

**Arizona State Board of Nursing
Policy and Procedure**

POLICY NAME **Guidelines For Non-Compliance With Drug Testing – Monitoring And CANDO Departments**

EFFECTIVE DATE: **September 20, 2007
(Board Approved)**

Greg Aidenow RAN JAAN

Signature

REVISION DATE(s) **May 21, 2013; January 30, 2015**

- | | | |
|---|--|--|
| <input type="checkbox"/> Administration | <input type="checkbox"/> Hearing | <input checked="" type="checkbox"/> Monitoring |
| <input checked="" type="checkbox"/> CANDO | <input type="checkbox"/> Information Technology | <input type="checkbox"/> Multi-state Licensure |
| <input type="checkbox"/> Education | <input checked="" type="checkbox"/> Investigations | |
| <input type="checkbox"/> Fiscal Services | <input type="checkbox"/> Licensing | |

Reference: Substance Use Disorder In Nursing: A Resource Manual and Guidelines for Alternative and Disciplinary Monitoring Programs NCSBN 2011

Purpose: Random drug testing is incorporated into Stipulated Agreements, Consent Agreements and Board Orders (Orders) to provide ongoing monitoring for drug abstinence, early identification of non-compliance, and timely intervention should relapse occur.

Policy: CANDO and Monitoring staff are responsible for monitoring participant compliance with drug testing, intervening when non-compliance occurs and implementation of the following guidelines.

Non-compliance with drug testing includes but is not limited to:

- a. Submission of a specimen that is positive for any unauthorized substance;
- b. Failure to submit a specimen on a day when a drug test has been requested by the Board, the Board’s designee, an employer or the drug testing laboratory/vender;
- c. Submission of a dilute specimen;
- d. Submission of an adulterated specimen and/or substituted specimen as indicated by any of the following:
 - i. the temperature is outside the acceptable parameters 32–38 °C/90–100 °F;
 - ii. the pH is outside the normal laboratory range;
 - iii. the specimen has a creatinine level less than 2 mg/dL and specific gravity is less than or equal to 1.0010 or greater than or equal to 1.0200; and/or;
 - iv. a toxicologist has determined that the specimen failed human urine validity testing and/or adulterant testing

PROCEDURE:

1. **POSITIVE DRUG TESTS: Notwithstanding “Contested Positive Results” paragraph below,** submission of a positive drug test for any unauthorized substances such as alcohol, illegal substances or drugs not currently medically authorized shall be deemed positive (failed) test. A positive drug test constitutes non-compliance subject to the following guidelines:

- a. The Board or the Board's designee may direct in writing the participant to cease practicing pending further review and determination by the Board or the Board's designee. If directed to cease practicing, the participant may not return to practice until written authorization is received from the Board or the Board's designee.
- b. The participant may be required to undergo an evaluation by a Board approved evaluator as determined by the Board or its designee. The participant must comply with any resulting treatment recommendations.
- c. The frequency of urine drug testing will increase to a minimum of weekly for three months followed then by twice a month for at minimum, nine months. **Exception:** individuals who are subject to lifting of the stay and the revocation or suspension of licensure/certifications, the stay is lifted and the case is not returned to the Board.

Additional guidelines for positive drug test results are as follows:

CANDO Participants:

- (1) Submission of a first positive drug test the Board's designee may offer an Addendum to the Stipulated Agreement requiring, in part, the participant to cease nursing practice, undergo an evaluation with a Board approved evaluator as determined by the Board or its designee, engage in additional treatment if recommended, additional 12-step attendance, increase drug testing frequency, notification to appropriate treatment provider(s) and nursing employer(s) of the positive drug test, and extension of the duration of the Stipulated Agreement; **OR** a complaint against the nurse's license and refer the matter to the Board for decision on licensure action.
- (2) Submission of a second positive drug test a complaint will be opened against the participant's license, the Board's designee may notify appropriate treatment provider(s) and nursing employer(s) of the second positive drug test, and the complaint will be referred to the Board for decision on licensure action.

Probation or Suspension (non-stayed)

A positive drug test result will result in the Board or the Board's designee opening a new complaint against the participant's license/certificate and the investigative findings submitted to the Board for the Board's review and decision regarding any additional discipline.

