CONCORDE INC.
Employee Screening and Health Services

DRUG AND ALCOHOL TESTING PROCEDURES

Concorde's Client Guide for Conducting a Drug and Alcohol Testing Program

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Introduction

The purpose of this Guide is to explain how Concorde assists its customers in administering and conducting their drug and alcohol testing program. Concorde is a Consortium/Third Party Administrator (C/TPA). As a C/TPA, Concorde provides and coordinates a variety of drug and alcohol testing services for employers, including but not limited to urine specimen collections, laboratory testing, Medical Review Officer services, breath alcohol testing, record keeping, random program administration, and litigation support.

Your Company (sometimes referred to in this Guide as "Employer") may be subject to regulation by the United States Department of Transportation (DOT) and its various DOT operating agencies, including the Federal Motor Carrier Safety Administration (FMCSA, formerly the Federal Highway Administration – FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), or Federal Aviation Administration (FAA); or your Company may not be regulated by the USDOT at all. Your company may have both DOT mandated programs and company Non-DOT programs (safety-sensitive or other employees). Non-DOT tests may be subject to state and/or local laws depending where your company is located. All of Concorde's programs and services are compliant with all Federal and State regulations. Whatever type of testing program(s) your company implements, it is important that your company comply with all applicable laws and is consistent with its own company policy.

This Guide addresses the important operational steps in the administration of a drug and alcohol testing program including account set up, scheduling, conducting a urine drug specimen collection or breath alcohol test, obtaining results and random program administration. These materials will assist a Concorde customer in better understanding Concorde's operating systems and how Concorde works with its clients.

It is imperative that anyone involved in administering a drug and alcohol testing program read and understand their own company's policy and any applicable federal and/or state regulations before implementing any portion of a drug and alcohol testing program. Then there must be an understanding of the operating systems that will be utilized to carry out and perform the requirements of your company's policy and any applicable federal/state regulations. This will help ensure that your company has developed its own "Quality Management" version of a fully functional drug and alcohol testing program that is operationally sound and legally compliant.

And now a word from General Counsel Art Cohen……..

NOTE

THIS GUIDE IS FOR GENERAL INFORMATION AND IS AN INFORMATIVE GUIDE.

THIS GUIDE IS NOT INTENDED TO PROVIDE LEGAL ADVICE.

THIS GUIDE IS NOT A SUBSTITUTE FOR A COMPANY'S OWN WRITTEN POLICY. EVERY COMPANY THAT PERFORMS DRUG AND/OR ALCOHOL TESTING *MUST* HAVE A WRITTEN POLICY BEFORE PERFORMING ANY TESTS.

THIS GUIDE IS NOT A SUBSTITUTE FOR ANY MATERIALS REQUIRED BY THE DOT OR ITS AGENCIES. THIS GUIDE IS NOT A SUBSTITUTE FOR ANY MATERIALS REQUIRED BY ANY STATE OR LOCAL AUTHORITY.

THIS GUIDE IS NOT INTENDED TO COVER EVERY POSSIBLE DRUG AND ALCOHOL TESTING SITUATION.

YOU SHOULD CONSULT YOUR COMPANY'S LEGAL COUNSEL OR CONTACT ART COHEN @ 215-523-8887 or art@concorde2000.com IF YOU HAVE ANY QUESTIONS.

The Employer's Responsibilities

Every employer is ultimately responsible for the integrity and compliance of its own drug and alcohol testing program.

The DOT's regulations make this abundantly clear:

§40.11 What are the general responsibilities of employers under this regulation?

(a) *As an employer, **you** are responsible for meeting all applicable requirements and procedures of this part.* (emphasis added)

*(b) **You** are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations.* (emphasis added)

§40.15 May an employer use a service agent to meet DOT drug and alcohol testing requirements?

(a) As an employer, you may use a service agent to perform the tasks needed to comply with this part and DOT agency drug and alcohol testing regulations, consistent with the requirements of Subpart Q and other applicable provisions of this part.

You, your company, and Concorde are a team that works together. We each have our own respective responsibilities and jobs to perform. Some actions and decisions must be made by the Breath Alcohol Technician (BAT), Urine Drug Collector (UDC), Medical Review Officer (MRO), the testing laboratory, or Concorde as C/TPA; others must be taken by the company. However, ultimately every employer is responsible to ensure the integrity of its own program.

Setting Up Testing Account(s) with Concorde

Every drug and alcohol testing program begins with complete and accurate account set-up. Concorde needs to know as much as possible about your company and your company's testing program in advance of ordering supplies and beginning testing.

Some (but not all) of the more important information and documentation we need is as follows:

1. The complete legal name of your company.
2. The names of your company's authorized representatives who we will be working with, including their titles, their drug and alcohol testing responsibilities, addresses, phone numbers, fax numbers, email addresses, etc. This should include individuals who are authorized to order tests, receive test results, and participate in the company's random testing program and to make decisions on behalf of your company regarding testing. The DOT places special responsibilities on the employers Designated Employer Representative (DER), including removing individuals from performing safety sensitive duties after a covered employee has engaged in prohibited conduct.
3. How your company wishes to receive results – via secure fax or email, or retrieved by the Company via Concorde's web-based software SMART. All DOT results must be delivered via fax or email in addition to SMART. A separate instruction document that explains how to use SMART will be provided to you during on-boarding. If your company is using Concorde's random testing services, you will also receive documentation that explains Concorde's Randoms software.
4. A copy of your company's drug and alcohol testing policy.
5. The type of drug and alcohol testing program that your company requires: DOT, Non-DOT or both. If DOT, what agency; i.e., FMCSA, FTA, FRA, FAA, USCG, or PHMSA. If Non-Dot, the type of people to be tested; i.e., safety-sensitive, corporate, administrative, etc.
6. The reasons (i.e., the test "triggers") your company will administer a drug and/or alcohol test; i.e., pre-employment, random, reasonable cause, post-accident, follow-up, return to duty, etc.
7. Where your company will test – on-site or at clinics or both.
8. If your company will be performing random testing and Concorde will be administering the program, there is additional information required, including the names and social security numbers (or other identification number) of those employees to be included in the pool, where they are located and their supervisor information.
9. Billing information.

Proper set-up begins during the sales process, continues during on-boarding and thereafter; it will help ensure smooth operation and communication with Concorde. Among other things, this information is used to open laboratory accounts and print Chain of Custody Forms (CCFs) with the required and correct information. Set-up affects many portions of the process including scheduling tests, performing tests, communication with the MRO, results reporting, record keeping and billing, to name just a few.

