

Community Action Partnership of Mid-NE

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NEBRASKA DRUG-FREE WORKPLACE POLICY

Effective April 23, 2009

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Community Action Partnership of Mid-NE

NEBRASKA DRUG-FREE WORKPLACE POLICY STATEMENT

The illegal use of drugs is a national problem that seriously affects every American. Drug abuse not only affects individual users and their families, but also presents new dangers for the workplace. Practical experience and research have proven even small quantities of narcotics, abused prescription drugs, or alcohol can impair judgment and reflexes. Though not readily apparent, this impairment can have serious and costly results, particularly for employees operating vehicles or potentially dangerous equipment, or for employees who are making important decisions, or handling sensitive information or valuables.

CommunityAction Partnership of Mid-Nebraska (Mid) is committed to providing a safe work environment and to fostering the well being and health of its employees and the general public. That commitment is jeopardized when any Mid employee illegally uses drugs, abuses prescription drugs, or uses alcohol on the job; comes to work under the influence; or possesses, distributes, or sells drugs in the workplace. For these reasons Mid has decided to implement an Nebraska Drug-Free Workplace Policy. Adherence with this policy is a condition of employment at Mid, and all employees, final applicants, and independent contractors/contractor employees working on the property or worksite of Mid will be required to execute the applicable consent forms. An employee whose conduct violates this policy will be subject to discipline, up to and including termination. This policy is not contractual in any nature.

Prohibited Drugs includes the following: Amphetamines, Cocaine, Cannabinoids, Opiates, Phencyclidine (PCP), Methadone, Methaqualone, Barbiturates, Benzodiazepines, or Propoxyphene in conformity with the schedule of controlled substances referred to in the Nebraska Uniform Controlled Substances Act.

As a means of maintaining our drug-free workplace policy, beginning at most (30) days after April 23, 2009, any existing employee in a position classified as safety sensitive will be subject to testing. Beginning sixty (60) days after May 1, 2009, we will implement active employee substance screening or testing as further described in this Nebraska Drug-Free Workplace Policy. Any existing policy or practices of Mid remain effective until implementation of this new Policy Statement. Pre-employment screening or testing is to begin immediately as further described in Section 2.A. Copies of this Policy Statement will be available to all employees and applicants for inspection, and employees will participate in a semiannual education program on substance abuse and our policies on substance abuse. All announcements for job positions to be filled will include notice of the testing policy, and copies of the Policy Statement will be kept in the office of the Designated Employer Representative for Mid and made available during regular business hours for review by all prospective job applicants or current employees. Continuing notice of this policy is posted in the office of the Designated Employer Representative.

Mid has developed its drug-free workplace policy in substantial compliance with Neb. Rev. Stat. §§ 48-1901 to 1910, et seq., with three basic objectives in mind:

1. Employees deserve a work environment that is free from the effects of drugs and the problems associated with their use;
2. Mid has a responsibility to maintain a healthy and safe workplace; and
3. Reduce risk of property damage or injury to the general public, co-workers or employees.

Workers' Compensation

Under Nebraska Law, Section 48-127 and 48-102, et seq., of the Neb. Rev. Stat., **workers who are injured at the workplace or in the course of employment may be tested for drugs and alcohol and, if verified positive, may not be paid benefits under the Nebraska Workers' Compensation Law if the injury is a result of an accident caused by drug and/or alcohol intoxication.** The statutes read:

48-127 – If the employee is injured by reason of his or her intentional willful negligence, or by reason of being in a state of intoxication, neither he or she nor his or her beneficiaries shall receive any compensation under the Nebraska Workers' Compensation Act.

48-102 – In all cases brought under sections 48-101 to 48-108, it shall not be a defense (a) that the employee was negligent, unless it shall also appear that such negligence was willful, or that the employee was in a state of intoxication; . . .

A verified positive drug or alcohol test conducted and evaluated pursuant to 49 CFR Part 40 of the Department of Transportation (DOT) Regulations shall be conclusive evidence of intoxication and willful misconduct so as to disqualify an employee from workers' compensation benefits.

Unemployment Compensation

Under Nebraska Law Section 48-628 of the Neb. Rev. Stat., Unemployment Compensation, provides that **no unemployment compensation will be paid to an employee dismissed after testing positive for drugs or alcohol, refusing to submit to a test for drugs or alcohol, or knowingly altering or adulterating any test sample.** Section 25-48-628(2) reads in part:

48-628 – An individual shall be disqualified for benefits:
. . .being under the influence of any intoxicating beverage or being under the influence of any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery when the individual is so under the influence on the worksite or while engaged in work for the employer; . . .

