United States Department of Transportation (USDOT)

Drug & Alcohol Regulatory Updates

December 12, 2017
National RTAP

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President

REMEMBER!

♦ RLS/National RTAP ARE NOT officials or representatives of:
  ○ United States Department of Transportation (USDOT)
  ○ USDOT – Office of Drug & Alcohol Policy and Compliance (ODAPC)
  ○ Federal Transit Administration (FTA)
  ○ Any other USDOT – Agency
    • (i.e., FMCSA, FRA, FAA, PHMSA, etc.)
Agenda

♦ Background

♦ Summary of Changes

♦ **Workplace Impact**

♦ Questions

♦ Additional Resources

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Action Items

♦ When you see a red star throughout this slideshow – this will indicate to you that there is a potential **ACTION ITEM** for your attention.
Background

♦ “The What?”
  - 49 CFR Part 40 is USDOT’s D&A regulation covering testing procedures
  - Part 40 has been updated

♦ “The When?”
  - Jan 2017 – USDOT issued NPRM
  - Nov 2017 – Final Rule published in Federal Register
  - Jan 1, 2018 – Effective Date for all changes

♦ “The Who?”
  - Applicable to entire DOT industry (FTA, FMCSA, FRA, FAA, PHMSA, USCG, etc.)
  - ANYONE subject to 49 CFR Part 40
  - Employers, MROs, SAPs, Collection Sites, etc.
Summary of Changes

♦ Drug Testing Panel Modifications
  o “Opiate” changes to "Opioid" ★
  o Four new opioids added to testing panel

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Common Brand Names</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hydrocodone</td>
<td>Norco® ; Vicodin® ; Lortab®</td>
</tr>
<tr>
<td>Hydromorphone</td>
<td>Dilaudid® ; Exalgo®</td>
</tr>
<tr>
<td>Oxycodone</td>
<td>Oxycontin® ; Roxicodone® ; Percocet®</td>
</tr>
<tr>
<td>Oxymorphone</td>
<td>Opana®</td>
</tr>
</tbody>
</table>

♦ Drug Testing Panel Modifications (continued)
  o “MDA” added to screening test
  o “MDEA” removed

♦ Revisions / Updates to Terms & Definitions ★
  o **"DOT, the Department, DOT agency"**
    ▪ Modified to encompass all DOT agencies, (FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, OST, and any designee of a DOT agency)
    ▪ Clarified USCG’s relationship with USDOT
Summary of Changes

♦ Revisions / Updates to Definitions (continued)
  ○ “Drugs” – modified to match the additions and revisions as discussed earlier
  ○ “Alcohol Screening Device” & “Evidential Breath Testing Device (EBT)”
    ▪ List of approved devices now listed on ODAPC’s website (instead of in the federal register)
  ○ “Substance Abuse Professional”
    ▪ List of qualified agencies for drug and alcohol counselor licenses/certificates will now be listed on ODAPC’s website

♦ ODAPC List-Serve
  ○ All service agents REQUIRED to “subscribe”
  ○ Sign-up via https://www.transportation.gov/odapc/get-odapc-email-updates

♦ Prohibition of Use of Federal Branding, etc.

♦ Blind Specimen Testing No Longer Required
Summary of Changes

♦ MRO Verification Process
  o Clarification of the term “prescription”
    • Prescription (Rx) must be consistent with Controlled Substances Act (CSA)

  o MRO-ordered additional testing
    • Authorized without prior ODAPC consent
      • Meth false positives due to Rx/OTC meds
      • Illicit THC vs. Marinol

♦ MRO Rx Verification Process
  o MRO release of information – Medically unqualified / Significant safety risk
    • Step 1 – Verify test result
    • Step 2 - Initial MRO determination
      • MRO notifies employee of medically unqualified / significant safety risk
    • Step 3 - Five-days for prescribing physician to contact MRO
      • Employee facilitates contact
Summary of Changes

♦ MRO Rx Verification Process (continued)
  ○ MRO release of information – Medically unqualified / Significant safety risk (continued)
    • Step 4 – Prescribing physician statement to MRO
    • Step 5 – Possible employer notification
      • Based on outcome of Steps 1 - 4

♦ Urine Collection / Testing
  ○ Urine only allowable specimen (no blood, hair, sweat, etc.)