Concorde's Sales and Marketing and Customer Care Departments will assist you in identifying, deciding, and providing this information to Concorde. This information will be utilized during the set-up process. If necessary, Concorde's Medical and Legal departments are available to provide set-up advice both during and after the sales process.

Scheduling Urine Drug Collections and Breath Alcohol Tests

Urine collections can be and are performed either at your facility (on-site) by urine drug collectors or at clinics which are part of Concorde's collection network.

When collections and testing are to be performed at a clinic, the company sends the Donor (includes both applicants and those currently employed) for a urine specimen collection or a breath alcohol test to be performed. Supervisors may or may not accompany the Donor to the clinic.

Chain-of-Custody (CCF) forms may be pre-placed at the clinic or may be stored at the Company's facility, although it is a better practice not to store CCFs at a clinic to ensure the form will not be used for another company. If stored at the Company's facility, the Company supervisor will normally give the Donor the CCF together with an authorization & instruction form to take to the clinic. The authorization and instruction form will direct the clinic what type of test(s) to perform (drug, alcohol or both), which CCF to use (DOT or Non-DOT), what the reason is for the test (e.g., pre-employment), and other information. The authorization and instruction form help ensure that the CCF is properly completed.

Concorde's experience is that generally better efficiencies and accuracy are achieved if CCFs are not stored at clinics. The reason is that clinics can easily confuse which form should be used since clinics may store CCFs for many different companies. It is then too easy for the wrong CCF to be used. When the Donor brings the CCF together with instructions as to what tests are to be performed, errors are minimized.

Clinics include private physicians' offices, occupational health centers, laboratory patient service centers, hospitals, etc. Concorde can make arrangements with any facility that your company currently utilizes. Breath alcohol testing can be performed on-site by a certified Breath Alcohol Technician or at network clinics using NHTSA approved Evidential Breath Testing (EBT) devices.

In some cases, you will schedule clinic collections directly with a clinic. When this is done, it is very important that the clinic be advised exactly what is to be done. Concorde will provide the clinic with a protocol. You also have the option to schedule a clinic collection through Concorde's customer care department and your personal customer care representative.

When scheduling tests with a clinic, it is important to advise the clinic of the type of test(s) (urine drug collection and/or breath alcohol test) and the correct reason for the test (pre-employment, random, reasonable cause, post-accident, return to duty, follow-up, or other (and the "other" reason)). You may use a clinic that already provides services for your company, or Concorde will provide a local clinic facility. In either case, Concorde needs to be aware of the facility being used so that we may contact the clinic and advise of the correct client protocol and billing procedure. Concorde suggests use of an authorization form, which is available upon request.

On-site collections should normally be scheduled by you in conjunction with one of Concorde's Customer Care Representatives. We find that by keeping your customer care representative in the loop regarding your on-site questions that potential problems are minimized. During normal business hours, you should contact your assigned Concorde Customer Care Representative. After normal business hours, Concorde's Customer Care Representatives serve as 24/7/365 on-duty officers to help schedule a required short notice collection such as a reasonable suspicion or post-accident test.

As explained above, one of the most important aspects of scheduling a collection is ensuring that the correct chain of custody form (CCF) is used and that the correct reason for the test is checked on the CCF. Every Concorde customer has one or more laboratory accounts; each account has its own unique number, which is printed on the CCF.

Every Concorde drug testing customer receives CCFs. Concorde will set up the laboratory accounts for you, and you will receive DOT and Non-DOT CCFs as appropriate. Each CCF has a printed lab account number on the form which is unique to your company. The CCF also indicates if it is a DOT form. Non-DOT forms frequently, but not always, indicate that they are not DOT. The correct CCF must be used for a number of reasons, including:

1. Ensuring that the correct drugs to be tested are included in the test panel.
2. Ensuring that laboratory testing is performed at the intended levels of detection, aka cut-off levels.
3. Ensuring that Concorde's MRO will receive the laboratory result, which is a function of the correct account number.
4. Ensuring that the test result is included under the correct account number for statistical accuracy, including random statistics.
5. Ensuring that donors are not incorrectly and inappropriately asked to provide a specimen under the mandate of Federal law.

If your company has more than one account – for example, a DOT and a Non-DOT account – it is important that the correct CCF form always be utilized. This is of particular concern when the collection is performed at a clinic and especially if no representative of the company is present to ensure the correct form is utilized. If you send donors to a clinic for a test (with or without a CCF), please be sure to give correct instructions regarding the CCF to be utilized and the reason for the test. Concorde can help you prepare an authorization and instruction sheet for the clinic with clear directions. If an incorrect form is utilized, Concorde's MRO may not receive the result.

How a Drug Test is Performed

Specimen Collection

DOT drug tests, including collections, are performed pursuant to federal regulations. Non-DOT urine drug specimen collections are usually performed the same way as DOT collections or in a similar manner. Your company policy will indicate how Non-DOT collections are to be performed.

The DOT collection process is very detailed and specific. The entire process is included in its regulations codified at 49 CFR Part 40 in Sub Parts C, D and E: http://www.dot.gov/odapc/part40. All other aspects of the DOT drug and alcohol testing process are addressed in these regulations.

The DOT has published its Urine Specimen Collection Guidelines to help all stakeholders better understand the collection process.
http://www.dot.gov/odapc/urine-specimen-collection-Guidelines

The DOT has also provided a video on its website that explains and depicts the collection process.
http://www.dot.gov/odapc/dot-mock-collection-instructional-video

Concorde strongly encourages its clients to familiarize themselves with the DOT's materials.

Laboratory Testing

The DOT regulation found at 49 CFR Part 40, cited and linked above, address the laboratory testing process.

After the urine specimen is collected, the collector packages the specimen and has the specimen transported to the lab for testing, either by laboratory courier service pick up, or by sending the specimen(s) in a Labpak via an overnight courier such as FedEx.

Concorde utilizes only a United States Department of Health and Human Services' (DHHS) designated agency, the Substance and Mental Health Services Administration (SAMHSA) certified laboratories which are able to ensure each employee that appropriate professional laboratory methods will be used. A current list of the approved certified laboratories is on the SAMHSA website.
http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html

Laboratory procedures will include a quality assurance program, and fully trained personnel will be used in the analysis and interpretation of the specimens.

