

Drug and Alcohol Abuse Policy

Last revision date: 04/26/2024

Purpose – Use of illegal drugs and alcohol misuse can endanger Gurstel Law Firm, P.C. (hereinafter “Gurstel” or “Firm”) guests, clients, and employees, adversely affect client services and jeopardize Gurstel’s reputation and operations. The Purpose of this Policy is to improve service and safety, encourage employees to seek help for drug or alcohol problems and explain Gurstel’s drug and alcohol testing program.

Scope – This Policy applies to all employees of Gurstel as well as applicants for employment who have received a conditional offer of employment (applicants are not entitled to employment terms).

State Law and Implementation/Administration Compliance: Please note that Gurstel operates in multiple states, including states with mandatory workplace testing laws that affect the content of this Policy. Applicants and employees who work in and report to operations in those States are subject to this Policy and the State Law Supplement to this Policy for their State (“Supplement”). Both the Policy and the Supplement must be read together to give full effect to both policies to the fullest extent permitted by law. To the extent the Supplement and/or applicable law contradict the terms of this Policy, the terms of the Supplement will control. This Policy and the Supplement will be implemented and administered in accordance with applicable laws, rules and regulations, and the Firm reserves all rights available to it under applicable laws, rules and regulations.

Employment at Will - Nothing in this Policy constitutes a waiver of Gurstel’s policy of employment at will, under which it may, subject to law, terminate employees at any time with or without cause and with or without notice. This Policy does not limit Gurstel’s right to implement other reasonable measures to maintain safety in the workplace. Failure to comply with this Policy constitutes cause for disciplinary measures up to and including discharge, in the case of employees, and withdrawal of a conditional offer of employment, in the case of applicants, subject to the terms and conditions provided herein.

Standards of Conduct

Illegal Drugs* – While working (including breaks), present on Gurstel premises, or operating Gurstel machinery or equipment or Gurstel-provided vehicles, employees are prohibited from and may not possess, use, buy, sell, dispense, distribute, manufacture, transfer, transport, or be under the influence of illegal drugs**

***Illegal drugs** mean all drugs the use or possession of which is illegal under federal, state, or local law, as well as prescription medication which is used in a manner inconsistent with the prescription or for which the individual does not have a valid prescription. Please also refer to the Marijuana section of this Policy for more information about the Firm’s position and expectations with respect to marijuana use, possession and related issues.

Marijuana. Marijuana continues to be federally illegal. Thus, employees are prohibited using or possessing marijuana on Firm premises, in Firm provided vehicles or during the hours of employment, as well as working while impaired by marijuana. Further, Gurstel reserves the right to take adverse employment action based on a confirmed positive marijuana test result on a test requested or required under this Policy to the fullest extent permitted by law. However, Gurstel recognizes that some states have enacted laws providing for employment protection for away from work marijuana use such as medical marijuana use, and Gurstel will thus comply with the requirements of such laws, e.g., fulfilling any interactive dialogue and reasonable accommodation process applicable under law.

****Under the influence of illegal drugs means:** (1) the presence of any detectable amount of a drug or its metabolites demonstrated by a confirmed positive drug test result verified by a Medical Review Officer, or (2) behavior, appearance, speech, or bodily odors that lead a supervisor to reasonably suspect that the employee is impaired by illegal drugs.

Alcohol – employees may not report to work, remain on duty, be on Firm premises or operating Firm provided equipment, machinery or vehicles while under the influence of alcohol.*

***Under the influence of alcohol** means: (1) the presence of alcohol in the individual’s system which equals or exceeds an alcohol concentration of 0.04 or (2) behavior, appearance, speech, or bodily odors that lead a supervisor to reasonably suspect that the employee is impaired by alcohol.

However, employees may voluntarily choose to consume alcohol in moderation at Firm-sponsored events or in the course of business entertainment (e.g., for clients, potential clients or as part of associate development/recruiting).

Refusal to Cooperate – Applicants and employees are prohibited from adulterating or substituting or attempting to adulterate or substitute any specimen submitted for testing under this Policy, from otherwise obstructing or attempting to obstruct specimen collection, testing or medical review processes, and from refusing to promptly cooperate with testing requested or required by or under this Policy.