A verified positive drug or alcohol test conducted and evaluated pursuant to 49 CFR Part 40 of the Department of Transportation (DOT) Regulations shall be conclusive evidence of intoxication and willful misconduct so as to disqualify an employee from unemployment compensation benefits.

Mid asks that every employee work together to make Community Action Partnership of Mid-NE a drug free workplace, as well as a safe and rewarding place to work.

To further its objectives, Mid announces the following policy:

1. **Mid's Policy on Drugs and Alcohol**

A. The use of alcohol or any illegal drugs, including narcotics or hallucinogenic drugs, marijuana, or other non-prescribed controlled substances is **prohibited** during work hours or while on Mid property or worksite. That includes their use, possession, distribution, sale, purchase, trade, manufacture, offer for sale, offer to buy, or make arrangements to distribute, or reporting to work under the influence of, intoxicants or illegal drugs (including narcotic or hallucinogenic drugs, marijuana or other non-prescribed controlled substances). That also includes any equipment, products, and materials which are used, intended for use, or designed for use with non-prescribed controlled substances, while on Mid's property, worksite or during work hours.

B. Reporting to or being at work where the presence of intoxicants, non-prescribed narcotics, hallucinogenic drugs, marijuana, alcohol or other non-prescribed controlled substances in blood or urine exceeds statutory limits **is prohibited**.

C. Reporting to or being at work where the presence of prescribed or over-the-counter narcotics or drugs exceeds statutory limits in blood or urine, or the use of prescribed or over-the-counter narcotics or drugs where, in the opinion of Mid, such use prevents the employee from performing his or her job or poses a risk to the safety of the employee, other persons, the general public or property, **is prohibited**.

Any employee taking a prescribed or over-the-counter narcotic or drug must advise his or her supervisor of its use **if disclosure would be required by job-relatedness and consistent with business necessity**. Such prescriptions brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date. An employee using such prescribed or over-the-counter substances may remain on his or her job or may be required to take a leave of absence or other appropriate action as determined by supervision based upon **job-relatedness and consistent with business necessity**. An employee or job applicant shall be allowed to provide confidential notice to the Medical Review Officer (MRO) of currently or recently used prescription or nonprescription drugs. Such information shall be placed in writing upon the employee's personal copy of the lab's drug testing records form as a reference should the MRO contact the employee.

Recent studies indicate that ingestion of hemp seed oil and hemp food products can result in a positive test for marijuana. Accordingly, ingestion of such products is prohibited and will not be accepted by the MRO as an excuse for a positive marijuana test.

D. On-call employees are prohibited from using alcohol for the specific on-call hours of that employee. Mid will provide an opportunity for each such on-call employee to acknowledge the use of alcohol at the time he/she is called to report for duty, and it is the employee's responsibility to inform his/her supervisor at the earliest possible time of any potential impairment from alcohol.

E. Adherence to Mid's policy on drugs and alcohol is a condition of employment for all employees. All employees will be required to sign the applicable acknowledgment form and to consent to this policy.

F. Employees must notify Mid of any conviction on drug-related charges within five (5) working days of such conviction in conformity with the Drug Free Workplace Act of 1988.

G. Violations of this policy, including (but not limited to) a positive confirmed laboratory test result for drugs; refusal to sign a consent or chain of custody form; refusal to submit to or cooperate with a substance screening by blood, urine, hair, or saliva, including an employer's initial screening, as required in this policy; knowingly submitting an adulterated, diluted, or otherwise altered blood or urine specimen; or submitting a specimen from another person, are subject to disciplinary action by Mid, up to and including **termination and in accordance with Nebraska law, may subject the offender to a Class I misdemeanor conviction in the case of a substituted, adulterated or tampered with specimen.**

H. Mid reserves the sole right to interpret all provisions of this policy and take all appropriate actions within its sole discretion and judgement.

Off-the-job use of drugs, alcohol, or any other prohibited substances which results in impaired work performance, such as absenteeism, tardiness, poor work product, or harm to the Mid image, is prohibited. Employees should realize that these regulations prohibit all illicit drug use--on and off duty. Alcohol use within eight (8) hours of reporting to work is prohibited.

