

POLICY DRAFT QUESTIONNAIRE

This questionnaire allows CannAmm to address your company needs and focus on those areas which have been identified. Upon completion, please email this form to sales@cannamm.com, or via toll free fax to **1.855.440.1123**. For more information, please call **1.800.440.0023** and ask for policy development support.

Required Information

Company Name	Full Name
Company Address	Contact Number
Total Employees	Email Address

While addressing the questions on this form keep in mind that the end result of any fitness for duty policy or standards must take into account that this program should be developed to set a standard to create a climate of understanding and mutual respect for the dignity and worth of each person so that the person feels a part of and able to contribute to the company's goals and to allow for achievement and opportunity.

Fitness for Duty Programs or Drug Free Workplace Programs includes more than drug testing. Drug testing is one of the tools which makes up a complete program and helps overcome denial when dealing with addictions. Other factors such as stress, fatigue, work environment, etc., also affect and may impair a person's ability to do their job safely and productively.

As a result, please keep in mind that we are not only focusing on drug testing, but, in order to maintain a safe workplace, removing the risk and keeping the individual, assisting or offering the tools with which employees can deal with their personnel matters in an effort to deal with stress and fatigue.

Policy Questionnaire

1. Do you have any knowledge or suspicion that drugs or alcohol is currently or in the past has been a problem in your workplace?
 - Yes
 - No
2. Which three choices below most accurately describe your reason for implementing this program?
 - Operational safety
 - Public safety
 - Employee safety
 - Environmental safety
 - Contractual compliance
 - Safety due diligence response to legalization of recreational marijuana use
 - Controlling cost associated with drugs in the workplace (direct/indirect)
 - Other, please specify: _____
3. Estimated target date you would like for program implementation? _____

-
4. Who will this policy apply to, keeping in mind the essential components of the job safety, efficiency, and reliability? Select all that apply.
- All employees including hourly and staff
 - All employees who are involved in duties which are of a safety sensitive nature or whose duties include working in a safety sensitive area
5. Will this program work in conjunction with other existing policies or standards, i.e. Code of Conduct, Contract of Employment, Human Resources policies and procedures, etc.?
- Yes
 - No
- If yes, will this program/policy prevail over any inconsistency with other policies or standards?
- Yes
 - No
6. Do you operate in a collective or unionized environment?
- Yes
 - No
- If yes, do any collective agreements explicitly comment on or prohibit the introduction of drug and/or alcohol testing?
- Yes
 - No
7. Do you want to prohibit the manufacturing, distribution, possession, and use of illegal drugs and alcohol on company property, or while an employee is on company business?
- Yes
 - No
8. Do you want to prohibit the possession of alcohol in the workplace?
- Yes
 - No
9. Do you want to prohibit the possession of marijuana in the workplace?
- Yes
 - No
10. Are there occasions, such as the holiday season or promotions, where there may be an exemption with the permission of a person in authority for the possession and consumption of alcohol?
- Yes
 - No
- If yes, do you want hosting procedures covered in the policy? Hosting procedures include company functions, both on and off the premises. (Please review Annex A prior to answering).
- Yes
 - No

11. In the policy, would you like to include the adherence to the policy for managers and supervisors to ensure that all individuals in their areas of responsibility understand and comply with the requirements of the policy?
- Yes
 - No
12. Part of the process to due diligence is to make sure there is proper training given to supervisors who ensure that the policy is applied fairly and consistently. Supervisors need to be trained in the procedures to make reasonable cause determinations when employees are on duty while under the influence of drugs or alcohol. Would you like us to provide training options both online and in person?
- Yes
 - No
- If yes, do you have an existing online learning management system (LMS)?
- Yes
 - No
13. We include a section in the program policy which deals with Responsibilities of the Employees and the Company. For example, a policy to regulate the employees' "duty-of-care" obligations under the provisions in relevant provincial occupational health and safety legislation, and the employer's duty to provide a safe workplace and safe systems of work as well as the commitment to eliminate hazards in the workplace. Is this acceptable?
- Yes
 - No
- If yes, do you want the policy to cover driving charges and convictions which involve loss of driver's license for individuals operating company owned or leased vehicles?
- Yes
 - No
14. When dealing with employees who have violated the policy, persons who deal with the program must ensure confidentiality. Do you want the policy to ensure privacy and specify the responsibilities to ensure that sensitive medical and other personal information is safeguarded?
- Yes
 - No
15. Please select the test reasons you would like to be included in your program.
(See Annex B for additional information):
- Pre-Employment:** After conditional offer of employment is given
 - Pre-Access:** Prior to accessing a client work project and/or company project/area
 - Random Testing:** Provides deterrence and early identification to help abusers
- Please indicate if you wish to use the standard selection rates or another rate:
- Standard rate: 50% drug only, 10% alcohol
 - _____% drug only, _____% alcohol

The following are standard test reasons for all fit for duty programs:

- **Post-Accident/Incident Testing:** Performed after serious accidents/incidents
- **Reasonable Cause:** Employees report to work under the influence of drugs or alcohol
- **Return to Duty:** After completion of a drug or alcohol treatment program
- **Follow-up:** A health and safety monitoring program performed on individuals after return to duty test to maintain safety in the workplace

16. Are you satisfied with urine testing as the only method of laboratory drug testing in your program?

- Yes
- No

If no, would you like to add oral fluid as an additional acceptable method of testing in your program?