  ○ No DNA testing allowed

  ○ 3 new “Fatal Flaws” 
    • No CCF with urine specimen at Lab
    • No urine specimen with CCF at Lab
      • Only if a specimen was actually collected
    • Two separate collections on only one CCF
Summary of Changes

♦ Urine Collection / Testing (continued)
  ○ Insufficient “Questionable Specimens” - Always discard & remark

  ○ New CCF Changes
    • Removed “DOT” box in Step 1D
    • Revised list of drugs in Step 5A

Summary of Changes

♦ Urine Collection / Testing (continued)
  ○ Use of “old” / “new” CCF
    • “New” CCF authorized for use Jan 1, 2018
    • Continued use of old CCF authorized through June 30, 2018
    • No ‘memorandum for the record required’ through June 30, 2018 for use of “old” CCF
    • “New” CCF **MUST BE** utilized July 1, 2018
Summary of Changes

♦ Other Minor Misc. Changes
  ○ Removal of outdated compliance dates
  ○ Minor editorial corrections
  ○ Update/revisions to weblinks
  ○ Revisions to Appendix items

Workplace Impact

♦ Policy Revisions – USDOT REQUIRED
  1. Change “opiate” to “opioid”

  2. Remove (or edit) “breakdown” of 5-panel drug sub-categories

  3. Remove (or edit) drug cut-off levels

  4. Revise your “definitions” (if applicable)
     • ASD, EBT, SAP, DRUGS, USDOT
Policy Revisions – BEST PRACTICES (NOT REQUIRED BY USDOT)

1. If your policy currently has a section on Rx/OTC medication use
   - Update to address MRO determinations of “Medically Unqualified / Significant Safety Risk”

2. If your policy DOES NOT have a Rx/OTC medication use section
   - Consider adding a short paragraph

OTHER BEST PRACTICES (NOT REQUIRED BY USDOT) (continued)

1. Employee education
   a) Summary of Regulatory changes
      - ODAPC has created a short notice to employees (see resources at end of slideshow)
   b) Review the new policy
   c) General discussion on prescriptions
Workplace Impact

♦ OTHER BEST PRACTICES (NOT REQUIRED BY USDOT) (continued)

2. Service Agent education
   a) Summary of Regulatory changes
   b) Make sure they have a copy of the revised regulation
   c) Give them the link on how to sign-up for ODAPC’s List Serve
      • Require evidence that they actually signed up for ODAPC’s List-Serve

Workplace Impact

♦ “Medically Unqualified / Significant Safety Risk”
   o Final word is the MRO’s DISCRETION

   o What are the REAL implications?
     • Access to prescribing physician
     • Expiration of Rx
     • No recent contact to prescribing physician

   o What to do when/if you get the phone call
     • This is 100% employer’s determination (No USDOT regulation)
       • Unless USDOT - CDL medical standards apply
Workplace Impact

♦ “Medically Unqualified / Significant Safety Risk” ★
  ○ Employers should be pro-active in creating a “Fitness-for-duty/Wellness” policy (NOT A USDOT REGULATION)
  ○ Legal/Union/Collective Bargaining Concerns

Questions

♦ Any questions asked but not answered during webinar will be addressed with a Post-Webinar “Q&A Summary” Document

♦ If you have questions after the webinar:
  ○ Email info@nationalrtap.org

♦ Possible Follow-up National RTAP Webinar
  ○ January 2018
  ○ Fitness-for-duty concerns and best-practices
Resources

♦ A recording of this webinar will be available through National RTAP’s website

♦ National RTAP will be providing a version of these slides to webinar attendees

Resources

♦ USDOT - ODAPC Resources
  ○ Brief summary of changes: https://www.transportation.gov/odapc/Part_40_Final_Rule_Summary_of_Changes
  ○ CCF Notice: https://www.transportation.gov/odapc/Notice_CCF_December_2017
  ○ Policy Notice: https://www.transportation.gov/odapc/Part_40_DOT_Policies_Notice_2017
  ○ Employee Notice: https://www.transportation.gov/odapc/Part_40_DOT_Employee_Notice_2017