Random Drug Testing of Employees in High Risk Jobs

O.C.G.A. § 45-20-90. Definitions

As used in this article, the term:

(1) “Employee” means any employee required to be certified under the provisions of Chapter 8 of Title 35 receiving a salary or hourly wage from any state agency, department, commission, bureau, board, or authority. “Employee” shall also include any certified employee working under a personnel contract to provide personnel services, including but not limited to medical, security, or transportation services to a state or other public agency.

(2) “Established drug test” means the collection and testing of bodily fluids administered in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended) or other professionally valid procedures approved by the board.

(3) “High-risk work” means those duties where inattention to duty or errors in judgment while on duty will have the potential for significant risk of harm to the employee, other employees, or the general public.

(4) “Illegal drug” means marijuana as defined in paragraph (16) of Code Section 16-13-21, as amended; a controlled substance as defined in paragraph (4) of Code Section 16-13-21, as amended; a dangerous drug as defined in Code Section 16-13-71, as amended; or any other controlled substance or dangerous drug that persons are prohibited from using. The term “illegal drug” shall not include any drug when used pursuant to a valid medical prescription or when used as otherwise authorized by state or federal law.

O.C.G.A. § 45-20-91. Determination of employees subject to testing

(a) Employees working in high-risk jobs shall be subject to random testing for evidence of use of illegal drugs.

(b) The head of each state agency, department, commission, board, bureau, or authority, in conjunction with the DOAS, shall determine those positions and groups of positions whose occupants regularly perform high-risk work where inattention to duty or errors in judgment while on duty will have the potential for significant risk of harm to the employee, other employees, or the general public. This Code section shall not be construed to include employees who do not regularly perform high-risk work regardless of the fact that other employees in the same classification do perform such high-risk work.

O.C.G.A. § 45-20-92. Rules adopted by State Personnel Board; certification of testing laboratories.

(a) The State Personnel Board shall adopt rules to establish:

(1) The portion of employees in the high-risk work group that may be selected at random for testing at each testing period;

(2) Methods for assuring that employees are selected for testing on a random basis;

(3) Methods for assuring that privacy intrusions are minimized during collection of body fluid specimens;

(4) Methods for assuring that any body fluid specimens are stored and transported to testing laboratories at proper temperatures and under such conditions that the quality of the specimens shall not be jeopardized;

(5) Methods for assuring that the identity of employees whose tests show the usage of an illegal drug is limited to the staff who are entitled to this information; and

(6) The identification of those persons entitled to the information

and shall adopt such other rules as it may deem appropriate to carry out the purposes of this article. The board may, in its discretion, delegate to the commissioner such authority as appropriate to carry out the purposes of this article.

(b) The commissioner shall establish and maintain a list of those laboratories qualified to conduct established drug tests and shall determine which illegal drugs will be the subject of testing; provided, however, that no laboratory shall be so certified unless that laboratory, on a daily basis, adds to its urine testing program a minimum of 10 percent blind test specimens.

O.C.G.A. § 45-20-93. Grounds for termination from employment

(a) Any employee conducting high-risk work found to have used an illegal drug shall be terminated from his or her employment.

(b) Any employee who refuses to provide body fluid specimens, when requested to do so in accordance with the random drug testing conducted pursuant to this article and administrative rules and regulations promulgated under this article, shall be terminated from his or her employment.