

- American Academy of Sleep Medicine:
www.aasmnet.org/
- Human Psychopharmacology Research Unit,
University of Surrey, UK:
www.surrey.ac.uk/departments/

JOHN LEE,
Director-General
Ministry of Transport

PASSENGER TRANSPORT ACT 1990

Guidelines relating to Drug & Alcohol Programs for Ferry
Operators pursuant to section 53c(2)(a) of the Passenger
Transport Act 1990

1.0 INTRODUCTION

Individual employees are under an obligation to take reasonable care for the health, safety and welfare of others and to cooperate with employers in their efforts to comply with the requirements of the Passenger Transport Act 1990 and the relevant occupational health and safety requirements.

Operators are responsible for ensuring that risks to health and safety in the workplace are identified and assessed, then eliminated or controlled. These risks include those posed by the use of alcohol or other drugs.

The Guidelines promote a consistent approach across the ferry sector to managing the risks posed by drug and alcohol use.

The Guidelines set out the principles governing operator policies and the approaches needed to manage this potential problem. The Guidelines state the context in which drug & alcohol testing will take place but do not prescribe the basis of that testing or how it is to be administered.

The systems an operator needs to implement the Guidelines should correlate to its size and resources.

2.0 SCOPE

2.1 The Guidelines shall have force subject to section 53C of the Passenger Transport Act 1990 ('the Act').

3.0 APPLICATION

3.1 The Guidelines shall apply to all ferry operators providing public passenger services under the Act and whose transport safety employees are engaged in transport safety work.

3.2 The terms used in the Guidelines have the same meaning as they have in the Act and any regulation made thereunder. The term Director-General refers to the Director-General of the Ministry of Transport.

4.0 ELEMENTS OF A DRUG AND ALCOHOL PROGRAM

4.1 Operators, members of the public and transport safety employees need to have confidence that the safety hazards posed by alcohol and other drugs are being monitored and controlled in an ongoing and rigorous fashion.

4.2 The systems used to implement an operator's drug and alcohol program must embody risk management principles and may take account of the principles contained in:

- AS/NZS4804: 2001, Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques, as amended from time to time,
- AS/NZS4801: 2001, Occupational health and safety management systems – Specification with guidance for use, as amended from time to time,
- AS/NZS4360: 1999, the Australian Risk Management Standard, as amended from time to time,
- Another equivalent Standard, as amended from time to time.

4.3 Programs developed by operators to manage alcohol and other drugs are to be based on the following principles:

- (a) Alcohol and other drug problems are to be dealt with as health problems, with an emphasis on education and rehabilitation in so far as it is consistent with the requirements of safety,
- (b) Transport safety employees and their representatives are to be consulted at all stages of program development and implementation,
- (c) Operators must inform all transport safety employees of their responsibilities in relation to the consumption or use of alcohol or other drugs which may adversely affect work performance or conduct,
- (d) Operators must provide practical guidelines and training to managers and supervisors for dealing with transport safety employees whose work performance or conduct is adversely affected by alcohol or other drugs, including the application of disciplinary sanctions,
- (e) Transport safety employees and their representatives must comply with all employer directives applicable to alcohol and other drugs in the workplace and cooperate fully with employers to prevent incidents arising from the consumption or use of alcohol or other drugs,
- (f) Transport safety employees who attend treatment or rehabilitation may have access to accrued annual leave, sick leave or leave without pay,
- (g) Personal information received from transport safety employees during counselling treatment or rehabilitation is to be treated in strict confidence,
- (h) Policies and programs developed by operators should be tailored to address their operational circumstances. The level of detail in a policy and program will reflect the size of the employer's operations, the extent of the risk and any applicable statutory requirement.