I. Additionally, these rules may apply to any contractor used by Mid and to any employee of that contractor working on the premises of Mid.

J. Mid reserves the right to alter, amend, or supplement the terms and conditions of this Nebraska Drug-Free Workplace Policy Statement to accommodate changes in current state and Federal regulations, insurance requirements, testing technologies, or circumstances which impact Mid practices and policies or industry standards.

2. **Drug/Alcohol Screening and Testing**

Under Mid's Nebraska Drug-Free Workplace Policy, any final applicant or employee may be requested to undergo an initial screen, urinalysis, blood, saliva, or other diagnostic test performed by a certified laboratory, to detect the presence of drugs. In addition, employees will be subject to screening and/or testing for alcohol. The following are the five circumstances when Mid will screen or test for drugs or alcohol:

A. **Pre-employment**

Pre-employment substance screening or testing will be performed on all final applicants as a condition of their employment at Mid. Such screening or testing may be required on its own, or as part of a fitness-for-duty physical exam for positions that would require

such an exam. Present employees who transfer may also be required to complete a pre-employment substance screen or test.

Applicants must sign a Pre-Employment Substance Testing Consent form. Mid shall inform final applicants that any offer of employment is conditioned upon passing a substance screen or test. The applicant will be informed that the specimen is subject to being tested for the presence of any or all of the following substances: Amphetamines, Cocaine, Cannabinoids, Opiates, Phencyclidine (PCP), Methadone, Methaqualone, Barbiturates, Benzodiazepines, or Propoxyphene in conformity with the schedule of controlled substances referred to in the Nebraska Uniform Controlled Substances Act.

Any job offer will be withdrawn if the applicant tests positive; refuses to submit to a test, including any initial screening; refuses to execute the required consent form; or if the initial screening is not negative and the applicant withdraws his/her application.

Applicants will also be provided with access to a copy of Mid's Nebraska Drug-Free Workplace Policy Statement. An applicant who decides not to cooperate in the pre-employment screening or testing or who is unwilling to acknowledge Mid's policy on drug and alcohol screening or testing may withdraw his/her application, and will not be considered for employment.

If a Mid representative, collector, MRO, or lab personnel has reasonable suspicion to believe that the applicant has tampered with the specimen, the applicant will not be considered for employment.

B. Upon “reasonable suspicion”

All employees will be screened or tested when there is reasonable suspicion for a Mid manager or supervisor to suspect that an employee has reported to work or is on Mid property or worksite under the influence of intoxicants, drugs or narcotics. Reasonable suspicion may be based on a supervisor's observation of an employee's drug or alcohol use, an employee showing either physical or mental symptoms of drug or alcohol use, or an employee's personal behaviors that may indicate drug or alcohol use. Supervisors must immediately detail in writing on the “Reasonable Suspicion Checklist” their specific reasons and observations for requiring an employee to undergo reasonable suspicion testing or screening. Any employee who reports to work visibly impaired by drugs or alcohol will not be allowed to work. If indicators of the need for a reasonable suspicion test are present, the employee will be screened or tested immediately, either in an initial screening or using a laboratory test.

C. Post-accident

Employees will be screened or tested after any work-related injury or accident where:

- i) an employee is injured beyond the need for simple first aid, or
- ii) substantial property or vehicle damage (such determination to be made in the sole judgement of Mid), or
- iii) an employee has caused or contributed to an on-the-job injury which results in loss of work time, or

- iv) an injury that is a workers' compensation injury or OSHA reportable accident if it is deemed by the agency that the employee contributed in any way to the injury
- v) if there is reasonable suspicion of drug or alcohol use.

Employees are prohibited from using alcohol within eight (8) hours following an accident, until testing or initial screening is completed. Any test or screen for alcohol should be completed within two (2) hours of a work-related accident, or as soon thereafter as is practicable.

All employees are put on notice that a verified positive drug or alcohol test, evaluated pursuant to 49 CFR Part 40 of the DOT Regulations following an on the job accident is conclusive evidence of intoxication and "willful misconduct" under this policy and disqualifies the employee from receipt of workers' compensation benefits.

D. Fitness-for-duty physical exam

Any employee whose job position requires him or her to undergo regular physical examinations will be screened as part of any such routine examination.