When the specimen is received at the laboratory, its receipt is logged as part of a process called accessioning. Drug testing at the laboratory is conducted in defined steps; presently, the first step is initial screening testing and, if necessary, the second step is confirmation testing. For DOT regulated tests, the DOT and DHHS-SAMHSA have established the minimum action (cut-off) levels for both screening and confirmation testing for controlled substances which must be present in a donor's urine for the test to determine it to be positive together with the type of tests that must be performed for screening and confirmation testing. These minimum action (cut-off) levels ensure that only donors that have actively ingested a controlled substance will have a positive test result. Cut-off levels are set well above zero to rule out passive inhalation as a possible cause of a positive drug test.

Regulations also require "front-end" validity testing before any testing for drugs is performed. This front-end validity testing is designed to detect illegal tampering with the integrity of the specimen. Tampering can include placing a foreign substance in the urine or providing a specimen other than the donor's own urine such as the urine of a pet or other animal. Donors do this in an attempt to "defeat" the drug test and to hide their use of drugs.

The initial testing is a series of tests designed to distinguish negative findings from those that may finally be determined otherwise after further testing. Normally initial screening is performed by immuno-assay testing. If the initial screening indicates a specimen is non-negative, a second or confirmation test will automatically be made. Non-negative results currently include not only positive but also adulterated, substituted or invalid which means that the laboratory was unable to obtain a final result. DHHS-SAMHSA rules and regulations control this aspect of urine testing to detect substance abuse.

The second test for positive immuno-assay screen results confirmation test utilizes Gas Chromatography / Mass Spectrometry (GC/MS) to positively confirm the identify of the drug or the drug's metabolite. If this confirmation test is negative, then the initial results are not confirmed and the final result will be reported as negative and entered into the Donor's file as such.

Medical Review Officer (MRO) Services

You will receive your company's results either via secure fax, secure email which requires a password, and/or SMART, Concorde's password protected Internet reporting system. This will be determined at the time your company's account is set up. DOT results must be sent by fax and/or email so that the time the result is reported can be determined. DOT employers are required to immediately remove an employee from performing safety sensitive functions upon receiving a positive, adulterated or substituted test result. Any questions regarding test results should be directed to a member of the MRO's staff, who will communicate promptly with the MRO.

For DOT tests, the MRO's actions are performed in accordance with the regulations and guidance adopted by the US Department of Transportation and the Federal Motor Carrier Safety Administration or other DOT modal agency. Deference is given to the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs, including all provisions regarding confidentiality. For Non-DOT tests, any applicable state law and/or company policy may also apply. It is not the MRO's function to determine whether or not a test should have occurred.

If the laboratory reports anything other than a negative test to the MRO (called a "non-negative result"), the MRO will provide a Donor with a laboratory-reported positive, adulterated, substituted and/or invalid drug test the opportunity to present an appropriate medical explanation for the laboratory test result. Generally, the burden is upon the Donor to provide an appropriate medical explanation. If the MRO cannot contact the donor after making three attempts, the company will be notified by the MRO to contact the donor and have the donor contact the MRO. If the donor contacts the MRO, the MRO reviews the test results with the donor before reporting a verified result.

After completion of the MRO process, the MRO will report the final and verified result to the company.

Concorde's MROs work with and are responsible for the supervision of their staff within Concorde's Customer Service Department. These staff members assist the MRO as permitted by DOT regulations by performing and providing clerical, administrative and support functions and services.

Split Specimen Testing

As explained above, the DOT requires that all specimens be divided into two separate bottles – the "A" and "B" bottles. The "B" bottle is also called the split specimen. Donors that have a positive result are entitled to have the "B" bottle tested. The MRO administers the process of split specimen testing. It is the employer's obligation to ensure that these tests be performed. The DOT prohibits an employer from conditioning the testing of the split specimen upon payment by the donor. Accordingly, the test is performed immediately upon a donor's request, and Concorde bills the employer. An employer may provide by way of a written or a collective bargaining agreement that a donor has to reimburse the employer. But once a DOT donor has advised the MRO that s/he wants their split specimen tested, that must be accomplished forthwith.

Some Common Issues in Drug Testing - FAQs

Urine drug testing has been taking place for many years. Over that period of time, a number of regulations and corresponding processes have evolved to deal and address with known anomalies in the testing process. Most people are not familiar with these anomalies until they are first presented with one. Some of the more common ones are discussed below in a FAQ format. More detailed explanations and the accompanying processes are found in DOT regulations and associated materials.

Q: What happens if the urine specimen the donor gives the collector is too hot or too cold?

There will normally be another collection. If the test is DOT regulated, it will be an observed collection meaning a same gender collector or observer will watch the urine exit the body and enter the collection container. This is known as the "body to bottle" rule.

Q: What if the donor does not produce enough urine?

Normally for split specimen collections, a donor will have to produce 45ml of urine, which will be divided into the A (30ml) and B (15ml) bottles. When that does not happen, and an insufficient quantity of urine specimen is provided and the temperature is within acceptable range, the specimen is normally discarded and another collection performed. As explained above, if the temperature is out of range, another collection is performed.

If no specimen is initially provided by the donor, or a specimen is insufficient, the donor will normally be given up to three hours to produce a urine specimen. During that time the donor will be provided liquids to drink. If after three hours the donor is still unable to produce a sufficient specimen, the donor will be required to undergo a medical examination to determine whether there is a medical explanation. This is referred to as a "shy bladder" examination.

NOTE: Concorde has prepared Shy Bladder Instructions, Physical Evaluation Forms, and Physician Recommendation Forms for examining clinicians to utilize when performing a Shy Bladder Evaluation. Employers are responsible for ensuring that the shy bladder evaluation is performed. Concorde needs to be notified immediately when a shy bladder situation arises to ensure compliance with the procedures explained above. If a shy bladder situation comes to your attention, you should immediately telephone Concorde.

Q: What if the collector notices that the donor's urine specimen is an unusual color, has a foreign object in it or otherwise shows signs of tampering?

Another collection is performed. DOT collections will be observed. Both specimens will be sent to the laboratory for testing

Q: When are observed collections performed?

Normally a Donor will be afforded complete privacy when providing a urine specimen; however, the DOT has defined a number of circumstances when, for good cause and in order to ensure the integrity of the specimen collection process, privacy will not be afforded. These exceptions are quite limited and narrow in their application. They are the exception and not the rule. In the case of Non-DOT, observed collections are even rarer. Thus, observed collections should be approached with a great deal of caution.

