

## National RTAP Webinar: Updated U.S. DOT Drug & Alcohol Testing Regulation Question and Answer Document

December 12, 2017, 2:00-3:00pm ET

QUESTION		ANSWER
1.	Will the Webinar PowerPoint slides be made available to attendees?	A version of the PowerPoint slide deck will be made available to attendees. It will be posted on the National RTAP's website, along with a recording of the webinar and a transcript of the webinar, within one week of the webinar.
2.	If company policy is not revised and approved by Board before Jan 1, 2018, will this have any impact on if the new drugs are included on the tests?	No. Beginning January 1, 2018, all USDOT drug tests will include the modified drug testing panel, regardless of if the employer's policy has been updated by that time or not.  However, employers must take swift action to ensure their drug and alcohol policies remain compliant with the changing regulation.
3.	When will the policy builder located on the FTA's website be updated with the required changes listed? Will it be before the January 1, 2018 date?	We are not representatives of the USDOT or FTA and as such we are unable to answer this question. We would recommend contacting the FTA's drug and alcohol team at <a href="mailto:FTA.DAMIS@DOT.GOV">FTA.DAMIS@DOT.GOV</a> .
4.	How can employers verify and document whether or not their service agents are actually signed up for the ODAPC list-serve?	You can have the service agent(s) navigate to <a href="https://www.transportation.gov/odapc/get-odapc-email-updates">https://www.transportation.gov/odapc/get-odapc-email-updates</a> .  When the service agent inputs their email address, the website will present a notification if that email address is already registered. As the employer, you could ask the service agent to print out a "screen shot" of this notification as documentation that they are signed up for the ODAPC list-serve.
5.	If a driver is taking prescription or over-the-counter medications, what requirements exist for the employee to report taking such a medication?	Outside of the USDOT - CDL, and other DOT-Agency medical qualification program requirements (i.e. FAA, etc.), there is no USDOT requirement for employees to disclose the fact that they are taking prescription and/or over-the-counter medications to their employer.  Employees will only be required to show proof of a valid prescription if they are contacted by the Medical Review Officer (MRO) in the verification process following a USDOT drug test.

		<p>The fact that someone is taking prescription and/or over-the-counter medications does not, by itself, make someone unfit for duty.</p> <p>As discussed on the webinar, the MRO will make a medical judgement regarding if that employee is either medically unfit or may pose a significant safety risk. In such a determination, the MRO will notify the employer.</p>
6.	If an employee fails to facilitate contact between their physician and the MRO within the five days, what happens?	<p>In the event that an MRO makes a determination that an employee may be medically unfit and/or pose a significant safety-risk, the burden is on the employee to ensure contact between the prescribing physician and the MRO during the five business day period. If the employee is unable to facilitate communication in that time frame, the MRO will move forward with notifying the employer of the MRO’s decision based on the best information available to the MRO.</p> <p>We would suggest to ensure you are signed up for ODAPC’s list-serve. If you are signed up for ODAPC’s list-serve, will be notified immediately via email if ODAPC releases any further direction/clarification on this issue.</p> <p>Additionally, we would suggest, as a best-practice (not as a USDOT requirement), that you conduct some level of employee education about this topic. It may serve the employees well if they ensure all of their prescriptions are current and that they visit their doctor to see if anything should be updated/changed.</p>
7.	What would qualify someone to be deemed a significant safety risk by the MRO?	<p>This determination remains at the sole discretion of the MRO, based on their professional medical judgement, informed by test results and medical information obtained as part of the verification process with third parties. See 49 CFR Part 40.327 at <a href="https://www.transportation.gov/odapc/part40/40-327">https://www.transportation.gov/odapc/part40/40-327</a></p>
8.	Is there any template policy or suggested language for “Fitness for Duty / Prescription & Over the Counter Medication”?	<p>Creating/providing a template or suggested language for a “Fitness for Duty” policy is outside of the scope of this webinar. However, based on the common interest in this topic, National RTAP may be hosting a follow-up Webinar to discuss best-practices surrounding “Fitness for Duty” programs and policies.</p> <p>Additionally, the Federal Transit Administration (FTA) has available on their website a technical assistance resource titled “Prescription and Over-the-Counter Medication Toolkit.” This toolkit is in no way a regulation; however, it is a helpful resource</p>

		<p>tool that can act as a good starting point for transit agencies trying to create their own “fitness-for-duty” and/or prescription &amp; over-the-counter medication policy/program under their own authority. The toolkit is a collection of policies/forms/procedural manuals, etc. of other transit agencies who have already implemented a program under their own authority. We would caution, however, that this toolkit was last updated in 2011. There have been some practices which have changed or been modified since that time frame.</p> <p>A link to this resource:  <a href="https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/RxO_TC_April2011.pdf">https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/RxO_TC_April2011.pdf</a></p>
9.	<p>What would occur if the employee is unable to produce a sufficient amount of urine?</p>	<p>This issue is outside of the scope of this webinar. This topic has not been modified in the new Part 40 revisions of Jan 1, 2018. However, 49 CFR Part 40 does have very specific procedures which must be followed in this circumstance. You can find those procedures in 49 CFR Part 40.193:  <a href="https://www.transportation.gov/odapc/part40/40-193">https://www.transportation.gov/odapc/part40/40-193</a></p>

If you have other questions concerning the topics discussed in this webinar, please feel free to email those questions to [info@nationalrtap.org](mailto:info@nationalrtap.org).