5.0 OPERATOR PROGRAMS

5.1 Operators must take the following matters into account when preparing and implementing an alcohol and other drug program:

- (a) Taking measures to achieve a workplace culture that supports fitness for work,

- (b) Reducing the effects in the workplace of the consumption or use of alcohol and other drugs including risks to safety and absenteeism,
- (c) Informing transport safety employees of the potential work related problems that may arise from the consumption or use of alcohol and other drugs and of their responsibilities in relation to safety, conduct and performance,
- (d) Establishing a system to maintain the confidentiality of all information communicated to them concerning alcohol and other drug related problems,
- (e) Providing information to transport safety employees about referral to counselling, treatment and rehabilitation services where this is appropriate.

6.0 RESPONSIBILITIES TO BE REQUIRED OF TRANSPORT SAFETY EMPLOYEES BY OPERATORS

6.1 The training and assessment component of an operator's program shall involve the operator making transport safety employees aware of their responsibility for:

- (a) Ensuring that they do not, by the consumption of alcohol and other drugs, endanger their own safety or the safety of any other person in the workplace or a member of the public,
- (b) Attending and resuming work not under the influence of alcohol or other drugs,
- (c) Notifying their manager or supervisor if they are aware that their work performance or conduct could be adversely affected or if there is a risk to the safety of themselves or other persons as a result of a prescribed or non-prescribed drug,
- (d) Consulting with their manager, supervisor, union or occupational health and safety representative if they are concerned about other transport safety employees because of a perceived safety risk,
- (e) Following the operator's directives and rules applicable to alcohol and other drugs in the workplace and also in respect of rehabilitation programs endorsed by the operator.

7.0 ELEMENTS OF AN ALCOHOL AND OTHER DRUG PROGRAM

As a minimum, the program shall consist of the following elements:

An alcohol and other drug policy

7.1 A policy that outlines the operator's aims in relation to alcohol and other drug use with the objectives linked to the reduction of hazards and risks associated with alcohol and other drug use. The policy may also detail the 'supporting measures' including strategies and action plans to meet the objectives.

'Supporting measures'

7.2 The 'supporting measures' for an alcohol and other drugs program shall include information and procedures on the:

- (a) Measures to reduce alcohol and other drug related problems in the workplace through proper

personnel management, good employment practices, improved working conditions and the proper arrangement of work,

- (b) Measures to prohibit or restrict the availability of alcohol and other drugs in the workplace,
- (c) Prevention of alcohol and other drug related problems in the workplace through information, education, training and other means. Guideline 6.1 contains some matters that the program should include,
- (d) Identification, assessment and referral of those who have alcohol or other drug related problems,
- (e) Measures relating to intervention and the treatment and rehabilitation of individuals with alcohol or other drug related problems,
- (f) Rules governing conduct in the workplace relating to alcohol and other drugs, the violation of which could result in the invoking of disciplinary and or criminal proceedings.

Alcohol and other drug testing

7.3 An operator shall satisfy itself that it has adequate arrangements in place for the testing of the transport safety employees under its control.

7.4 The pro-active management of risk may involve the targeted or random testing of transport safety employees. Whenever targeted or random testing is implemented, the operator's program shall require that:

- (a) Targeted testing be conducted in a manner that maximises its effectiveness as a control for the risks posed by the consumption of alcohol or other drugs,
- (b) Random testing be conducted in a manner that maximises its effectiveness as a control for the risks posed by the consumption of alcohol or other drugs. Measures to achieve this end may include,
 - (i) The conduct of random tests on a pre and post sign-on basis for all persons engaged in transport safety work without the giving of prior notification for such testing,
 - (ii) The conduct of random tests according to the provisions of the Passenger Transport (Drug and Alcohol Testing) Regulation 2004 or the provisions of a registered industrial agreement,
 - (iii) Administering of random urine tests according to AS/NZS4308:2001: Procedures for the collection, detection and quantitation of drugs of abuse in urine. The Australian Standard sets out the procedures for the sample collection and detection and quantitation of drugs of abuse in human urine. The method may be used for workplace detection of any or all of the following classes of drugs: opiates, sympathomimetic amines, cannabis metabolites, cocaine metabolites or benzodiazepines,
- (c) Periodic assessments by an operator of the effectiveness of its drug and alcohol testing according to accepted risk management principles.

