy, he or she may be asked to submit to a search or inspection at any time. Searches can be conducted of pockets and clothing, lockers, wallets, purses, briefcases and lunchboxes, desks and work stations, and vehicles and equipment.

## DRUG TESTING

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines. Testing will be conducted for the following reasons:

- **PRE-EMPLOYMENT:** Pre-employment testing will take place after a conditional job offer has been extended. Post-offer applicants who test positive for drugs or alcohol will be rejected for employment.
- **POST-ACCIDENT:** Any employee involved in an on-the-job accident requiring professional medical attention or involving property damage over \$\_\_\_\_\_ will be subject to immediate testing.
- **REASONABLE SUSPICION:** Employees may be subject to testing based on a belief by company management that an employee is using or has used drugs in violation of this policy.

## SUBSTANCES TESTED FOR MAY INCLUDE:

- Amphetamines
- Cocaine
- Phencyclidine (PCP)
- Cannabinoids (THC) (Marijuana)
- Opiates
- Alcohol

Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine, blood or saliva. Any employee who tests positive will be immediately discharged from employment.

## MEDICATION GUIDELINES

Employees are expected to manage potential impairment during working hours due to the legitimate use of medications. There are numerous over-the-counter and prescription drugs that may negatively impact safe work performance. Therefore, employees are expected to consult with their personal physician or other health care professional to determine if use of such medication will have any potential negative impact on safe job performance. Use of medication that may pose a threat to workplace safety must be discussed with the employee's supervisor.

## CONSEQUENCES

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

If an applicant violates the drug-free workplace policy, the offer of employment will be withdrawn. The applicant may reapply after six months and must successfully pass a pre-employment drug test.

If an employee violates the policy, he or she will be discharged from employment. Additionally, an employee will be subject to immediate discharge for any of the following:

- Refusing the screening or the test
- Adulterating or diluting the specimen
- Substituting the specimen with that from another person or sending an imposter
- Not signing required forms
- Refusing to cooperate in the testing process in such a way that prevents completion of the test

### **ASSISTANCE**

This company recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

### **CONFIDENTIALITY**

All information received by the organization through the drug-free workplace program is confidential. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

### **SHARED RESPONSIBILITY**

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

Employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to report dangerous behavior to their supervisor.

### **SUPERVISOR RESPONSIBILITIES INCLUDE:**

- Inform employees of the drug-free workplace policy
- Observe employee performance
- Investigate reports of dangerous practices
- Document negative changes and problems in performance
- Ensure that employees are fit for the duty they are assigned
- Enforce the company's drug-free workplace policy

### **COMMUNICATION**

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure that all employees are aware of their role in supporting our drug-free workplace program, all employees will receive a written copy of the policy and the policy will be reviewed in orientation sessions with new employees.

## Sample Drug-Free Workplace Policy

### *Employee Acknowledgment*

I, (print name) \_\_\_\_\_, hereby acknowledge that I have read and understood the policy of [organization name], titled Drug-Free Workplace Policy, and hereby agree to abide by this policy. I understand that [organization name] may require me to provide urine, blood or saliva samples for the purpose of analysis for the presence of drugs, alcohol or controlled substances. I further acknowledge that my cooperation is voluntary, but that my refusal to submit to the collection of a urine, blood or saliva sample will result in disciplinary action, including possible termination of employment, at [organization name]'s exclusive discretion.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Supervisor or Witness

\_\_\_\_\_  
Date

## Medical Marijuana: *Things for Employers to Consider*

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In November 2000, Colorado voters approved Amendment 20, which authorizes patients with certain debilitating medical conditions to obtain and use marijuana. As the number of medical marijuana users in the state has grown, Pinnacol Assurance has received many inquiries from policyholders about workers using medical marijuana and the law's impact on workers' compensation.

Here are some of the questions we've received. The answers are based on the best information we have available. However, there are still many "gray areas" about the use of medical marijuana and its impact in the workplace. Pinnacol will continue to monitor this issue and provide updated information to policyholders.

We advise policyholders dealing with specific employee issues regarding medical marijuana to consult with an attorney who has expertise in employment law.

**Q:** How does an individual become a medical marijuana patient in Colorado?

**A:** Because marijuana is a federally prohibited controlled substance, it is not prescribed by physicians in Colorado. Instead, doctors issue recommendations for the use of marijuana to relieve the effects of certain medical conditions. (This distinction is important in regard to workers' compensation.) Patients then provide this recommendation and an application to be included on the medical marijuana registry to the Colorado Department of Public Health and Environment. If the application is accepted, a medical marijuana identification card is issued to the applicant.

