

HR/LR Policy #1418

Prohibition of Drug and Alcohol Use by State Employees

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Authority: Enterprise Employee Resources

OVERVIEW

Objective

To provide safe and effective services to the public; to protect the safety, health and well-being of employees and others in the workplace; to ensure that state agency employees perform their jobs efficiently, safely, and in a professional manner; and to maintain a workplace free from the use of drugs and alcohol.

Policy Statement

The state prohibits the manufacture, distribution, dispensation, possession, use, sale, trade, or offer for sale of drugs or alcohol in the workplace or while performing work for the state.

Scope

This policy applies to all employees in the executive branch of state government (as defined in M.S. 43A.02, subds. 2 & 22), including Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association.

Definitions and Key Terms

<i>Terms</i>	<i>Definitions</i>
<i>Alcohol</i>	Any alcoholic beverage or intoxicating liquor. M.S. 340A.101 , subd. 2 and subd. 14.
<i>Cannabinoid</i>	Any of the chemical constituents of hemp plants or cannabis plants that are naturally occurring, biologically active, and act on the cannabinoid receptors of the brain. Cannabinoid includes but is not limited to tetrahydrocannabinol and cannabidiol.

Terms	Definitions
	Reference to "cannabinoid" in this policy includes cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products.
<i>Conviction</i>	A finding of guilt (including a plea of nolo contendere/no contest), an imposition of sentence, or both, by a judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes. 41 U.S.C. 8101 .
<i>Criminal drug statute</i>	A criminal statute involving manufacture, distribution, dispensation, use, or possession of a controlled substance. 41 U.S.C. 8101 .
<i>Drug</i>	A substance in Schedules I through V of section 202 of the Drug Abuse Prevention and Control Act (21 U.S.C. 812 ; 21 C.F.R. 1308) or M.S. 152.02 . This includes all cannabinoids, including those that are authorized under M.S. Ch. 342 .
<i>Employee Assistance Program</i>	Training, assessment, counseling, and referral services for state employees and dependents provided pursuant to M.S. 43A.319 .
<i>Medical cannabis</i>	Any species of the cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of: liquid, including but not limited to oil; pill; vaporized delivery method with use of liquid or oil; combustion with use of dried raw cannabis; or any other method, approved by the commissioner of the Minnesota Department of Health. M.S. 152.22. Medical cannabis may be prescribed to a patient with a qualifying medical condition enrolled in the medical cannabis registry program.
<i>Under the influence</i>	Affected by drugs or alcohol, as indicated by specific, contemporaneous, articulable facts concerning the appearance, behavior, speech, or body odors of the individual.
<i>Workplace</i>	Any state-owned or leased property, premises, or any site where state employees perform work for the state

Statutory References

[M.S. Ch. 152](#) Drugs; Controlled Substances

[M.S. Ch. 340A](#) Liquor

GENERAL STANDARDS AND EXPECTATIONS

I. PROHIBITED BEHAVIORS

The manufacture, distribution, dispensation, possession, use, sale, transfer, trade, and/or offer for sale of drugs or alcohol in the workplace or while performing work for the state is prohibited. Employees must not consume or be impaired by or under the influence of drugs or alcohol in the workplace or while performing work for the state.

Employees must not operate, use, or drive any equipment, machinery, or vehicles while consuming or impaired by or under the influence of drugs or alcohol while performing work for the state. This prohibition includes any vehicles or equipment that are owned by, leased or rented on behalf of the state, as well as personal vehicles or equipment.

Prescription and over-the-counter medications are not prohibited when taken in standard dosage and/or according to a physician's prescription. Employees taking prescribed or over-the-counter medications are responsible for consulting the prescribing doctor and/or pharmacist to determine whether the medication may interfere with the safe performance of the employee's job. If use of the medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty) to avoid unsafe workplace practices. The illegal or unauthorized use, possession, sale, trade, or offer for sale of prescription medication in the workplace or while performing work for the state is prohibited.

Employees may not use, possess, or be impaired by medical cannabis on the premises of the place of employment or during the hours of employment.

II. EXCEPTIONS TO PROHIBITED BEHAVIORS

The following are exceptions to the prohibited behaviors listed above:

- Consumption, possession, sale or purchase of alcohol when authorized by a commissioner under separate statutory or executive agency authority.
- Possession of alcohol while in a state vehicle in compliance with any applicable state or federal law.
- Possession of alcohol while in an employee's personal vehicle on the state's premises in compliance with any applicable state or federal law.

III. ADDITIONAL REQUIREMENTS

Employees are responsible for productive and safe work performance, and for addressing any drug or alcohol use which interferes with acceptable workplace behavior and performance. Employees must not report to work or perform work for the state while consuming drugs or alcohol while their ability to perform job duties is negatively affected due to on- or off-duty use of drugs or alcohol. Employees on rest breaks or working overtime, or performing work for the state while not on state premises, are considered on-duty for the purposes of this policy.

Employees are strongly discouraged from consuming alcoholic beverages or cannabinoids authorized under [M.S. Ch. 342](#) during meals when returning immediately thereafter to perform work for the state. Employees must not consume any drugs that are unlawful under both state and federal law.

Any employee who is convicted of a criminal drug or alcohol violation for conduct that occurred in the workplace must notify the employer in writing within five (5) calendar days of the conviction. Agencies must take appropriate personnel action, up to and including discharge. Employees of federal contractors or grantees may be required to satisfactorily participate in a drug abuse assistance or rehabilitation program, as may be required by federal law.

Agencies receiving federal grants must notify the granting agency within ten (10) days after receiving notice of an employee's conviction. [41 U.S.C. 8103\(a\)\(1\)\(E\)](#).

Employers must notify the appropriate law enforcement agency when an employee possesses drugs in the workplace that are in violation of state law.

IV. EMPLOYEE ASSISTANCE PROGRAM

Employees with problems relating to drugs or alcohol are encouraged to seek counseling or other assistance.

The Employee Assistance Program (EAP) is available to help employees address problems such as drug or alcohol abuse. Employees are encouraged to seek professional assistance from the EAP before the use of drugs or alcohol affects their employment. Participation in this program is voluntary and confidential.

V. CONSEQUENCE OF VIOLATION OF THIS POLICY

Employees must abide by the terms of this policy. Violations of this policy may constitute just cause for discipline, up to and including discharge.

RESPONSIBILITIES

Agencies are responsible for the request:

- Providing all employees with a copy of this policy.
- Enforcing policy measures in a nondiscriminatory fashion.
- Creating an agency-specific policy, if necessary, in consultation with MMB.

MMB is responsible for:

- Providing assistance in the enforcement of this policy. Updating this policy as necessary.

REFERENCES

[State of Minnesota Drug and Alcohol Testing Plan](#)

CONTACTS

MMB Enterprise Employee Resources