Disciplinary action, fair procedures, education and assistance

- 7.5 An alcohol and other drug program must clearly set out the:
- (a) Sanctions applicable in the event of breaches of its requirements. This would include sanctions consequent upon a first breach of the program or where a transport safety employee refuses or fails to fully comply with the terms of a rehabilitation program agreed with the operator,
 - (b) Rules governing the application of the sanctions, including grievance resolution and appeal mechanisms,
 - (c) Protocols for fair procedures agreed with transport safety employees and their representatives,
 - (d) Education and assistance available to a transport safety employee who self identifies as someone whose consumption of alcohol or other drugs could impair his or her ability to safely undertake transport safety work,
 - (e) Protocols for fair procedures, education and assistance available to a transport safety employee who tests positive for the presence of a drug where:
 - (i) The drug has been prescribed by a medical practitioner for the person or purchased by the person in respect of an identified medical condition, and
 - (ii) The person has taken the medication according to the instructions of the medical practitioner or the instructions given on the label of the medication, and
 - (iii) The person taking the medication gave full and timely warning to his or her supervisor of this, and
 - (iv) The person was rostered for duty when testing took place.

8.0 PERFORMANCE MILESTONES

- 8.1 Where full and immediate compliance with the duty imposed by these Guidelines is impossible because of real resource constraints, an operator may nominate performance milestones it must achieve over time and request the accrediting body's endorsement of such an arrangement. The operator is taken to have complied with the duty imposed by these Guidelines if it complies with the endorsed performance milestones.

9.0 SOURCES OF INFORMATION ON DRUG AND ALCOHOL MANAGEMENT

- 9.1 There are a number of sources from which information on managing drug and alcohol related problems and risks can be obtained. These include:

United Nations

- The International Labour Organisation offers extensive resources designed to assist governments, employers and employees in the management of workplace-related risks. Reference should be made to the 1995 Code of Practice entitled, 'Management of Alcohol and Drug Related Issues in the Workplace':
www.ilo.org

National Governments

The following publish a wide range of investigation, policy and research papers on human factor related risks like drugs and alcohol:

- Australian Transport Safety Bureau:
www.atsb.gov.au
- National Transport Commission (formerly the National Road Transport Commission):
www.ntc.gov.au
- National Transportation Safety Board of the United States:
www.nts.gov
- National Aeronautics and Space Administration of the United States:
www.nasa.gov
- Transport Canada:
www.tc.gc.ca

State Governments

- New South Wales Independent Transport Safety and Reliability Regulator:
www.transportregulator.nsw.gov.au

Peak union organisations

- The New South Wales Labor Council publishes detailed fact sheets and policies to assist employers and employees in the workplace. These have been developed with the assistance of various NSW Government agencies.

The Labor Council *Policy on Managing Alcohol, Other Drugs and Fatigue in the Workplace for Employees covered by the Rail Safety and Passenger Transport Acts* has been endorsed by the Independent Transport Safety and Reliability Regulator as a compliant policy for the purposes of these Guidelines.

For fact sheets: www.unionsafe.labor.net.au/safety_reps/

For policies: www.unionsafe.labor.net.au/officials/index

Peak industry associations

- New South Wales Minerals Council:
www.nswmin.com.au
- Charter Vessels Association:
www.chartervessels.com.au
Telephone (02) 9 968 1184

Research bodies

- Centre for Sleep Research, University of South Australia:
www.unisa.edu.au/sleep/
- Injury Risk Management Research Centre, University of New South Wales:
www.irmrc.unsw.edu.au
- Minerals Industry Safety & Health Centre, University of Queensland:
www.mishc.uq.edu.au
- Sleep Health & Respiratory Support Clinic, Royal Prince Alfred Hospital:
www.rpasleep.org.au or
www.sleepsydney.org

