BOARD REGULATION NO. 7
Series of 2003

SUBJECT: GENERAL GUIDELINES FOR THE IMPLEMENTATION OF MANDATORY DRUG TESTING TO OFFICERS AND MEMBERS OF THE MILITARY, POLICE, AND OTHER LAW ENFORCEMENT AGENCIES.

I. References

1. Section 36, Article III of Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 mandates the conduct of random drug testing to officers and employees of public and private offices as contained in the company’s work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace. Likewise, students of tertiary and secondary schools shall, with notice to parents, undergo a random drug testing. Mandatory drug test shall be conducted to all applicants for driver’s license, firearm’s license and permit to carry firearms outside of residence, whose profession require carrying of firearms. The same Section mandates the conduct of an annual mandatory drug test of the officers and members of the military, police, and other law enforcement agencies. Moreover, all candidates for public office are required to undergo mandatory drug testing. In addition to the penalties stated in the Section, those found to be positive for dangerous drugs use shall be subject to the provisions of Section 15 of this Act.

2. AFP Articles of War;

3. Republic Act 6975;

4. Republic Act 8551;

5. The Civil Service Law and Rules; and


Bd. Reg. on the Mandatory Drug Testing of Officers and Members of Military and other Law Enforcement Agencies.
II. Rationale

It is the policy of the State to safeguard the integrity of its territory; and the well being of its citizenry from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation. It is also the policy of the State to promote a high standard of ethics in the public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest. Hence, to maintain these standards, public officials and employees must be free from using dangerous drugs.

Toward this end, the Government shall pursue a drug testing program in compliance with Section 36, of RA 9165 requiring all officers and members of the military and law enforcement agencies, such as the Philippine National Police, Bureau of Fire Protection, and the Bureau of Jail Management and Penology, among others, to undergo mandatory drug testing.

In the interest of public service, the following rules are hereby adopted in order to carry out the mandatory drug testing of the officers and personnel of the above-mentioned agencies pursuant to the aforesaid Section of RA 9165.

III. Definition of Terms

a. Accreditation - The formal authorization issued by the Department of Health (DOH) to an individual, partnership, corporation or association to operate a laboratory and rehabilitation facility after compliance with the standards set at a maximum achievable level to stimulate improvement over time;

b. Board - refers to the Dangerous Drugs Board under Sec.77, Art. IX of RA 9165 (Comprehensive Dangerous Drug Act of 2002);

c. Center - Any of the treatment and rehabilitation centers which undertake the treatment, after-care and follow up treatment of drug dependents as referred to in Section 75, Article VIII of RA 9165. It includes institutions, agencies and the like whose purposes are: the development of skills, arts and technical know-how; counseling; and/or inculcating civic, social and
moral values to drug patients, with the aim of weaning them away from dangerous drugs and keeping them drug-free, adapted to their families and peers, and readjusted into the community as law abiding, useful and productive citizens;

d. Confinement- Refers to the residential treatment and rehabilitation of drug dependent personnel in the center;

e. Confirmatory Test- An analytical test using a device tool or equipment with different chemical or physical principle that is more specific which will validate and, confirm the result of the screening test. It refers to the second or further analytical procedure to more accurately determine the presence of dangerous drugs in a specimen;

f. Custody and Control Form (CCF) - A DOH approved form used to document the collection, transport, security, and test results of the specimen;

g. Dangerous Drugs- Include those listed in the schedules annexed to the 1961 Single Convention on Narcotics Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the annex, which is an integral part of RA 9165;

h. Dependence-is a distortion of normal physiological process which results from a prolonged administration of addicting drugs and which is manifested by the necessity for the presence of adequate amount of one of these drugs in the body for the maintenance of physical equilibrium;

i. Drug Abuse- is the use of a chemical substance, licit or illicit which results in an individual’s physical, mental, emotional or social impairment;

j. Drug dependent-refers to an individual who is dependent on a certain drug or drugs;

k. GCMS-Gas Chromatography and Mass Spectrometry, powerful separation technique use to analyze drug. Toxic substance, explosive and unknown samples;

l. “For Cause” or “Probable Cause” testing - refers to the kind of drug testing which requires a probable cause or a reasonable ground to believe that the person to be tested is using or is under the influence of dangerous drugs;

m. Laboratory- Refers to the facility of a private or government agency that is capable of testing a specimen to determine the presence of dangerous drugs therein;

