

CHAPTER 220

AN ACT concerning drug testing of certain State employees and supplementing Title 30 of the Revised Statutes and Title 38A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:4-3.27 Drug testing required for certain State employees at psychiatric hospitals, developmental centers.

1. a. As a condition of employment as a direct care staff member at a State psychiatric hospital or developmental center listed in R.S.30:1-7, an applicant for employment shall consent to and undergo drug testing for controlled dangerous substances as provided in subsection f. of this section. The drug testing shall be at the expense of the applicant.

If a person applying for employment at a State psychiatric hospital or developmental center on or after the effective date of this act tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, the person shall be removed from consideration for employment.

b. A person who is employed at a State psychiatric hospital or developmental center as a direct care staff member shall be subject to random drug testing for controlled dangerous substances performed at such intervals as the Commissioner of Human Services deems appropriate. The commissioner shall annually perform random drug tests on 500 direct care staff members.

c. A person who is employed at a State psychiatric hospital or developmental center as a direct care staff member may be required to undergo drug testing for controlled dangerous substances if the employee's immediate supervisor has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety. The supervisor shall report this information to his immediate supervisor in a form and manner specified by the commissioner, and if the supervisor concurs that there is reasonable suspicion to believe that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the chief executive officer of the State psychiatric hospital or developmental center, as applicable, or other executive level officer of the hospital or developmental center designated by the commissioner, and request approval in writing for ordering the employee to undergo drug testing. Drug testing of an employee shall not be ordered without the written approval of the chief executive officer or other executive level officer designated by the commissioner.

d. An employee who tests positive for the unlawful use of any controlled dangerous substance may be referred to employee advisory services, or terminated from employment, as applicable, based on the employee's job title. An employee who refuses to submit to drug testing shall be terminated from employment. In all cases, however, the employee shall retain any available right of review by the Civil Service Commission.

e. The drug testing required pursuant to subsections b. and c. of this section shall be at the expense of the Department of Human Services.

f. Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the commissioner.

g. The commissioner shall notify all affected employees of State psychiatric hospitals and developmental centers of the provisions of this section.

h. As used in this section, "direct care staff member" means a: Human Services Technician; Human Services Assistant; physician; psychiatrist; dentist; psychologist; nurse; nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff

member employed by a State psychiatric hospital or developmental center who provides direct care to a patient or resident at the facility, as determined by the commissioner.

i. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and regulations necessary to effectuate the purposes of this act, including, but not limited to, those rules and regulations necessary to ensure the confidentiality of the person undergoing drug testing, and that drug test results are not reported to law enforcement authorities.

C.38A:3-2b5 Drug testing required for certain employees of veterans memorial homes.

2. a. As a condition of employment as a direct care staff member at a New Jersey veterans memorial home, an applicant for employment shall consent to and undergo drug testing for controlled dangerous substances as provided in subsection f. of this section. The drug testing shall be at the expense of the applicant.

If a person applying for employment at a New Jersey veterans memorial home on or after the effective date of this act tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, the person shall be removed from consideration for employment.

b. A person who is employed at a New Jersey veterans memorial home as a direct care staff member shall be subject to random drug testing for controlled dangerous substances performed at such intervals as the Adjutant General deems appropriate. The Adjutant General shall annually perform random drug tests on 100 direct care staff members.

c. A person who is employed at a New Jersey veterans memorial home as a direct care staff member may be required to undergo drug testing for controlled dangerous substances if the employee's immediate supervisor has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety. The supervisor shall report this information to his immediate supervisor in a form and manner specified by the Adjutant General, and if the supervisor concurs that there is reasonable suspicion to believe that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the chief executive officer of the New Jersey veterans memorial home, or other executive level officer of the veterans memorial home designated by the Adjutant General, and request approval in writing for ordering the employee to undergo drug testing. Drug testing of an employee shall not be ordered without the written approval of the chief executive officer or other executive level officer designated by the Adjutant General.

d. An employee who tests positive for the unlawful use of any controlled dangerous substance may be referred to employee advisory services, or terminated from employment, as applicable, based on the employee's job title. An employee who refuses to submit to drug testing shall be terminated from employment. In all cases, however, the employee shall retain any available right of review by the Civil Service Commission.

e. The drug testing required pursuant to subsections b. and c. of this section shall be at the expense of the Department of Military and Veterans' Affairs.

f. Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Adjutant General.

g. The Adjutant General shall notify all affected employees of New Jersey veterans memorial homes of the provisions of this section.

h. As used in this section, "direct care staff member" means a: Human Services Technician; Human Services Assistant; physician; psychiatrist; dentist; psychologist; nurse; nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff

member employed by a veterans memorial home who provides direct care to a resident at the facility, as determined by the Adjutant General.

i. Pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the Adjutant General shall adopt rules and regulations necessary to effectuate the purposes of this act, including, but not limited to, those rules and regulations necessary to ensure the confidentiality of the person undergoing drug testing, and that drug test results are not reported to law enforcement authorities.

3. This act shall take effect on the 90th day after the date of enactment, but the Commissioner of Human Services and the Adjutant General may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2010.