E. Follow-up testing after returning to work

Any employee who is referred to a drug or alcohol rehabilitation program through work, who was referred to a rehab program after testing positive in a confirmed lab test for drugs or alcohol while at work, or who has been suspended from work for any other violation of the drug and alcohol policy, must complete follow-up screening or testing when he/she returns to work. The employee will also be subject to random and unannounced screening or testing for a minimum of two (2) years after his or her return to work. The frequency of testing will be determined by the agency.

F. Random screening or testing, without notice. The frequency, percentage, and employee classifications subject to such screening and testing is to be determined by Mid or as may be required by a contractor or site owner.

3. Employee responsibilities

For any initial screening or drug and alcohol testing, an employee is responsible for the following:

1. **Reporting to the collection site within one (1) hour of being ordered to report there by a supervisor.** If the employee fails to report in the time specified, he/she must document a serious illness, injury, or other verifiable circumstance which prevented his or her arrival at the test location. If an employee is unable to document such a circumstance, he/she will be considered to have refused to take the test, and will be subject to termination of employment.
2. **Providing a specimen for screening or testing, whether it be breath, urine, hair, blood, or saliva, as the specific screen or test to be given may require.** If the employee refuses the screening or the test, adulterates or dilutes the specimen,

substitutes the specimen of another person, sends an imposter, tampers with the specimen, or will not sign the required forms, the employee will be subject to termination from employment as if they refused to be tested.

3. **Cooperating with the MRO in providing specimen or medical information.**

The job of the MRO is to decide whether the employee has passed the laboratory drug test. As part of the verification process, the MRO will:

- a. Conduct a medical interview with the individual, if the individual consents to such an interview (this interview may be in person or by telephone);
- b. Review the individual's medical history and any relevant biomedical factors, if the individual consents to the review and cooperates with the MRO during the interview;
- c. Review all medical records made available by the individual tested to determine if a confirmed laboratory positive test resulted from legally prescribed medications;
- d. If necessary, reanalyze the original specimen taken at the lab to determine the accuracy of the test results;
- e. Verify that the lab report and assessment are correct. Based on available data, including other test results, the MRO may conclude that a particular drug test is scientifically insufficient for further action and would conclude that the test for that individual is negative.

At screening or testing, the applicant shall be given the opportunity to list on the employee's personal copy of the lab drug testing records form information he/she considers relevant to any test or initial screening, or any test or initial screening results, including identification of currently or recently-used prescription or nonprescription medication or other relevant medical information. The providing of information shall not prevent testing or initial screening, but may be considered by the MRO in interpreting any positive confirmed lab test result if the MRO should contact the employee.

An employee who receives a positive confirmed test result may contest or explain the result to the employer within five (5) working days after notification of the positive test results. The MRO will provide the employee with an opportunity to discuss the results of any apparently positive confirmed lab test. If the employee expressly declines the opportunity to discuss the test results with the MRO, the MRO may verify the test as confirmed positive without further discussion with the employee. If, in the sole judgement of the MRO, there is a legitimate medical reason for a confirmed positive lab test, the MRO will verify the test as negative. If there is no legitimate medical reason for a confirmed positive lab test, the MRO will verify the test as positive and report the finding to Mid. It is the employee's responsibility to return any phone calls from the MRO within a reasonable period of time and not less than 24 hours. If the employee does not contact the MRO within 5 days of notification to call the MRO, or if the employee refuses to talk to the MRO then the MRO may report the result of the test to Mid.

An employee who tests positive for drugs or alcohol in a positive confirmed lab test will be subject to disciplinary action, up to and including termination of employment.

4. **Collection and Testing Procedure**

At the option of Mid, employees may be given an initial screening at the work site or at a designated collection site. All collections for laboratory testing will be conducted in accordance with procedures set forth in 49 CFR Part 40 of the DOT Regulations. All urine lab testing will be performed by a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the Department of Health and Human Services (DHHS) as qualified to perform drug and alcohol testing under Federal workplace testing programs. Procedures may include an initial screen or lab test for any or all of the following: Amphetamines, Cocaine, Cannabinoids, Opiates, Phencyclidine (PCP), Methadone, Methaqualone, Barbiturates, Benzodiazepines, Propoxyphene, or Alcohol. All positive urine lab test results of employees will be subject to confirmation testing and verification by a certified Medical Review Officer (MRO). All urine laboratory drug tests are to be conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation (DOT) in 49 C.F.R. Part 40. No disciplinary action will be taken against an employee unless a verified positive drug or alcohol test is evaluated in accordance with 49 CFR Part 40 of the DOT Regulations.