- Karolinska Institutet in Sweden:
www.info.ki.se
- Institut National de Recherche et de Securite (INRS) in France:
www.inrs.fr
- Division of Sleep Medicine, University of Pennsylvania:
www.uphs.upenn.edu/sleepctr/divisionofsleep
- American Academy of Sleep Medicine:
www.aasmnet.org/
- Human Psychopharmacology Research Unit University of Surrey, UK:
www.surrey.ac.uk/departments/

JOHN LEE,
Director-General
Ministry of Transport

WORKERS COMPENSATION (MEDICAL PRACTITIONER FEES)

ORDER 2004 No 1

Under the Workers Compensation Act 1987

I, JON BLACKWELL, Chief Executive Officer of the WorkCover Authority of New South Wales, pursuant to section 61 (2) of the *Workers Compensation Act 1987*, make the following Order.

Dated this 17th day of March 2004.

JON BLACKWELL,
Chief Executive Officer
WorkCover Authority

Workers Compensation (Medical Practitioner Fees) Order 2004 No 1

1. Name of Order

This Order is the *Workers Compensation (Medical Practitioner Fees) Order 2004 No 1*.

2. Commencement

This Order commences on the date of its publication in the Gazette.

3. Application of Order

This Order applies to treatment provided on or after the commencement of this Order, whether it relates to an injury received before, on or after that date.

4. Maximum fees for medical practitioners

- (1) This clause applies to medical and related treatment provided by a medical practitioner in respect of which a fee is specified in the AMA List, except:
 - (a) medical services identified in the AMA List by AMA numbers AC500, AC510, AC520 and AC530 (Professional Attendances by a Specialist) if these medical services are provided by a specialist surgeon;
 - (b) medical services identified in the AMA List by AMA numbers EA010 to MZ500 (Surgical Operations) if these medical services are provided by a specialist surgeon;

- (c) medical services identified in the AMA List by AMA numbers OP200, OP210 and OP220 (magnetic resonance imaging – MRI).

- (2) Subject to subclause (1), the maximum amount for which an employer is liable under the Act for any claim for medical or related treatment to which this clause applies is the fee listed, in respect of the medical or related treatment concerned, in the AMA List.

5. Goods and Services Tax

- (1) An amount fixed by this Order may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost so increased is taken to be the amount fixed by this Order.
- (2) This clause does not permit a medical practitioner to charge or recover, in respect of GST payable in respect of a service, an amount that is greater than:
 - (a) 10% of the maximum amount payable under this Order to the medical practitioner in respect of the medical or related treatment apart from this clause, or
 - (b) the amount permitted under the New Tax System Price Exploitation Law, whichever is the lesser.

6. Definitions

In this Order:

AMA List means the document entitled *List of Medical Services and Fees* published by the Australian Medical Association and dated 1 November 2003.

the Act means the *Workers Compensation Act 1987*.

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

New Tax System Price Exploitation Law means:

- (a) the *New Tax System Price Exploitation Code* as applied as a law of New South Wales by the *Price Exploitation Code (New South Wales) Act 1999*; and
- (b) Part VB of the *Trade Practices Act 1974* of the Commonwealth.

Specialist surgeon means a medical practitioner who holds a fellowship of the Royal Australian College of Surgeons.

EXPLANATORY NOTE

Treatment by a registered medical practitioner is one of the categories of medical or related treatment covered under the *Workers Compensation Act 1987*. This Order sets the maximum fees that certain registered medical practitioners can recover under the Act from an employer or the employer's workers compensation employer for treatment of a worker's work-related injury.

The effect of the Order is to prevent medical practitioners from recovering from the injured worker any extra charge for treatments covered by the Order.

The Order does not apply to services provided by specialist surgeons, or for magnetic resonance imaging.

The Order adopts the *List of Medical Services and Fees* published by the Australian Medical Association.