**Q:** Does Amendment 20 allow medical marijuana patients to smoke medical marijuana at work?

**A:** No. Amendment 20 specifically states that nothing in the medical marijuana law "requires any employer to accommodate the medical use of marijuana in any work place."

**Q:** Is Pinnacol obligated to pay for medical marijuana for an injured worker?

**A:** If marijuana is recommended as treatment for an injured worker, we review the recommendation as we would any other treatment recommendation: Has it been made by an authorized treating physician? Is it for a condition that is related to the work injury? Is it reasonably necessary?



**Q: If an injured worker tests positive for marijuana immediately following an injury, can Pinnacol reduce nonmedical benefits by 50 percent on the basis of intoxication or violation of a safety rule?**

**A:** Because medical marijuana qualifies as a “not medically prescribed controlled substance,” the presence of marijuana in a worker’s system allows Pinnacol to reduce indemnity benefits for intoxication or for violation of a safety rule.

**Q: What steps can employers take regarding medical marijuana use at work?**

**A:** Employers can review their drug policy to determine if the policy:

- Prohibits employees from possessing, selling and using drugs at work
- Prohibits being under the influence or having detectible amounts of illegal drugs in their system while at work

**Q: What about offering modified duty to an injured worker who is on the state’s medical marijuana registry?**

**A:** If an injured worker has been released to a modified duty job in compliance with Rule 6, an employer may offer the modified duty job and modify or terminate temporary disability benefits regardless of whether the injured worker legally uses medical marijuana. This does not mean that an employer must allow an injured worker to be under the influence of marijuana while performing the modified duty.

This question touches on one of the biggest issues surrounding Colorado’s medical marijuana statutes: how the law affects the accommodations employers are required to make for employees covered under the Americans with Disabilities Act and state disability laws. Frankly, Colorado courts have yet to address this issue; as such, Pinnacol can not offer a recommendation on this. Again, consultation with an attorney who has expertise in employment law is advised.

Drug-free workplace programs generally include all or some of the five components described below. Although programs can be effective without all five components, it is recommended that all be explored when developing a drug-free workplace program.

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### 1. WRITTEN POLICY

Serves as the foundation for a drug-free workplace. Effective policies should clearly state why the policy is being implemented, describe prohibited behaviors and explain consequences for violation. It is essential that the policy be shared and understood by all and that it be consistently applied.

### 2. EMPLOYEE EDUCATION

Provides employees with information they need to adhere to and benefit from the drug-free workplace program and informs them about the nature of addiction; its effect on work performance, health and personal life; and help available for those with problems.

### 3. SUPERVISOR TRAINING

Teaches supervisors, managers and foremen to enforce the policy and helps them recognize and deal with employees who have performance problems stemming from substance abuse. Supervisors must not, however, be expected to diagnose or provide counseling.

### 4. EMPLOYEE ASSISTANCE PROGRAM (EAP)

Offers free, confidential services to help employees, including supervisors, managers and foremen, resolve personal and workplace problems — such as alcohol and drug abuse — that can interfere with job performance. EAPs provide workers, and often their family members, with assessment, short-term counseling, and referrals to treatment or other community resources. They may also provide training, education and consultation on a variety of topics such as how to handle difficult co-workers/employees.

### 5. DRUG TESTING

Provides concrete evidence for intervention and/or disciplinary action. Drug-testing policies must clearly stipulate who will be tested, when tests will be conducted, which drugs will be tested for, how tests will be conducted and the consequences of a positive test. Legal counsel should be sought before starting a drug-testing program. Local, state and federal laws, as well as collective bargaining agreements, may impact when, where and how testing is performed.



## HELPFUL RESOURCE

For more information and additional resources, visit the Department of Labor's website at [www.dol.gov/workingpartners/](http://www.dol.gov/workingpartners/).

## Contact Us

### **Pinnacol Assurance**

7501 East Lowry Blvd.  
Denver, CO 80230-7006

### **Customer Service**

303.361.4000 or 800.873.7242

### **Customer Service – Spanish**

303.361.4005 or 888.329.2251

### **Report Workplace Injuries**

[www.pinnacol.com](http://www.pinnacol.com)

### **Have Safety Questions?**

#### **Contact Safety On Call**

303.361.4700 or 888.501.4752

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## **PINNACOL FOUNDATION**

### **College Scholarships**

The Pinnacol Foundation Scholarship Program helps children of Colorado workers killed or seriously injured in a compensable work-related accident, regardless of insurance carrier, and pays for a post-secondary education.

To learn more, visit: [\*\*www.pinnacol.com/foundation\*\*](http://www.pinnacol.com/foundation).



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