n. Mandatory drug testing – refers to the compulsory submission of a client/donor/subject for drug testing as required by RA 9165 and by the agencies’ internal rules and regulations;
o. Random drug testing - refers to the test performed on personnel who are selected following no specific pattern and without prior notice;

p. Rehabilitation - The dynamic process, including after-care and follow-up treatment, directed towards the physical, emotional/psychological vocational; social and spiritual change/enhancement of a drug dependent to enable him/her to live without dangerous drugs, enjoy the fullest life compatible with his/her capabilities and potentials and render him/her able to become a law-abiding and productive member of the community;

q. Screening Test - A rapid test performed to establish a potential/presumptive positive result. It refers to the immunoassay test to eliminate a “negative” specimen, i.e. one without the presence of dangerous drugs, from further consideration and to identify the presumptively positive specimen that requires confirmatory test;

r. Use - Any act of injecting, intravenously or intramuscularly or consuming, either by chewing, smoking, sniffing, eating, swallowing, drinking or otherwise introducing into the physiological system of the body of any of the dangerous drugs.

IV. General Guidelines

1. All officers and members, both Uniformed and Non-Uniformed Personnel (UP/NUP), of the military, to include the para-military forces, police, jail fire, and other law enforcement agencies shall be subjected to annual mandatory drug testing. The selection of the personnel would be done on a random basis but no personnel must be exempt from the chance of being chosen.

2. The drug testing shall be conducted by any government forensic laboratory or by any DOH accredited drug-testing laboratory, under the strict supervision of the agency concerned.

V. Procedures for the Conduct of Drug Testing

1. The authorized specimen collector will ask the subject personnel/applicant to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the subject personnel/applicant’s urine specimen. The authorized specimen collector will ensure that all personal belongings such as a purse or briefcase remain with the outer garments.
2. The subject personnel/applicant will be instructed to wash and dry his/her hands prior to urination. After washing hands, the subject personnel/applicant will remain in the presence of the authorized specimen collector and will not have access to any unregulated source of water, soap, dispenser, cleaning agent, or any other materials that could be used to adulterate the specimen.

3. The authorized specimen collector will give the subject personnel/applicant a clean specimen container. The subject personnel/applicant may provide his/her specimen in a privacy of a toilet cubicle or otherwise partitioned area that allows for individual privacy. The authorized specimen collector will remain outside the cubicle until the specimen is collected. The subject personnel/applicant will be instructed not to flush the toilet until the specimen is handed to the authorized specimen collector.

4. Upon receiving the specimen from the subject personnel/applicant, the authorized specimen collector will:
   
a. Check the volume of the urine in the specimen container.

b. Check the temperature of the urine specimen.

c. Inspect the specimen to determine its color and appearance for any signs of contaminants. Any unusual findings will be noted on the chain of custody form.

5. Both the subject personnel/applicant and the authorized specimen collector will keep the specimen container/specimen bottles in view at all times prior to the urine specimen being sealed and labelled.

6. The specimen bottle will have an identification label that contains pertinent information such as date of specimen collection, signature of the subject personnel/applicant, specimen ID number.

7. The authorized specimen collector will fill-up completely the specimen Custody and Control Form (CCF) and distribute each copy as required.
VI. Treatment of Drug Test Results

1. In accordance with Section 38 of RA 9165, if the urine specimen tested positive, the same shall be challenged within fifteen (15) days after the receipt of the result through a confirmatory test conducted by any government forensic laboratory or DOH accredited laboratory.

2. In case of a confirmed positive drug test result, the personnel shall be proceeded against in accordance with the internal rules and regulations of the concerned agency.

3. Confirmed positive test results of applicants for entry shall be a ground for disqualification.

4. Laboratory report/s of positive results of the screening test and/or after confirmatory test shall be treated with confidentiality and shall be disclosed in accordance with the internal rules and regulations of the concerned agency.

5. If confirmed positive, the same shall be “prima facie” evidence that such person has used dangerous drugs, which is without prejudice to the prosecution for other violations of the provisions of RA 9165; Provided, that a positive screening test must be confirmed for it to be valid in a court of law.

V. Funding

The cost of drug testing of the personnel shall be borne by the concerned agency.

ADOPTED and APPROVED this 1st day of August, 2003 at Camp Crame, Quezon City.
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