Any employee who receives a non-negative result on an initial screening for drugs may choose to have their Specimen submitted to a certified lab chosen by Mid for laboratory testing. An applicant who receives a non-negative result on an initial screening for drugs may choose to have a test done by a certified lab chosen by the employer. Applicants will be responsible for the costs of any lab test, and will be reimbursed at hire by Mid if such lab test proves negative.

A confirmed positive lab test, conducted and evaluated in accordance with DOT 49 C.F.R. Part 40, for a controlled substance is a conclusive presumption of intoxication. A confirmed positive breath, or saliva, or blood alcohol test result which shows a Breath Alcohol Content of 0.04 or higher is a conclusive presumption of intoxication. Employees will be subject to discipline, up to termination of employment for a breath alcohol content of 0.04. Employees will be immediately removed from safety-sensitive duty for a breath alcohol content of 0.02, and subject to discipline, up to and including termination.

5. **Optional Initial Screening Procedures** (Mid may use FDA approved rapid screening devices for initial screening.)

6. **Employee Drug and Alcohol Education Program**

Mid will conduct semi-annual educational programs each year to educate employees about the dangers of drug and alcohol abuse, the indicators of drug and alcohol abuse, its policy of maintaining a drug-free workplace, and the penalties that may be imposed for violation of the policy. Supervisors will participate in such educational programs and will also receive semi-annual training on how to recognize signs of substance abuse, how to document signs of employee substance abuse, and how to refer employees to the proper treatment providers. In addition, Mid will keep available in the office of the Designated Employer Representative, for employees' confidential use, a resource file of information on drugs and alcohol, and information on community treatment resources.

7. **Confidentiality**

Mid is committed to a safe, productive workplace that is free of substance abuse. Mid is also concerned about employees' privacy. All information received by Mid, its managers and supervisors, testing lab, or MRO, concerning employee drug and alcohol testing, initial screening results, lab test results, and related medical information is *confidential*. Such information shall be released only upon the written consent of the employee, except:

1. As required by law;
2. To its workers' compensation carrier, or other third-party administrator of workers' compensation or insurance claims, employees of Mid who have a "need to know", MRO, SAP, as well as the Third Party Administrator of the Mid program;
3. To be used as evidence, obtainable discovery, or disclosure in any public or private proceedings, which the employee initiates;
4. By subpoena by a court of competent jurisdiction;
5. To subsequent employers, upon receipt of a written request from the former employee;
6. To contractors and job site owners with the consent of the employee.

Records relating to drug and alcohol testing, initial screening, lab reports showing test results, or other documents relating to Mid*'s drug and alcohol testing program shall be kept in a separate location from employees' individual personnel files. Records shall be kept in a secure location, and only authorized personnel shall have access to the records. Release of information to parties other than Mid, its MRO, third-party administrator, those falling within the categories as set forth above, or related entity shall be solely pursuant to a written consent form signed voluntarily by the person tested, unless the release is compelled by an agency of the state or a court of competent jurisdiction. The consent form shall contain at a minimum all of the following information:

- a. Name of the person who is authorized to obtain the information
- b. Purpose of the disclosure
- c. Precise information to be disclosed
- d. Duration of the consent
- e. Signature of the person authorizing release of the information

8. **Employee assistance/benefits program**

Counseling and rehabilitation for alcohol or substance abuse is available through the health and welfare benefit program for employees, *only to the extent of the current benefits package*. Mid will assume no direct financial responsibility for counseling or rehabilitation costs of an employee. Any costs in addition to or in excess of any available health benefits are the employee's responsibility. A list of state and national resources is a part of this Policy Statement.

An eligible employee may make a voluntary self-referral for assistance with a drug and alcohol problem prior to being chosen for screening or testing without jeopardizing his/her continued employment, provided the employee immediately discontinues the

substance abuse. However, employees may not make a voluntary self-referral to avoid taking a required drug or alcohol test or screen.

Employees who are referred through administrative channels for a rehabilitation program or who are suspended from work for failure of a drug or alcohol test pending the completion of such a program may use the extent of any paid vacation time they have accrued during such times as they are in attendance at the rehabilitation program. If the employee has accrued no paid vacation time at the time he/she enters the rehabilitation program, such attendance will be without pay to the employee.