A directly observed collection procedure is the same as a routine collection procedure with the additional requirement that an observer physically watches the employee urinate into the collection container, i.e., the "body to bottle" rule as explained above. The observer must be the same gender as the donor; there are no exceptions to this requirement. An observed collection is required when:

- The collector observed materials brought to the collection site or the employee's conduct clearly indicated an attempt to tamper with a specimen.
- The temperature on the original specimen was out of range.
- The specimen appears to have been tampered with.
- Certain other conditions

Note: The collector may serve as the observer when the collector is the same gender as the employee. If not, the collector must call upon another individual (who is the same gender as the donor) to act as the observer. The collector must verbally instruct the observer as to the procedures the observer must follow and specifically inform the observer not to take the specimen from the employee, but have the employee bring it to the collector.

Q: Can a drug test problem be corrected and if so, how?

Yes. Collected specimens should be processed, provided the integrity of the collection process can be assured. In order to deal with the more common types of problems that have been encountered, the DOT has formulated Guidelines that define what problems may not be corrected (Fatal Flaws) and those that may be corrected and how.

When a DHHS certified laboratory receives specimen bottles and the associated CCF, it checks to see if the specimen ID number on the specimen bottle labels/seals matches the number on the CCF, that the specimen bottle seals are intact, that there is sufficient specimen volume, and that the CCF has been properly completed by the collector. If there is any discrepancy and/or error of omission (e.g., the collector did not sign the chain of custody, the collector did not check the temperature box), the laboratory will contact the collector to determine if the discrepancy and/or missing information can be recovered. That is, the collector can provide a written memorandum attesting to the fact that he or she inadvertently forgot to properly document the CCF.

Note: If a fatal flaw exists in the collection process or a memorandum for record or other written statement cannot be provided by the collector to relate to a correctable flaw, the laboratory will report "Rejected for Testing" to the MRO and provide an appropriate comment as to why the specimen was not tested. If the reason for rejecting the test was a collector error, when a test is cancelled by the MRO, the collector who collected the specimen will need to go through an error correction training process within 30 days addressing the specific problem that caused the specimen to be cancelled.

Q: What happens when a donor does not cooperate with the drug testing process?

Another type of obstacle to the completion of a urine drug test is when a Donor does not cooperate in some manner with the testing process. The concern in these situations is that if the Donor was cooperative and provided a specimen that the result would be positive. Obstruction of the testing process is called a "Refusal". Refusals normally carry the same consequence as a positive test. The FMCSA defines a Refusal, that is, obstruction of the testing process including, but not limited to the situations described below:

- A Donor (applicant or employee) that fails to provide an adequate breath sample for alcohol testing or urine specimen for drug testing; failure to provide an adequate breath sample includes the situation of a "shy lung" unless there is an appropriate medical reason. Similarly the failure to provide an adequate urine specimen includes the situation of a "shy bladder" unless there is an appropriate medical reason.

- Providing a substituted or adulterated specimen, as defined herein.
- Threatening a collector or supervisor and/or use of inappropriate language.
- Failing to appear for any test (except a pre-employment test) within a reasonable time after being directed to do so (usually immediately).
- Failing to remain at the testing site until the testing process is complete.
- Failing or declining to take a second test a donor has been directed to take.
- Failing to permit a urine collection under direct observation when required.
- Failing to undergo a medical examination or evaluation when required.
- Failing to sign step 2 of the Alcohol Testing Form.
- Failing to cooperate with any part of the testing process including specimen collection (e.g., failing to empty pockets) and with the MRO.
- Failing to cooperate with any part of the testing process including specimen collection (e.g., failing to empty pockets; failing to wash hands after being directed to do so by the collector; admitting to the collector that the specimen has been adulterated or substituted; use of a device-such as a prosthetic appliance for the purpose of adulterating or substituting a specimen in place of the actual donors urine specimen; or behaving in a confrontational way that disrupts the collection process.)
- In circumstances requiring a DOT/FMCSA observed collection, failing to follow the collector's (or observer's) instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit observation to determine if the donor has any type of prosthetic or other device that could be used to interfere with the collection process.

Q: May the MRO ever report a verified result without talking to the donor?

Yes. This is called a non-contact positive.

In most cases, the MRO will first speak with a donor before verifying a laboratory result as positive. But sometimes the MRO is unable to make contact with the donor. In that situation, the MRO informs the company and requests that the company get in touch with the donor and tell that person to call the MRO. The DOT's rule is if the company has successfully made and documented such a contact with the donor, but the donor does not contact the MRO within 72 hours of such company contact, the MRO can then verify the result positive without conferring with the donor. If the company is unable or unsuccessful in contacting the donor, the MRO can then verify the result positive without conferring with the donor, 10 days after the MRO received the confirmed positive test result from the laboratory.

The MRO may, in appropriate cases, reopen the case if the donor subsequently contacts the MRO and provides information to the MRO. If a test is verified positive, the donor may present to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the member from being contacted by the MRO or designated employer representative or from contacting the MRO within the times provided. The MRO, on the basis of such information, may reopen the verification, allowing the donor to present information concerning a legitimate explanation for the confirmed positive test.

Q: What will the MRO do if a donor utilizes a spouse's prescription?

The use of another person's prescription (i.e. prescription sharing) is not an acceptable medical explanation. To be a valid medical explanation, the prescription must be in the donor's name.

Q: What if the donor claims exposure to marijuana smoke at a rock concert?

This is sometimes referred to as passive inhalation. The DOT is quite clear that passive inhalation or second hand exposure to marijuana or cocaine smoke is not an acceptable medical explanation.

Q: What if the donor has a medical marijuana prescription?

The DOT is quite clear that the medical use of marijuana under a state law is not an acceptable medical explanation under this Policy. While the medical use of marijuana may be a defense to a criminal prosecution under state law, it does become a defense to the violation of a company Policy. In Non-DOT cases where the donor has a legitimate prescription and the employer's policy does not direct the MRO how to proceed, the MRO will normally not report the result as negative or positive but will advise the employer that the donor tested positive and has a prescription. The employer then follows its policy.

Q: What if the donor had a foreign prescription or obtained the ingested substance in a foreign country?

Depending on the facts of a particular case, proof of the use of medication or other substance legally obtained in a foreign country may not be an acceptable explanation. These cases are fact sensitive and the result depends of the particular facts of the situation.

Q: When should a FMCSA post-accident test be performed?

The table below is reprinted from the FMCSA's regulations and explains when a FMCSA test should be performed. A Company may provide for non-DOT post-accident testing in its drug testing policy or procedures. Companies should consult with their legal counsel regarding the advantages and disadvantages of a non-DOT post-accident trigger and if it is decided to test, how the trigger(s) should be defined.

