

---

## DRUG AND ALCOHOL FREE WORKPLACE

Policy #209-R04 (03/18/19)

---

*Applies to all staff.*

### Definitions.

**Controlled substance.** A drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812.

**Prescription drugs.** Medication prescribed for any staff by their doctor and necessary for health.

### **1. The Only Acceptable Blood Alcohol Level for On-Duty or Uniformed Staff is .00 Percent.**

Absent a supervisor's approval of alcohol consumption under policy 207, *General Conduct*, the only acceptable blood alcohol level for on-duty or uniformed staff is .00 percent.

- When on duty or in uniform, staff shall not consume or possess alcoholic beverages, except while engaging in the specific performance of a duty assignment with prior supervisor authorization.
- Staff shall not transport alcoholic beverages in agency vehicles unless it is evidence, property of a suspect or prisoner, or found property.
- Staff shall not have open containers of any intoxicating beverage in any office space or locker.

*An exception is provided for authorized training purposes and equipment, such as the DUII wet labs.*

### **2. Staff are Prohibited From the Unlawful Manufacture, Distribution, Dispensation, Possession, or Use of Controlled Substances.**

Marijuana is a Schedule 1 controlled substance under the federal Controlled Substances Act and may not be legally prescribed under any conditions.

Oregon passed the Oregon Medical Marijuana Act (ORS 475.300 to 475.346) in 1999 that legalized the prescription of marijuana for medical purposes. However, the U.S. Supreme Court has held that marijuana may not be legally prescribed for any purpose.

Oregon also passed Measure 91 which legalized possession of certain amounts of recreational marijuana for people 21 years of age or older, and created a regulatory system for the production, distribution and sale of recreational marijuana and marijuana products, effective July 1, 2015. However, marijuana remains a Schedule 1 controlled substance under federal law, which prohibits the production, possession, delivery and use of marijuana.

Because of the conflicts between state and federal law, the supremacy clause dictates that federal law preempts the state law. Accordingly, the use of marijuana for any purpose, including medicinal purposes, is specifically prohibited.

Under the Federal Controlled Substances Act, Cannabidiol (**CBD**), which is a chemical component of the cannabis plant, is also listed as a Schedule I substance. Absent a change in the Federal Controlled Substances Act or approval for use by the FDA, CBD products and other marijuana derivatives, including those that purport to contain no\* (0.0%) THC, remain unlawful under federal law. As such, the production, possession, delivery and use of CBD\*\* products in all their various forms, derivatives, and extracts is also prohibited under this policy.

Any staff that unintentionally ingests or is made to ingest a controlled substance shall immediately report the incident to a supervisor so that appropriate medical steps may be taken to ensure their health and safety.

Violation of this controlled substances section will be considered gross misconduct and cause for disciplinary action, up to and including termination.

\* Inconsistencies in manufacturing and a lack of U.S Food and Drug Administration (FDA) testing and approval of CBD products, makes it is nearly impossible to know what a given CBD product contains. The FDA reported testing in 2015-2016 which showed some "CBD products" contained no CBD at all, whereas others contained levels of THC far surpassing what was listed on the label. (See <https://www.fda.gov/newsevents/newsroom/pressAnnouncements/ucm628988.htm> and warning letters published by the FDA.)

\*\* The FDA has approved one CBD product for human consumption: Epidiolex (cannabidiol) oral solution for the treatment of seizures associated with two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome.

### **3. Staff Must Notify a Supervisor When Using Prescription Medication that May Affect Work Performance.**

Staff must notify their supervisor before or at the beginning of the duty shift if using or needing to use prescription drugs that a reasonable person would expect to have an adverse effect on or to impair their ability to perform their work safely and efficiently. Notice will include the expected duration of use; any change in the duration of use must be reported to the supervisor. If use of a prescription drug will exceed 30 days, the employee must re-notify the supervisor after each 30-day period.

Prescription medications that must be reported to a supervisor include drugs with cautions such as "do not operate heavy machinery" or "may cause drowsiness".

- The reasonable person test will take into consideration positions that are administrative in comparison to certified deputies that must make life or death decisions on a regular basis, carry weapons, operate county vehicles, or take part in other situations where a risk might be exacerbated by a medication.
- If approved to use medication at work, staff may use prescription drugs at the dose and frequency prescribed by a health care provider.
- Staff shall not intentionally ingest prescribed medication in amounts exceeding the recommended dosage or prescription.
- Staff are prohibited from using prescription drugs prescribed for another person.
- Staff are prohibited from using prescription drugs when medical treatment is no longer needed as determined by the prescribing health care professional.

### **4. Staff Must Notify a Supervisor When Using Over-the-Counter Medication that May Affect Work Performance.**

Staff must notify their supervisor before, or at the beginning of the duty shift if they are using or need to use over-the-counter medications. This applies to any medication that a reasonable person would expect to adversely affect their work or that would impair their ability to perform their work safely and efficiently.

- Staff shall not intentionally ingest over-the-counter medication in amounts exceeding the recommended dosage or prescription.

- Examples of over-the-counter medications that must be reported to a supervisor include drugs with label cautions similar to "do not operate heavy machinery" or "may cause drowsiness".
- If unsure about whether use of a drug qualifies for this section, staff must report it.

**5. Supervisors May Assign Alternate Duty Posts.**

- Supervisors will ensure that staff who report use of medications are not assigned to duty posts that could reasonably pose an elevated safety risk to the employee, coworkers, or the public.
- With command officer approval, a supervisor may assign staff reporting under this section to an alternate duty post or may send them home, arranging a ride if appropriate.
- Supervisors may approve a limited duty assignment due to use of a medication.
- Commanders may consult with County Counsel or Human Resources as appropriate when considering alternate assignments due to medications.
- Staff who are absent from work due to medications will be required to use accrued leave consistent with the County Personnel Rules and Regulations, and for WCPOA members, consistent with the collective bargaining agreement.

*See County Personnel Rules and Regulations, article 7.3, Sick Leave.*

**6. Medical Information Shall be Kept Confidential and Separate from Personnel Records.**

- All medical information must be kept confidential and must be maintained in the official WCSO medical files (separate from personnel records).
- Medical information includes, but is not limited to, information about drug prescription or use.

**7. Staff Must Report Any Violations of this Policy to a Supervisor.**

Any staff having a reasonable basis to believe that other staff may be illegally using, possessing, or is under the influence of any controlled substance shall immediately report the facts and circumstances via the chain of command.

**8. Staff Are Subject to Alcohol and Drug Testing.**

- If a supervisor has a reasonable suspicion that any staff has alcohol in their system during duty hours, the supervisor may require the person, as a condition of continued employment or service, to submit to a blood alcohol content test. Refusing to submit to the test will be considered insubordination and grounds for disciplinary action up to and including termination.
- Staff are subject to drug testing based on County and Sheriff's Office policy.
- Represented employees are subject to drug testing consistent with the terms of the WCPOA collective bargaining agreement.
- Breath or urine testing may be conducted in accordance with policy 553, *Internal Affairs Investigations*.

**9. Staff Who Violate this Policy May be Subject to Discipline Up to and Including Termination, and Legal Consequences.**