Voluntary Requests for Assistance – Gurstel encourages all employees who may need assistance with alcohol or drug problems to contact Human Resources, the Firm’s employee assistance program (EAP),* or community-based programs before they become subject to discipline for violating this or other Firm policies and prior to referral for testing under this Policy. The Firm will support, assist and accommodate such employees to the extent required by law. Human Resources will refer such employees to counseling and treatment providers and help employees utilize any available employee benefits. Employees will not be disciplined because they request such assistance. Employees may not escape discipline, however, by requesting such assistance after they violate Gurstel policies or are notified of their selection for drug and/or alcohol testing, nor will such requests excuse employees from compliance with Gurstel policies, including its standards for employee performance and conduct.

***EAP.** The Firm has contracted with The Standard to provide information, resources and referral services as well as Employee Assistance Program (EAP) professional counseling services. The EAP is available to all employees and is a free confidential service that may be accessed, either through self-referral or a referral source, 24 hours a day, seven days a week. You can receive assistance with a wide variety of problems or concerns, including substance abuse. If you wish to utilize the Firm’s EAP, you may call: 888.293.6948 (TDD: 800.327.1833) or visit <https://www.workhealthlife.com/Standard3>

Confidentiality – The Firm keeps test results, drug or alcohol abuse and treatment records, medical records and medical history information, and other information and/or documents acquired through testing confidential to the extent required by law. Such information shall be maintained in secure confidential files separate from normal personnel files. Drug and alcohol testing results and related information may be disclosed to Firm Managers, Supervisors, attorneys, audit staff, and clients on a need-to-know basis as required or permitted under law, and will be disclosed where relevant to arbitrations, claims, charges, lawsuits, and other legal proceedings against the Firm or its clients, or as required or otherwise permitted by law. Employees and applicants may obtain copies of their own results and own medical records upon written request.

Drug and Alcohol Testing Program

Gurstel may, subject to applicable law, test samples or specimens for the presence of drugs and/or alcohol in the circumstances identified in this Policy to the fullest extent permitted by law (the current testing panel for drugs consists of Methamphetamines, Barbiturates, Benzodiazepines, Cocaine, Opiates, Phencyclidine (PCP), Marijuana (THC), and Oxycodone). Except in the case of, where lawful, breath-alcohol testing, all testing requested or required under this Policy will be conducted by a laboratory accredited, approved, certified or licensed in accord with which meets all certification requirements identified by applicable law. Initial positive screens for breath testing, where such testing is lawful, will be subject to confirmation testing and adverse employment action will only be taken based on confirmed positive results. For testing of other specimens, the laboratory conducts a confirmatory test on all samples that produced a positive test result on an initial screening test before any adverse employment action is taken based on any positive test result, including applicant rejection or disciplinary action against any existing employee, and such action

will only be taken based on confirmed positive test results. Donors will be provided an opportunity to explain a laboratory-confirmed positive result.

The Firm will pay for testing costs for tests it requests or requires under this Policy. Employees will be compensated in accordance with law for time spent submitting to a drug and alcohol test requested or required by Gurstel.

Employees suspected of working while under the influence of illegal drugs or alcohol will, subject to law, be suspended without pay until the Firm receives the confirmed results of a drug and alcohol test from its testing vendor(s) and any other information the Firm may require to make an appropriate determination.

The following substances may, subject to law, be collected for drug/alcohol testing requested or required under this Policy: urine, blood, breath, saliva, and hair.

Types of Testing:

Pre-Employment – Applicants who have received a conditional offer of employment are required to submit to a pre-employment drug test as a condition of being employed by Gurstel and pass the test with a result satisfactory to the Firm. Such tests will be conducted, and results received, prior to the inception of any work.

Post-Accident – Gurstel has an obligation to maintain a safe work environment. In fulfilling that obligation, and as part of its accident investigation efforts, employees are subject to drug and alcohol testing if they have caused or contributed to an on-the-job accident which results in fatality, an injury requiring immediate off-site medical treatment, or property damage which might be greater than \$1,000 in value as estimated by the Firm at the time of the accident.

Reasonable Suspicion – Employees are subject to drug and alcohol testing if a supervisor or Manager has reasonable suspicion, based on job performance, appearance, behavior, body odors or speech, that they are working while under the influence of alcohol or illegal drugs or otherwise using or possessing drugs or alcohol in violation of this Policy.

Follow-Up Testing – Subject to law, employees who have violated the Policy (e.g., by testing positive on a drug/alcohol test requested or required by Gurstel) whom the Firm chooses to retain will be subject to drug or alcohol testing without prior notice for a period of up to two (2) years following the violation, which may include a return-to-duty test. Such testing may include but is not limited to testing during any substance abuse evaluation period as well as during or following any completion of any such prescribed or recommended chemical dependency treatment program or referrals for evaluation and/or treatment by the Firm.