Stayed Revocation or Stayed Suspension

A positive drug test result for an unauthorized substance for participants with Stayed Revocation or Stayed Suspension will result in the lifting of the Stay and the case is not returned to the Board.

Contested Positive Results

Incidental exposure is not a defense to a positive drug test. Participants shall not consume poppy seeds or products containing poppy seeds and shall not consume any alcohol or any substances containing alcohol and shall avoid all products containing alcohol for the duration of the Order. Participants shall completely abstain from the use or possession of or exposure to any other controlled substances, dangerous drugs as defined by law, or any prescription drugs without a current valid prescription.

It is the responsibility of the participant to not use any substance or product that may result in a positive test from "incidental exposure." If a participant submits a first positive drug test, contests the results and, at their own expense, obtains a review by a Board approved Medical Review Officer (MRO) who determines the results to be negative as result of potential incidental exposure, the Board or the Board's designee will increase the frequency of random drug testing for a minimum of six months and may require an expanded drug panel, and/or require submission of a specimen such as urine, hair, blood,

saliva, nail, or any combination thereof. If there are no other indicators of unauthorized substance use, the Board or its designee will issue a warning letter to the participant advising the participant that **a second drug test result with metabolites of unauthorized substances detected will be deemed a positive (failed) test.**

- 2. FAILURE TO SUBMIT TO DRUG TESTING:** Failure to submit to drug testing a specimen on a day when a drug test has been requested by the Board, the Board's designee, an employer or the Board's drug testing program shall constitute non-compliance.
- a. If the participant fails to submit to a random drug test, the participant may be required to submit to a drug test upon the identification of the missed drug test. The drug test may include hair, urine, saliva, nail, blood or any combination thereof.
 - b. If the participant fails to submit to a drug test that has been requested by the Board, the Board's designee or any healthcare employer, the Board or the Board's designee will direct, in writing, the participant to cease practicing pending further review and determination by the Board or the Board's designee. If directed to cease practicing, the participant may not return to practice until written authorization is received from the Board or the Board's designee. A complaint will be issued against participant's license or certificate and the investigative findings will be submitted to the Board for the Board's review and decision regarding discipline to be imposed.
Exception: individuals who are subject to lifting of the stay and the revocation or suspension of licensure/certifications the stay will be lifted and the case is not returned to Board.
 - c. During the term of the Stipulated Agreement, Consent Agreement or Order and in addition to the above provisions:
 - i. Failure to submit one random drug test will result in an increase in the frequency of testing for a minimum of 6 months. The frequency of drug testing is determined by the Board or its designee and may include expanded drug panels, urine, hair, saliva, nail of any combination thereof.
 - ii. Failure to submit a second random drug test may result in the following:
 1. The Board or the Board's designee directing, in writing, the participant to cease practicing pending further review and determination by the Board or the Board's designee. If directed to cease practicing, the participant may not return to practice until written authorization is received from the Board or the Board's designee.
 2. The Board or Board's designee may direct the participant to submit to drug testing with a longer window of detection such as hair or nail testing.
 3. The participant may be required to undergo an evaluation by a Board approved evaluator as determined by the Board or its designee and must thereafter comply with any resulting treatment recommendations.
 4. Random drug testing will increase in frequency for a minimum of 6 months. The frequency of drug testing is determined by the Board or its designee and may include expanded drug panels, urine, hair, urine, saliva, nail of any combination thereof. The participant is not eligible for completion of the Stipulated Agreement, Consent Agreement or Order during this time.
 5. If there is evidence of intentional drug testing avoidance or other substantial noncompliance with the Stipulated Agreement, Consent Agreement or Order a complaint will be issued against the participant's license or certificate and the investigative findings will be submitted to the Board for the Board's review and decision regarding any discipline to be imposed.
 6. If under a stayed order, the second failure to submit to a random drug test will result lifting of the stay and the case is not returned to Board

- iii. Failure to submit to three or more drug tests, in addition to the above provisions, may result in the following:
 - 1. A complaint issued against participant's license or certificate and the investigative findings submitted to the Board for the Board's review and decision regarding discipline to be imposed.
 - 2. Absent any indication of relapse or intentional drug testing avoidance, Board staff may increase drug testing frequency for a minimum of 6 months. The frequency of drug testing is determined by the Board or its designee and may include expanded drug panels, urine, and/or quarterly hair follicle testing or nail testing or any combination thereof. The participant is not eligible for completion of the Stipulated Agreement, Consent Agreement or Order during this time.
 - 3. If there is evidence of intentional drug testing avoidance or other substantial noncompliance with the Stipulated Agreement, Consent Agreement or Order a complaint will be issued against the participant's license or certificate and the investigative findings will be submitted to the Board for the Board's review and decision regarding any discipline to be imposed.