- Yes
- No

17. Please indicate if you require the laboratory testing levels to be included in your program:

- Reference industry standards (Recommended)
- Include current levels (Requires policy updates as standards change)

18. Although alcohol is a legal drug and marijuana is expected to be legal in 2018, both have a negative influence when used in the workplace. Please note that the policy cut-off level for alcohol is set at an industry standard of 0.04%. The policy cut-off level for the marijuana metabolite in urine is set at an industry standard of 50 ng/mL for the screening and 15 ng/mL for confirmation. The policy cut-off level for the marijuana (THC) in oral fluid is set at an industry standard of 4 ng/mL for the screening and 2 ng/mL for confirmation.

Do you understand that your employees will be required to limit their consumption before working under this policy so that there is no alcohol or marijuana (above the cut-off level) while at work?

- Yes
- No

19. Do you want to encourage the employees to come forward, outside the policy, to seek assistance from the company before drug problems lead to disciplinary action, without fear of reprisal?

- Yes
- No

If yes, does your company offer an Employee and Family Assistance Program (EFAP or EAP)?

- Yes: _____ (Please provide name of provider)
- No

20. Do you conduct business or recruit from Quebec?

- Yes
- No

21. What penalties do you want and believe are lawful under your program? (see Annex A)

- | | | |
|--|--|------------------------------------|
| • Trafficking and transporting drugs | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |
| • First positive result (Human Rights wants accommodation) | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |
| • Second positive result | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |
| • Third positive result | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |
| • Being under the influence while in the workplace | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |
| • Adulterations or attempts to adulterate tests | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |
| • Refusals to provide sample | <input type="checkbox"/> Accommodation | <input type="checkbox"/> Terminate |

ANNEX A

Case Law: Linda Hunt v. Sutton Group Incentive Realty Ltd.

In this case, Linda Hunt was a part-time employee at the Sutton Group in Barrie, ON. They held a Christmas party on the premises in December 1994. There was a free and unsupervised bar.

Before leaving the workplace, Hunt's employer offered to call her a cab, and/or to call her husband to take her home as she appeared to be intoxicated. Hunt declined the offer. Linda Hunt and other co-workers left the workplace party and went to a bar. A couple of hours later, Hunt left the bar for home about 40 KMs away, and she lost control of her vehicle, slid into the oncoming lane, and was struck by another vehicle. Hunt sustained permanent disabilities as a result of the accident.

The court decided that Sutton Group neglected to take sufficient steps to ensure that Hunt did not become intoxicated while at work, and that there was inadequate measures taken by the employer to stop Hunt from getting behind the wheel of her vehicle while her ability to drive was impaired. The Sutton Group was found partially liable.

Law of Torts

In the case of Hunt v. Sutton Group, the courts relied on a passage from The Law of Torts (Fleming) that had been approved in a B.C. decision:

"Today, it is well settled that an employer... owes an overriding managerial responsibility to safeguard his or her employees from unreasonable risks of personal injury in regards to the fundamental condition of employment... the safety of the plant, premises and method of work. The relevant standard of care from employers is high, and over many years tended to increasing stringency."

Case Law: John v. Flynn

In the case of John v. Flynn, a London Ontario auto parts manufacturer, the employer had an employee with an alcohol problem. This particular employee was part of a group of employees who would surreptitiously slip out to the company parking lot to drink alcohol during breaks.

The employer knew of the employee's problem as the employer had previously arranged an alcohol treatment program for him. The employer had a zero tolerance policy for alcohol in the workplace and a policy to supervise known alcoholics. The employee, who entered into a conditional agreement, breached all the conditions without the employer's knowledge or even being caught.

On the day in question, the employee had at least 10 beer and three or four vodkas before going into work. During his shift, he drank 4 more beer and 2 ounces of rum. Upon arriving home after work, he grabbed another beer and took it with him in his truck. He was involved in a motor vehicle collision shortly after. The employee sued the employer for damages.

The employer applied to the court to have the employee's claim dismissed, asserting that the employee's arrival at home ended any responsibility they might have had for his actions. The application was denied, and the employer was found to be 30% responsible. The court concluded that the employer should have known that the employee had been drinking, both before work and in the parking lot during his shift, and the employer failed to act.

ANNEX B

Pre-employment testing for drug and alcohol used as part of an employment-related medical examination

- Cannot be performed at the screening stages, only after a conditional offer of employment has been made
- Limited to determining an individual's ability to complete the essential duties of a job
- The employer should notify job applicants of this requirement at the time an offer of employment is made

On-the-job testing

- Competent handling of test results
- Confidentiality of test results
- Review of results with employees by a Medical Review Officer
- There should be an objective basis for testing. In other words, basis for believing that job performance would be adversely affected by a drug or alcohol dependency
- Random testing in the workplace may be done only if the employer can demonstrate that such testing is the only effective way to achieve their goals of the testing program

Onus on the employee to cooperate with the employer

A person who requires accommodation to perform the essential duties of a job has a responsibility to communicate the need for accommodation in sufficient detail and to cooperate in consultations to enable the person responsible for accommodation to respond to the request.

Onus on the employer to accommodate

- If an employee's drug or alcohol addiction/dependency is interfering with that person's ability to perform the essential duties of the job, the employer must provide the support necessary to enable that person to undertake a rehabilitation program unless it can be shown that such accommodation is not possible.
- The employer will be relieved of the duty to accommodate the needs of the alcohol or drug addicted/dependent employee if the employer can show, for example, that:
 - The cost of the accommodation would alter the nature or affect the viability of the enterprise; or
 - Notwithstanding accommodation efforts, health or safety risks to other workers or members of the public are still of such a serious degree that they outweigh the benefits of providing equal treatment to the worker with an addiction or dependency.