Consequences

Contingent employment offers of applicants whose pre-employment drug test result is unsatisfactory to the Firm will be withdrawn and such applicants will be rejected for employment, unless limited by law; or are able to provide a valid state issued medical marijuana card that is active at the time of the testing. Employees who violate this Policy, including those with confirmed positive test results and those who refuse to submit to testing requested or required by Gurstel, will, subject to law, be subject to adverse employment action up to and including employment termination. Applicants whose employment offer has been withdrawn due to an unsatisfactory drug test result, may reapply for employment after 60 days from the date of the confirmatory drug test result.

If an employee's initial test result is positive and the confirmatory test has not yet been performed, or a confirmatory retest has been requested, Gurstel reserves the right to suspend the employee pending the results of the confirmatory test. If the confirmatory test comes back negative the employee shall be reinstated with back pay.

The terms and conditions provided for above shall not restrict the Firm's ability to discipline employees for misconduct, including but not limited to, for example and without limitation, assault, destruction of property, or disrespect toward a supervisor, manager, or client, which occurs at a time the employee is under the influence of illegal drugs or alcohol. Such discipline may include discharge.

Crimes Involving Drugs

Employees who are convicted of, plead guilty to, or are sentenced for a crime involving the use or possession of illegal drugs in the workplace must report the conviction, plea or sentence to their manager or Human Resources within five (5) days after such conviction, plea or sentence. Subject to law, Gurstel may take disciplinary and/or other appropriate action as determined in its discretion, up to and including discharge, when it learns an employee is involved in any crime that damages the Firm's operations or reputation. Gurstel will evaluate such information when it learns of it on a case-by-case basis to determine its rights and obligations.

Revisions

This Policy will be revised from time-to-time at Gurstel's discretion, with or without notice or consideration, and as necessary to comply with the requirements of applicable law. Affected employees will be given notice of such changes.

STATE LAW SUPPLEMENT — IOWA

Gurstel Law Firm, P.C. (hereinafter "Gurstel" or "Firm") operates in multiple states, including states with workplace testing laws that affect policy content. Employees who work in and report to operations in Iowa are subject to the Firm's Drug and Alcohol Policy and this Iowa Supplement to the Policy, which modifies, adds to and/or amends the Policy to comply with Iowa law. All provisions of the Policy and this Iowa Supplement will be given effect together to the fullest extent possible in conformity with applicable law, except where the Supplement specifically contradicts the Policy, in which case the Supplement and state/local law will control.

Confidentiality - All communications Gurstel receives relevant to employee or prospective employee drug or alcohol test results, or otherwise received through the Firm's drug/alcohol testing program, are confidential communications and will not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except as otherwise provided, authorized or permitted under law.

An employee, or a prospective employee, who is the subject of a drug or alcohol test conducted under the Policy and this Iowa Supplement and for whom a confirmed positive test result is reported shall, upon written request, have access to any records relating to the employee's drug or alcohol test, including records of the laboratory where the testing was conducted and any records relating to the results of any relevant certification or review by a medical review officer. However, a prospective employee shall be entitled to such records only if the prospective employee requests the records within fifteen calendar days from the date Gurstel provided the prospective employee written notice of the results of a drug or alcohol test as required under Iowa law.

Gurstel may use and disclose information concerning the results of a drug or alcohol test conducted pursuant to the Policy and this Iowa Supplement under any of the following circumstances:

- (1) In an arbitration proceeding pursuant to a collective bargaining agreement, or an administrative agency proceeding or judicial proceeding under workers' compensation laws or unemployment compensation laws or under common or statutory laws where action taken by the Firm based on the test is relevant or is challenged;
- (2) To any federal agency or other unit of the federal government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract;
- (3) To any Iowa agency authorized to license individuals if the employee tested is licensed by that agency and the rules of that agency require such disclosure;

- (4) To a union representing the employee if such disclosure would be required by federal labor laws; and,
- (5) To a substance abuse evaluation or treatment facility or professional for the purpose of evaluation or treatment of the employee.

However, positive test results on tests administered under the Policy and this Iowa Supplement will not be used as evidence in any criminal action against the employee or prospective employee tested.

