

**Ohio Bureau of Workers' Compensation**

30 W. Spring St.

Columbus, OH 43215-2256



**Bob Taft**

Governor

[ohiobwc.com](http://ohiobwc.com)

**James Conrad**

Administrator/CEO

1-800-OHIOBWC

July 2004

[POLICY NUMBER]

[EMPLOYER NAME]

[ADDRESS]

[CITY], [STATE] [ZIP]

Dear Employer:

I want to take a moment to explain a significant piece of legislation the Ohio General Assembly recently passed to curb substance abuse in the workplace. Under Substitute House Bill 223 (HB 223), or the “rebuttable presumption” law, if an injured worker tests positive or refuses to test for drugs or alcohol, the worker will have to prove that the use of drugs or alcohol did not cause the accident. Simply put, the burden of proof shifts to the worker, who has to provide evidence that the injury was not caused by drugs or alcohol.

As part of the legislation, the Ohio Bureau of Workers' Compensation (BWC) will provide all employers with a written notice that must be posted and that will be on the bottom of your certificate of coverage. The notice informs employees they may not be eligible for workers' compensation benefits if they are injured while intoxicated or under the influence of a controlled substance not prescribed by the employee's physician. This law takes effect on Oct. 13, 2004; therefore, it may be applied to claims for dates of injury no earlier than Oct. 13 or whenever written notice is posted, whichever date is later. **You must conspicuously post this written notice in a place viewable by employees; failure to do so may result in your company forfeiting its rights to protection under HB 223.**

Beyond the statutory notice, BWC suggests creating a written substance abuse policy that outlines for your employees when testing may occur and the consequences for failing a test. Not only does a written policy serve as a deterrent, but it also protects your company from legal liabilities related to testing while protecting your employees' rights and ultimately, their safety at work. **On the reverse side of this letter, you will find what we believe are the core components for a written substance abuse policy.**

I also strongly recommend going one step further by implementing BWC's Drug-Free Workplace Program (DFWP). With this program, employers can not only reduce drug and alcohol use at work but also save up to 20 percent annually on their premiums while keeping their employees safe at work. Elements of this program include: a written substance abuse policy; annual employee education; supervisor training; drug and alcohol testing; and a list of local assistance resources for employees and their families.

Employers involved in DFWP have clearly benefited from the program by seeing a reduction in accidents and associated costs; a decrease in theft; and an overall increase in employee productivity, all of which positively impacted their bottom lines. For businesses with 25 employees or fewer, BWC has created Drug-Free EZ, which streamlines requirements while maintaining the benefits of DFWP.

There is little doubt drugs and alcohol create costly, and potentially deadly, burdens in the workplace; substance use and abuse is often the silent and unseen cause of work-related accidents. I encourage you to contact my staff at **1-800-OHIOBWC**, or log on to **ohiobwc.com** to find out more about how BWC can help you control your costs and reduce injuries caused by substance abuse. Don't wait for an accident to happen; BWC is committed to helping Ohio employers provide their workers not only with a drug-free workplace, but also a safe workplace.

Sincerely,

A handwritten signature in black ink that reads 'James Conrad'. The signature is written in a cursive, flowing style.

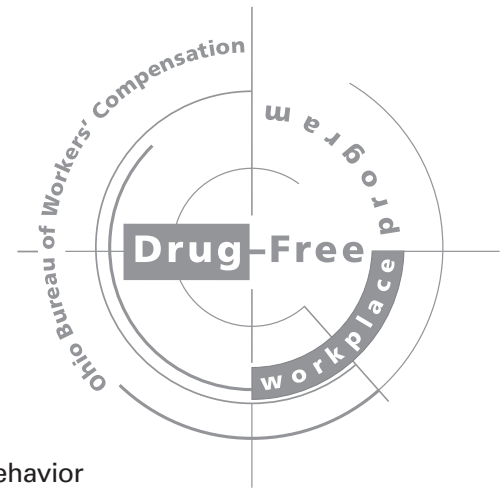
James Conrad

Administrator/Chief Executive Officer

Bureau of Workers' Compensation

# *Written substance policy*

BWC recommends employers protect themselves from legal liabilities related to drug and alcohol testing, and protect their employees' rights with a written substance policy. A written substance policy not only holds employees accountable for safe behavior at work but also serves as a strong deterrent for preventing substance abuse in the workplace.



BWC recommends a written substance policy include, at minimum, the following components:

- A reason for the policy, such as establishing a drug-free policy and testing procedure to promote employee safety, health, productivity and the prevention of workplace injuries;
- A commitment both to discussion of the policy prior to its implementation and periodic discussion thereafter for current and new employees;
- A list of substances for which testing will occur, such as alcohol and controlled substances, medications not prescribed by the employee's physician or not taken as prescribed, and over-the-counter medications;
- A statement that explains prohibited employee conduct and the consequences for employees who violate the policy (including that an employee's refusal to submit to testing is equivalent to a positive result);
- A statement that supervisors will receive training on testing procedures prior to implementation of the policy;
- A commitment to annual education of employees on the dangers of substance use and a discussion of the written policy to ensure everyone understands and complies.

Employers should have legal counsel review the policy before it is enacted. For more information on other services BWC provides to reduce substance abuse in the workplace, call **1-800-OHIOBWC** or log on to **ohiobwc.com**.