Table for § 382.303(a) and (b) **Type of accident involved**	**Citation issued to the CMV driver**	**Test must be performed by employer**
i. Human fatality	YES/NO	YES/YES
ii. Bodily injury with immediate medical treatment away from the scene	YES/NO	YES/NO
iii. Disabling damage to any motor vehicle requiring tow away	YES/NO	YES/NO

Breath Alcohol Testing

The biggest difference between urine drug testing and breath alcohol testing is that there is NO MRO process or involvement in breath alcohol testing. In other words, the BAT performs and reports the results to the employer. Neither the company MRO nor the C/TPA (Concorde) has any role in the breath alcohol testing process. Even the unusual "shy lung" process does not involve the MRO. That said, Concorde does play a role, albeit more limited than in drug testing, in the breath alcohol testing process.

Breath alcohol testing is performed utilizing Evidential Breath Testing devices (EBTs), although screening tests may be performed utilizing saliva testing devices. EBTs are reviewed and approved by the National Highway Traffic Safety Administration (NHTSA).
http://www.dot.gov/odapc/approved-evidential-breath-testing-devices

The DOT prescribes a course and certification for BATs to be permitted to perform DOT breath alcohol testing.
http://www.dot.gov/odapc/drug-and-alcohol-testing/bat-and-stt-model-course-ordering-form
http://www.dot.gov/odapc/alcohol-technicians

Testing is performed in accordance with the drug testing regulations and procedures at 49 CFR Part 40.
http://www.dot.gov/odapc/part40.

Random Testing

Introduction

Concorde provides random program administration services in accordance with DOT and its operating administrations' rules. Concorde also provides Non-DOT random administration services pursuant to a company's policy and procedures and consistent with state law. These services include employee pool maintenance, periodic selection (monthly, bi-monthly, or quarterly), and statistical tracking. The integrity and accuracy of a compliant random program depends upon several factors, including the accuracy of the employee pool data, the performance of testing utilizing the correct CCF, accurate donor identifiers for matching and the correct reason for the test (random) being checked.

Random pool administration services can be provided without regard to whether a collection is performed on site or at a clinic so long as the correct Concorde CCF is utilized *and* the correct reason for the test (random) is checked. If a test is performed on the wrong CCF, especially if the CCF is not a Concorde laboratory account form, it is not always possible for Concorde to keep track of that test and to be able to count it as part of a company's random statistics.

Random program administration services are provided by Concorde's Random Program Administration Department in conjunction with its customer care department. Every customer has a Customer Care Representative at Concorde responsible to assist in random program administration.

Random testing includes both the concepts of "pot-luck" selection of employees for testing as well as the "unannounced" notification to those selected employees to stop what they are doing and immediately proceed to the collection location. The first concept means every donor must have an equal chance of being selected every time a selection is made. This results in some donors being selected more frequently than others while some not at all. The second concept means that once a randomly selected donor has been notified, that every action that is taken after notification by that donor must be in furtherance of the completion of the urine specimen collection or breath alcohol test.

This section of this Guide addresses the important steps in the design of a random drug and alcohol testing program, including pool configuration and set up, determining selection frequency (i.e., monthly, bi-monthly or quarterly, but never less), target testing percentages and other issues related to program design . These materials will assist a Concorde customer in better understanding how to decide what type of random pool is appropriate for their company. This Guide addresses many of the operational nuts and bolts of the random administration process, including establishing a pool, donor selection, testing, verifying test results and maintaining accurate statistics. This Guide also explains and illustrates some of the ways that Concorde operates a random testing program.

Your Company may be subject to regulation by the United States Department of Transportation (DOT) and one or more of its operating agencies, such the Federal Motor Carrier Safety Administration (FMCSA, formerly known as the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Pipeline and Hazardous Materials Safety Administration (PHMSA), Federal Transit Administration (FTA) or Federal Aviation Administration (FAA); or your Company may not be regulated by the USDOT at all. Your company may have both DOT mandated programs and company policy non-DOT random testing programs (safety-sensitive or other employees). Non-DOT testing, and *especially Non-DOT random testing in particular*, may be subject to state and/or local laws depending upon where your company is located and where the collection is performed. In general, but with a few legally meaningful exceptions, Federal law will supercede and pre-empt state and local laws. Whatever type of testing program(s) your company has, it is important that your company comply with all applicable federal, state and local laws as well as its own company policy.

This Guide focuses on several aspects of random drug and alcohol testing and explains some of the more important steps required to be taken by an employer to conform to the Federal Motor Carrier Safety Administration's (FMCSA) requirements for a drug and alcohol testing program as found at 49 CFR Part 382. This Guide addresses the annual life-cycle of a random testing program. You can find these FMCSA materials at http://www.fmcsa.dot.gov/rulesregs/fmcsrhome.htm.

It is imperative that anyone involved in administering a random drug and alcohol testing program read and completely understand their company's policy and any applicable Federal and/or state regulations before implementing a drug and alcohol testing program. There must be an understanding of both Concorde's and your company's protocols and procedures that will be utilized to carry out and satisfy these requirements. This will help ensure that your company has developed its own "Quality Management" version of a fully functional drug and alcohol testing program that is operationally sound and legally compliant.

The Purpose of Random Testing

Random testing is intended to assist in the identification of employees that are using illegal substances and/or abusing alcohol but who would not otherwise be subject to testing at the times when a test is required for another specific reason (pre-employment, post-accident, reasonable suspicion, etc.). Random testing affords a reason and opportunity for testing when there may not otherwise be another reason for a test. As a result, random testing is an effective method of detecting substance abuse and also serves as a strong deterrent against employees beginning or continuing the use of illegal drugs and/or abusing alcohol. A company that conducts random testing has lower accident rates, lower absenteeism, greater productivity and a safer workplace. A company that conducts a random testing program has lower positivity rates after the program has been in effect for some time.

The Random Testing Cycle

The goal of a random testing program is normally to perform a targeted number of tests over the period of a calendar year. The target may be a fixed number or a percentage of people employed. DOT agencies require a minimum percentage of covered employees to be tested. For example, assume a company with 200 people has a targeted testing rate of 50%, or 100 people. These 200 people are all included in the testing "pool." Taken together, their names comprise the pool's "roster." If the roster of people changes by reason of hiring, firing, quitting, sickness, injury, etc., the roster must be corrected. In addition the change in size of the pool would affect the target. If, for example, there was a hiring spurt and the roster increased, the number of people selected to be tested would also increase to ensure achieving the 50% target rate. To keep it simple for now, we will assume the same 200 people are in the company throughout the year and that there are no changes.