9. **Investigations or Searches**

Where there is reasonable cause to suspect an employee has violated this policy, Mid reserves the right for a supervisor to inspect lockers, work areas, desks, cabinets, purses, bags, briefcases, tool boxes, or other belongings, and vehicles (including personal vehicles which an employee brings onto Mid's property), on Mid's property or at locations where work-related activities are being conducted, without prior notice. "Cause to suspect" shall be solely in the judgement and discretion of Mid. Mid may release any illegal, or controlled drugs, or paraphernalia to law enforcement authorities in accordance with appropriate procedures.

10. **Consequences of policy violation**

An employee who is in violation of this policy, is subject to disciplinary action *up to and including immediate termination*.

11. **Definitions**

As used in this policy, terms referred to shall have the following definitions:

Accident--Any mishap or occurrence resulting in injury to people, product, or equipment, which results in loss of work time or necessitates to an employee, or other person, medical attention or assistance in excess of simple first aid procedures, or any injury that results in a workers' compensation injury, OSHA reportable accident, or substantial property damage as determined in the sole judgement of the Company.

Alcohol—any product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, synthetic ethyl alcohol, the four varieties of liquor defined in subdivisions (1) through (4) of Section 53-103 of the Neb. Rev. Stat., alcohol, spirits, wine, and beer, every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and alcohol used in the manufacture of denatured alcohol, flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary, and toilet preparations.

Alcohol Concentration (or Breath Alcohol Concentration)--The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by a breath test required by Community Action Partnership of Mid-NE Drug-Free Workplace Policy Statement.

Applicant or Final Applicant--A person who has applied for a position with Mid and has been offered employment conditioned upon successfully passing a substance abuse screen or test. A final applicant may begin work pending the results of substance abuse screening or testing if the employer elects to do so.

Breath-Testing Device – Intoxilyzer model 4011AS or other scientific testing equivalent as approved by and operated in accordance with the rules and regulations of the State of Nebraska.

Breath-Testing Device Operator – A person who has obtained or been issued a permit pursuant to the Nebraska department rules and regulations.

Confirmation Test or Confirmed Test--A second analytical procedure used to identify the presence of a specific drug in a specimen. The confirmation test shall be different in scientific principle from that of the initial test procedure. The confirmation method shall be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

Designated employer representative (DER). An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Part 40. The DER is responsible for verifying that Service Agents used by the Company are not subject to a PIE (public interest exclusion as the term is used in connection with the procedures of Subpart R of 49 CFR Part 40) and have Qualification Training Certificates.

Drug--Includes but is not limited to: Amphetamines, cannabinoids, cocaine, phencyclidine (PCP), methadone, methaqualone, opiates, barbiturates, benzodiazepines, or propoxyphene. Drug shall mean any substance, chemical, or compound as described, defined, or delineated in Sections 28-405 and 28-419 of the Neb. Rev. Stat., or any metabolite or conjugated form thereof, except that any substance, chemical, or compound containing any product as defined in subdivision (1) of this section may also be defined as alcohol.

Drug-Free Workplace Policy Statement--This document, as set out in writing, maintained, and followed by Mid, that conforms to the testing procedures specified in 49 C.F.R. Part 40, or otherwise reliable standards.

Effective Date--This Nebraska Drug-Free Workplace Policy Statement of Mid is effective as of May 1, 2009.

Employee—Any person who receives any remuneration, commission, bonus, or other form of wages in return for such person's actions which directly or indirectly benefit an employer.

Employer--Community Action Partnership of Mid-NE

Initial Screen --An analytical procedure performed at a certified lab.

Laboratory ("Lab")--A laboratory certified for drug testing by the Department of Health and Human Services (DHHS), according to standards published in the DOT regulations 49 C.F.R. Part 40: Procedures for Workplace Drug Testing Programs, Final Rule; or a laboratory approved by the College of American Pathologists; or which meets the collection standards set forth in Neb. Rev. Stat. § 48-1903.

Medical Review Officer (MRO)--A licensed physician (medical doctor or doctor of osteopathy), certified by either the American College of Occupational and Environmental Medicine or The American Association of Medical Review Officers, responsible for receiving laboratory results generated by an employer's drug-testing program. The MRO shall have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history, and other relevant biomedical information. The MRO shall be responsible for compliance with the applicable statutory and regulatory requirements.