- 3. DILUTE SPECIMENS:** A dilute specimen is invalid for determining the absence of drugs in a specimen and constitutes noncompliance. However, a dilute specimen that is positive for any unauthorized substance is POSITIVE for those substances detected.
- a. Participants shall submit a drug test the same day upon receiving notification from either the laboratory or Board staff of the dilute specimen and requirement to retest. The drug test may include hair, urine, saliva, nail, blood or any combination thereof.
 - b. During the term of the Stipulated Agreement, Consent Agreement or Order:
 - i. Submission of the first dilute drug specimen will result in a warning letter to the participant and advising the participant that a future dilute specimen will result in an increase in the frequency of drug testing.
 - ii. Submission of a second dilute drug test will result in an increase in the frequency of testing for a minimum of 6 months.
 - iii. Submission of a third dilute drug test:
 - 1. The Board or Board's designee may direct, in writing, the participant to cease practicing pending further review and determination by the Board or the Board's designee. If directed to cease practicing, the participant may not return to practice until written authorization is received from the Board or the Board's designee.
 - 2. The Board or Board's designee may direct the participant to submit to drug testing with a longer window of detection such as hair or nail testing.
 - 3. The participant may be required to undergo an evaluation by a Board approved evaluator as determined by the Board or its designee and must thereafter comply with any resulting treatment recommendations.
 - 4. The participant may be required undergo a medical evaluation by a Board approved physician with appropriate expertise to determine if there is a medical explanation for the dilute specimens. If a documented medical condition is determined, drug testing may include hair, nail, or other reliable drug testing specimen collection and testing.
 - 5. If no evidence of a medical condition to explain the dilute specimens, the participant will be required to submit to more frequent random urine drug testing for a minimum of 6 months and quarterly hair or nail testing for at minimum 4 consecutive quarters. The participant is not eligible for completion of the Stipulated Agreement, Consent Agreement or Order during this time.

6. If there is evidence of intentional drug testing avoidance or other substantial non-compliance with the Stipulated Agreement, Consent Agreement or Order a complaint will be issued against the participant's license or certificate and the investigative findings will be submitted to the Board for the Board's review and decision regarding any discipline to be imposed. NOTE: If under a stayed order, the stay will be lifted and the case is not returned to Board
- iv. Submission of a fourth dilute drug specimen and without a documented medical explanation, in addition to the above provisions, will result in the case returning to the Board for the Board's review and decision regarding any additional evaluations, terms and conditions or discipline to be imposed.

4. ADULTERATED AND/OR SUBSTITUTED SPECIMENS: Submission of a specimen in which the temperature is outside the acceptable parameters 32–38 °C/90–100 °F; the pH is outside the normal laboratory range; specimen has a creatinine level less than 2 mg/dL and specific gravity is less than or equal to 1.0010 or greater than or equal to 1.0200; and/or the testing laboratory determined that the specimen failed human urine validity testing or adulterant testing, is indicative of a substituted or adulterated specimen constitutes non-compliance.

- a. The Board or the Board's designee may direct the participant to immediately cease practicing pending completion of an investigation and final outcome by the Board. If directed to cease practicing, the participant may not return to practice until written authorization is received from the Board or the Board's designee and the nursing employer will be notified.
- b. A complaint will be issued against participant's license or certificate and the investigative findings will be submitted to the Board for the Board's review and decision.
- c. Drug testing will be increased to at minimum, weekly pending the completion of the investigation and final outcome by the Board.
- d. The Board or Board's designee may direct the participant to submit to drug testing with a longer window of detection such as hair or nail testing.
- e. If under a stayed order, submission of an adulterated or substituted specimen will result lifting of the stay and the case is not returned to Board.

Board staff may notify any individual involved in the treatment of the participant and any nursing employer of any failed drug test or other non-compliance with drug testing requirements.