Testing is normally spread evenly throughout the course of the year. Selections may be made monthly, bi-monthly or quarterly. For this example let's assume testing is to be performed quarterly; therefore, approximately 25 people are to be selected and tested each quarter. For the first quarter (January-March), enough people must be selected to test at least 25 of them. Since normally not everyone selected will be tested due to terminations, vacations, illness, etc., a few extra selections may be made. Towards the end of March, a determination will be made of how many people that were selected were actually tested. This is called verifying the selections. In addition, if there was a change in the roster (i.e., the number or identity of the people in the pool), this must be accounted for before the next selection is made.

In our example, 30 people will be selected, and we will assume there is no change in the roster. Suppose, of the 30 people selected, 23 were tested; that is 2 less than the target of 25. For the second quarter (April-June), enough people must be tested so that at the end of the second quarter, or halfway through the year, half of the target of 100 (50 people) have been tested. For the second quarter selection, more than 30 people will have to be selected to make up for the 2 person shortfall from the first quarter and to allow for some people selected not to be tested.

In this example the process repeats itself two more times for the third and fourth quarters. Each time attention is paid to how many people have been tested, and how many more tests are needed to achieve compliance – i.e., hit the target – for the year. As stated, if the number of people in the pool changes, this must be reflected in the roster.

Concorde's Role in Random Testing

Random Program Administration services can include some or all of the following:

- Consulting services for designing a random testing program, including pool organization.
- Helping to determine selection periods, establishing target testing rates, etc.
- Administering the random program including maintenance and random pool employee list compilation and updating changes.
- Generating random selections.
- Verifying that the tests were performed.
- Compiling the statistics related to those testing.
- Assisting when there is an audit or other need to organize, compile and present the data.
- Notifying the company representative of the employees that they have been selected for testing.

Laws That Affect Random Testing

Random testing may raise some legal issues regarding whether it is permitted or how it must be administered. It is extremely important to comply with all applicable laws in order to avoid any negative legal consequences. Generally legal claims in the random testing arena spring from either claims of wrongful termination or violation of the right to privacy. Because random testing may raise some legal concerns, this Guide now addresses the legal framework in which random testing may take place.

In some cases, Federal law will control and mandate the random selection and testing process; in other cases, state and/or local law will apply. In some limited jurisdictions all three laws might apply. It is beyond the scope of these materials to be a legal treatise on the law of random drug testing; however anyone involved in a random drug testing program must ask *and know the answer* to the question: What laws, if any, apply to their particular situation?

Federal Law

Random drug testing is not addressed in 49 CFR Part 40. Part 40 details how drug and breath alcohol testing will be performed. Random drug testing is addressed by each of the DOT's operating agencies, namely the FMCSA, FRA, FTA, FAA, and PHMSA. Program requirements vary from agency to agency and are set forth in each agency's regulations. For the purpose of illustration, and because most of Concorde's DOT random drug programs are under the review of the FMCSA, some of the more important aspects of that agency's regulations and requirements are discussed below.

The other agencies have each adopted their own rules which can be found within their respective websites which can be found on the DOT's website: http://www.dot.gov/odapc

Some of the FMCSA regulations and rules advise or require an employer to do the following:

Who must be included in a random pool?

CDL drivers, including substitute and part-time, that operate Commercial Motor Vehicles (26,001+ pounds, hazmat placarded, or 16+ passengers). **Note**: A CDL holder that does and will not drive a Commercial Motor Vehicle (as just defined) for your Company need not be in your Company's random testing pool. Drivers of "small" trucks (more than 10,001 pounds but less than 26,001 pounds) need not be tested, even if they operate in interstate commerce. While these drivers may be subject to other FMCSA regulations (e.g. physical examinations, driver qualification files), they are not subject to 49 CFR Part 382 drug and alcohol testing requirements.

Minimum percentages:

Currently employees in a FMCSA testing pool must be tested at a rate of not less than 50% for drug and 10 % for alcohol. Since the number of employees in a pool is likely to change each time a selection is made, the percentage to be tested is applied to the average number of employees in the pool for each of the selection periods. In a sense this creates a moving target; however the FMCSA's guidance provides instructions how these calculations are to be performed. Concorde follows this guidance.

Selection Periods:

Quarterly testing is the minimum frequency of making selections and is the most common. Selections may be made more frequently – every other month (bi-monthly) or monthly but not less frequently than quarterly. More frequent selections (monthly or bi-monthly) is appropriate when there is high turnover in the testing pool because of the need to ensure that those selected will be available for testing. More frequent testing requires the additional attention, time, and effort of both the Employer and Administrator.

When may a DOT driver be tested?

A driver need not be performing safety-sensitive functions, as defined by the FMCSA for drivers, at the time of a urine drug test; however an alcohol test may only be performed just before, while performing or immediately after performing safety-sensitive functions. Safety-sensitive function means all work time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions for a commercial truck driver shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer
- All time inspecting equipment as required by Secs. 392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of Sec. 393.76 of this subchapter)
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

For your company it might be more convenient to test at a particular day of the week or time of the day, e.g. first thing in the morning before the drivers leave. However the day and time may not be predictable so as to create a pattern; it is necessary to be mindful of this requirement as well. In other words, testing may not always take place in the morning of the second Tuesday of every month.

Drivers on vacation or out sick:

Drivers that have been selected are to be tested during the current selection period. A driver that is not available on a given day (when the onsite collector is coming or when the group is being sent to the local clinic) is to be tested on another day during the current selection period. The FMCSA has expressly rejected the notion to skip that person and go to the next name on the list.

Other FMCSA Random Selection and Testing Requirements:

Selections must be made using a scientifically valid method, including a computer based random program that generates random selections (this is the method Concorde utilizes).

Each driver selected for random testing shall have an equal chance of being selected each time selections are made. This can result in the same person being selected more than once in a year or in consecutive selection periods.

Random testing must be unannounced. An employee should not be given ANY prior notice. For example, an employee should not be told in advance that his or her name is on the random list for that selection period. An employee should not be told the night before to report to a collection facility the next morning. Once a driver is notified that s/he is to be tested, every action the driver thereafter takes must be in furtherance of the completion of that collection.

Testing must be spread evenly throughout the year and throughout the selection period.