Non-Prescription Medication--A drug or medication authorized pursuant to the Federal or state law for general distribution and use without a prescription in the treatment of human disease, ailments, or injuries.

On-Call Employee--An employee who has been called or notified by telephone or beeper/pager to report to a specified location and perform his/her work duties. The employee is considered on duty and subject to drug or alcohol testing under this policy at such time as he or she receives the call to report to work.

Pass a Drug Test--A drug test reported by the laboratory that the MRO finds:

1. Showed no evidence or insufficient evidence of a prohibited drug; OR
2. Showed evidence of a prohibited drug but there was a legitimate medical explanation for the result; OR
3. Was scientifically insufficient to warrant further action.

Pass an Alcohol Test--A screening or confirmation breath alcohol test which indicates a concentration of alcohol of less than 0.04. Employees who have a concentration of alcohol of between 0.02 and 0.039 will be subject to discipline and removed from any safety related duties for a period of 24 hours.

Positive Drug Test--A drug test reported positive by the laboratory and subsequently verified after review by the Medical Review Officer (MRO) as evidence of the illegal or illicit use of a prohibited drug.

Positive Alcohol Test--A confirmed breath alcohol test conducted by a properly trained Breath Alcohol Technician (BAT) using a properly calibrated Evidential Breath Testing (EBT) device, or gas chromatography with a flame ionization detector which indicates an alcohol concentration of 0.04 or greater. Nothing in this policy shall be construed to preclude an employee from immediately requesting further confirmation of any breath-testing results by a blood sample if the employee voluntarily submits to give a blood sample taken by qualified medical personnel. If the confirmatory blood test results do not confirm a violation of Mid's work rules, any disciplinary action will be rescinded.

Prescription Medication--A drug or medication lawfully prescribed by a physician for an individual and taken by that individual in accordance with the prescription.

Reasonable Suspicion Testing--Substance abuse testing based on a belief that an employee is using or has used drugs or alcohol in violation of the policy of the employer drawn from specific objective and articulable facts and reasonable inferences drawn from the facts in light of experience and/or training. As enumerated on the Reasonable Suspicion Contemporaneous Observation Checklist and the Reasonable Suspicion Long-Term Observation Checklist, the facts and inferences used in this determination may be based upon, but not limited to, the following criteria:

- a. Observable phenomena while at work, such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse.
- b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- c. A report of substance abuse provided by a reliable and credible source.
- d. Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer.
- e. Information that an employee has caused or contributed to an accident at work.
- f. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the premises of the employer or while operating the employer's vehicle, machinery, or equipment.

Refuse an Alcohol Test--A verbal or written refusal by an employee to provide a breath specimen, or to sign the breath alcohol testing form (Step 2) or otherwise to cooperate with the testing process in a way that prevents the completion of the test for an alcohol test required under this policy. Also, a written conclusion by a licensed physician acceptable to Mid that the employee's apparent inability to provide an adequate amount of breath for the alcohol test was not, with a high degree of probability, caused by a medical condition that precluded the employee from providing an adequate amount of breath. Failure to report for screening or testing in one (1) hour is also a refusal to test and classified as a positive test.

Refuse a Drug Test--A verbal or written refusal by an employee to provide a urine specimen for a drug test or screen authorized under this policy. Also, a written conclusion by the Medical Review Officer (MRO) that the employee's apparent inability to provide a complete specimen for a drug test constitutes a refusal to provide a specimen. Failure to report for screening or testing in one (1) hour is also a refusal to test and classified as a positive test.

Specimen--Tissue, blood, hair, saliva, sweat, breath, urine, or other product of the human body capable of revealing the presence of drugs or of alcohol.

Vehicle--Any mode or manner of transportational mechanism, including but not limited to automobiles, trucks, forklifts, tow motors, off-road vehicles; or heavy equipment, such as bulldozers, backhoes, or cranes; or motorized mechanism otherwise used to convey people, product, or equipment.

12. **General**

This policy should not be construed as contractual in any nature. It represents Mid's current guidelines in dealing with a developing problem under evolving laws and facts. Mid reserves the right to alter, amend, or supplement the terms and conditions of this Nebraska Drug-Free Workplace Policy Statement to accommodate changes in current state and Federal regulations, insurance requirements, testing technologies, or circumstances which impact Mid's practices and policies or industry standards.