The State Law Matrix

Federal law pre-empts nearly all, but not all, state and local law. In the case of Non-DOT testing, several jurisdictions prohibit or restrict Non-DOT random testing. While these laws may not limit DOT mandated testing, they may affect the disciplinary consequence to the employee if there is a positive test, such as prohibiting termination on the first positive result. Generally these limits are based on an individual's rights of privacy and/or freedom from unreasonable search/seizure and are found either in a state's constitution, statutes, regulations or judicial decisions. However in most, but not all, jurisdictions there is a meaningful exception to these limitations which are generally based upon safety concerns which outweigh the privacy and other rights of the individual. *Therefore before conducting any Non-DOT random testing, a determination must be made whether there are any legal limitations in the state where the collection is to be performed or the employee is headquartered. If there are limitations they must be analyzed and a determination made regarding whether random drug or breath alcohol testing is what is prohibited or regulated in any fashion.*

While it is beyond the scope of this Guide to be a legal treatise on the current state of random drug and alcohol testing law, there are several observations regarding the conventional legal wisdom of Non-DOT random testing.

In those jurisdictions that limit Non-DOT random testing (as opposed to prohibiting) it, the issue is generally whether or not the employee's position may be termed "safety-sensitive." While the FMCSA has defined this in detail with respect to commercial motor vehicle operators, the definition under state law is rarely as clear. The definition of what is a safety-sensitive position varies from state to state; it generally means a job position that poses an immediate threat of bodily harm and personal injury to the employee or others in the immediate vicinity that can result from a *single* mistake. This means the risk of injury and accident cannot be avoided through close supervision because of the nature of the job or the nature of the risk. States differ on how this test is to be applied to particular job positions.

In some jurisdictions, specific jobs might be subject to or even require random testing, such as nursing home employees, workers that come into contact with children, security sensitive employees, etc. Some states and cities prohibit any Non-DOT random testing or require the employer to obtain advance approval from a state agency.

One final comment about state laws. Aside from regulating *when* (e.g. on a random basis) testing may take place, many states regulate many other aspects of drug/alcohol testing, such as how testing is to be performed or prohibitions against termination on the first positive. Those topics are not addressed in this Guide but can be discussed with Concorde's legal counsel

How many selections should be made in a year?

Not less than 4 (quarterly) nor more than 12 (monthly); bi-monthly is another option. Since the employee pool rosters need to be updated every time a new selection is made, the more frequent the selections, the more work that is required by everyone. If there is high employee turnover, then selections should be more frequent to ensure that the pool rosters are current. If there is little turnover, quarterly selections will be as effective as monthly selections as well as more efficient. Individuals selected must then be tested during the selection period.

Should everyone selected be tested on the same day or should it be spread throughout the selection period?

This involves operational considerations and personnel management, and ensuring that the day and time of testing is unpredictably spread throughout the selection period. It also involves the deterrent effect; having a minimum number of actual testing dates ensures the "fear factor" that today might be the day.

Target Percentages

Currently the FMCSA administration requires a minimum of 50% of the pool to be tested for drugs and 10% for alcohol on an annual basis. Each operating agency of the DOT sets its own minimum percentage which must be achieved. These minimum percentages are a function of the positivity rates from prior years. Many companies increase the minimum percentages required by the DOT to increase the deterrent effect and to better identify substance abusers.

Similarly, a non-DOT pool should reflect a company's experience and the environment in which that company operates. It may be the same, lower, or higher than the company's DOT pools. **Note:** Non-DOT pools may, but are not required to, perform Breath Alcohol Testing

Buffering

The DOT mandates that everyone selected should be tested during the current selection period. However due to vacations, sickness, death, employees who are no longer employed, or no longer in that job, a person selected might not be tested. Accordingly, for the initial testing period Concorde will select a number of donors in excess of the minimum required because inevitably not every donor selected will be tested. Thereafter, additional percentage adjustments are made, as needed.

In the last revision of its regulations, the FMCSA advised that if a driver is not available for testing on the original intended day, that the driver should be tested on a later day in the selection period. In other words, if a driver is out sick or on vacation on the day testing was planned, that driver should be tested on another day. As previously stated, the driver should not be notified of the test until immediately before the collection is to be performed. So a driver out sick or on vacation should not have been advised of his or her selection.

How to Configure Your Company's Pool(s)

There are numerous ways to establish and configure a testing pool, which require analyzing a number of considerations. Many companies have three pools which include a DOT, safety-sensitive and administrative. The considerations in deciding what to do include:

Is the pool DOT or Non-DOT?

They cannot be mixed. Each pool's statistics must be maintained separately; however, two DOT pools (e.g., FMCSA and FRA) may be combined provided testing is done at the higher testing rate (FMCSA rate of 50/10 in the example given).

How big is the company?

Generally smaller employers (less than 20 employees) will be included in a pool with other small companies, commonly called a consortium. Larger companies may have one or more pools of their own.

If the pool is a Non-DOT pool, is it composed of safety sensitive or administrative employees?

Generally, these individuals would be separated into their own pools. This is because testing target percentages might be different (safety sensitive would normally be higher); or the types of tests might be different (e.g., a safety sensitive pool would normally include alcohol testing, while an office administrative pool would not); and other reasons.

What should be the target testing percentage?

A safety sensitive pool (DOT and Non-DOT) will frequently have a higher testing percentage than an administrative pool because of the safety considerations involved in ensuring that these employees are not substance abusers.

Larger Company Pools

Larger companies can have one or more pools of their own. These might be DOT and Non-DOT pools (safety sensitive and administrative, if permitted). In addition, larger companies will normally have regions, districts & other organizational levels. Within these levels, there may be one or multiple sites. These various levels may each have their own pools. Also, FMCSA pools are frequently established to coincide with a company's DOT number.

Small Employer Consortiums

Consortiums are permitted under the DOT's regulations to assist smaller companies that could not otherwise support or afford their own freestanding program. A consortium allows for certain economies and efficiencies in operation.

The number of tests for a consortium is based upon the total number of people in that consortium pool. Your employees may or may not be selected in a particular selection period. In a single year, the number of your employees tested will probably not be the same as if your company had its own pool; however after several years in a consortium, the number of tests of your company's employees will be equal to the number of tests that would have been performed if your company was in its own pool. This is the law of averages.

To achieve compliance, a Consortium depends on all of its members cooperating. This means that company's whose employees are selected must have them tested; a company may not ignore its obligations. This creates unfair burdens on the other companies in the consortium. Non-cooperative consortium members will be removed from the consortium.

Donor Selection Options

There are various methods for selecting donors depending on the size of the company, the number of facilities where its employees are located, and the rules of the DOT agency that regulates your company's random program. The options include random selection of individuals or groups of individuals ("name" pools), locations ("terminal" pools) or people present at a specific location at a specific time ("window" pools). The latter method is only an option for larger companies with multiple locations. A testing variation for those selected and to be tested is to have all of those individuals assemble at a mutually convenient company location ("cluster" testing).

Name Pools

The most common type of donor selection is a "name" pool. All of the relevant information regarding the individuals in the pool is contained in the random pool data base. This includes the donor's name, social security number, site location, supervisor and other contact information. The random selection computer program assigns a number to each donor. A list of numbers is then selected. The donors whose names correspond to the numbers selected are then designated as those chosen for random testing.

Terminal Pools

Rather than selecting a list of individuals to be tested, a number of sites or "terminals" where employees are located may be selected. Everyone at the terminal can be tested or a second selection can be made picking a certain number of people at the terminal for testing. This method works particularly well where the collections are to be performed on site by a collector going to the terminal. This ensures that there will be a sufficient number of collections to warrant dispatching an on site collector. The advantage of an on site collector is better quality control, lower collection costs and the speed with which an employee returns to work since there is no travel to a clinic and no waiting time at that clinic.

Clustering

Clustering involves picking sites that physically proximate to one another or sending donors from one site to a central site for testing. This is done to facilitate the utilization of on-site collectors for the reasons identified above.

Window Pools

Window testing generally involves three random selections: terminal, date, and time frame. Thus, everyone in the designated locations on the designated day and at or between the appointed time(s) is tested. This is useful where employees are on the move but pass through company locations on a regular basis when a test can be administered by a collector that is there and waiting. Railroads frequently utilize this method.

As discussed above, there are many considerations in configuring and designing a pool. Concorde is able to help its customers with this challenging legal and operational process.

Other Random Pool Configuration Considerations

The Selection, Testing & Verification Cycle

Once the pool design is selected, the testing process must be implemented. There are a reoccurring set of procedures to the random testing cycle that must take place each and every selection period. These procedures require the employer to initially submit and thereafter regularly, concurrent with the selection frequency, update the random pool list of donors, then perform the testing and thereafter verify that the testing has been performed by providing Concorde with the data and paperwork that evidence the completed testing.

Initial Pool Lists

A name pool is constructed by entering the site information and the names and social security numbers of employees at the sites. This information can be provided in electronic format or in hard copy. The larger the pool the more helpful it is to receive the information in electronic copy. Very large pools can only be accurately managed when the data is provided electronically.

When a company first enrolls its employees in a pool it will provide a list of employees. This information must be provided before any random testing can be performed. Then Concorde will enter these employees into the random software program. After the employees are entered Concorde can return to the customer a copy of the employees that have been entered to ensure that the correct names and information has been entered.
Once the employee roster is entered the selection can be performed. A sample selection report is found in the Appendix at the end of these materials.

Updating the Employee Roster

A random program's integrity depends in large part on the pool roster information being current and accurate. Serious compliance problems may result from selecting from a pool roster list which contains the names of people or locations long gone. It is every company's responsibility to update this information in a timely and appropriate format.

Larger companies should plan to provide a new and complete electronic pool list for each selection period, particularly when there is employee turnover in the pool.

Smaller companies will commonly provide employee roster changes by mail, fax, or email. If there are a limited number of changes, a single list of employee roster changes can be submitted. Updates should be provided once, at the end of each selection period, as part of the testing data and documentation returned to Concorde to verify testing status.

Selections

Selections are made from the pool lists at the beginning of the selection period – monthly, bi-monthly or quarterly. Depending on where the testing is to be conducted (on-site or at a clinic) and how it is to be scheduled (directly by the company supervisor or through a Concorde CCR), the selection reports will be sent to the appropriate program representative. This might be your company's DER or another person that is assigned this responsibility.

Verification & The Completed Selection Report

Because random testing is driven by achieving targeted percentages, it is necessary and important to be able to accurately count the number of tests performed. Concorde's tracking system requires that the distributed selection reports containing the selection information be returned to Concorde's random department after the testing is completed and before the next selection is performed.

For most customers, completed selection reports must identify who was tested. If a person was not tested, the reason that person was not tested should be provided using the correct code. A code list is found in the sample report contained in the Appendix. By coding the reason a test was not performed, Concorde is able to statistically track the reasons selected individuals are not tested. By identifying the reasons, the Employer and Concorde are able to increase the efficiency and accuracy of the program. For example, Employers who have mistakenly included employees that should not have been included can be identified, such as no CDL for people included in a FMCSA pool.

Setting Up a New Company and Performing Random Selections

As discussed above, the design parameters of a testing pool must first be established. Once this is completed, the pool must be populated with the people that will be subject to random drug and/or alcohol testing. It is the company's responsibility to include the appropriate people in a pool. For example, only DOT people should be included in a DOT pool. If there are any questions, they should be asked.

Upon receiving a company's roster of its employees, Concorde will enter this employee data into the random computer program. In addition, the program will be set to reflect the other parameters of the testing program. This includes target percentage, frequency of testing, type of testing, etc.

Customers with large employee rosters will normally provide this data in various electronic formats such as Excel. Other customers will provide this data in the form of written lists, which requires data entry. To ensure accuracy, Concorde can prepare an employee list and send it to a new customer before making the first selection and will send a current employee list with most customers' random selection reports.

Once the data is entered, a random test selection is made consistent with the set-up parameters for that customer's testing pool. That selection report is normally sent to a customer to begin testing. Thereafter testing is scheduled either by the customer, or by the customer's Concorde Customer Care Representative, or a combination.

At the completion of the testing, either the data is returned to Concorde for the purposes of verifying the performance of the tests or identifying the reason a test was not performed. Depending upon the testing protocol, this may be done by the customer, testing facility, or on-site collector.

There are various ways by which the process just described can be performed. It is important that every company understand how its testing is to be performed.

Data management, reports, audit support and MIS reports

Concorde provides full support to its customers when random testing records are required. This might be as part of a DOT agency's annual management information report requirements, an audit by a DOT agency or an authorized oversight agency (e.g., FTA), internal review, etc. As soon as you become aware of a need for data, please contact your Customer Care Representative who will have the appropriate person from Concorde assist you. Requests for audit information on the same day, when a customer was notified two weeks prior of the audit, creates unnecessary problems and may result in the inability to receive the necessary documentation upon demand. Your courtesy and cooperation in this regard is solicited and will be appreciated.

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