Drug and Alcohol Testing Program

Except for breath alcohol tests, confirmed positive test results for blood, hair, oral fluids and urine are determined based on standards adopted by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration; if such a standard has not been adopted by the Department, the applicable standard will be the standard cleared/approved by the Department's Food and Drug Administration for the specimen testing utilized. Note: Gurstel may rely and take action upon the results of any blood test for drugs or alcohol made on any employee involved in an accident at work only if the test is administered by or at the direction of a person providing treatment or care to the employee without request or suggestion by the Firm that a test be conducted, and the Firm has lawfully obtained the results of the test. Employee testing will normally occur during, immediately before or after a regular work period. All specimen collection, chain-of-custody, testing, notice and re-testing procedures will conform to Iowa Statutes Section 730.5

An employee or prospective employee will be provided an opportunity to provide any information which may be considered relevant to the test, including identification of prescription or nonprescription drugs currently or recently used, or other relevant medical information. To assist an employee or prospective employee in providing the information described in this paragraph, Gurstel will provide an employee or prospective employee with a list of the drugs to be tested.

Alcohol Tests

- With respect to alcohol testing under the Policy and this Iowa Supplement, the alcohol concentration that will be deemed to violate the Policy and this Iowa Supplement is 0.04 expressed in terms of grams of alcohol per 210 liters of breath or its equivalent.
- Evidential breath testing devices and alcohol screening devices utilized in connection with alcohol testing under the Policy and this Iowa Supplement will be devices approved by the National Highway Safety Administration

Types of Testing

Gurstel will test applicants and employees in Iowa in the following circumstances:

Pre-Employment - Gurstel will conduct drug testing of prospective employees as outlined in the Policy. "Prospective employee" means a person who has made application, whether written or oral, to Gurstel to become an employee in the service of the Firm in Iowa.

Reasonable Suspicion - Gurstel may conduct reasonable suspicion drug or alcohol testing per the Policy as modified by this Iowa Supplement. "Reasonable suspicion drug or alcohol testing" means drug or alcohol testing based upon evidence that an employee is using or has used alcohol or other drugs in violation of Gurstel's Drug and Alcohol Policy and this Iowa Supplement to the Policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of such testing, facts and inferences may be based upon, but not limited to, any of the following:

- (1) Observable phenomena while at work such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use;
- (2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- (3) A report of alcohol or other drug use provided by a reliable and credible source;
- (4) Evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the current employer;
- (5) Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Iowa statutes chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident by the Firm to exceed one thousand dollars; and,
- (6) Evidence that an employee has manufactured, sold, distributed, solicited, possessed, used, or transferred drugs while working or while on Gurstel's premises or while operating Gurstel vehicles, machinery, or equipment.

Post-Accident – Gurstel may conduct drug or alcohol testing of any employee in investigating accidents in the workplace in which the accident resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Iowa statutes chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident by the Firm to exceed one thousand dollars. Such testing will be conducted within the terms of the Policy, as otherwise modified by this Iowa Supplement.

Rehabilitation (Treatment Program) – Gurstel may conduct drug or alcohol testing of employees during, and after completion of, drug or alcohol rehabilitation within the terms of the Policy and as modified by and within the terms of this Iowa Supplement to the Policy and Iowa law. (Rehabilitation may be required by Iowa law following certain first time positive alcohol test results,* and if so, Gurstel will not take adverse employment action against the employee so long as the employee complies with the requirements of rehabilitation and successfully completes rehabilitation).

*If Gurstel has at least 50 Iowa employees, an employee has been employed by the Firm for at least 12 of the preceding 18 months, and if an employee agrees, an employee who has not previously violated the Policy and this Iowa Supplement will be offered continued employment subject to certain rehabilitation requirements after a first time confirmed positive alcohol test result. Such requirements include that the employee enroll in an employer-provided or approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, participation in and successful completion of which may be a condition of continued employment, and the costs of which may or may not be covered by the employer's health plan or policies. If Gurstel has an employee benefit plan, costs of such rehabilitation will be apportioned as provided in the plan; if no employee benefit plan exists and an employee has coverage for any portion of the costs of rehabilitation under any health care plan of the employee, the costs will be apportioned equally between the employee and Gurstel. However, in no event will Gurstel be required to pay in excess of \$2,000 toward costs not covered under the employee's health care plan.

Consequences

Prospective employees' job offers will be withdrawn and they will be rejected for employment if they fail to pass a pre-employment drug test with a result satisfactory to the Firm or if they refuse to be tested. Employees who violate the Policy and/or this Supplement to the Policy are subject to discipline up to and including employment termination.



Further, any action taken against an employee or prospective employee in connection with testing under the Policy and this Iowa Supplement will be based only on the results of the drug or alcohol test requested or required by Gurstel. However, the Firm at all times reserves the right to take action based on information, conduct, performance or behavior independent in whole or in part from testing and to the fullest extent permitted under Iowa law. Additionally, the Firm's uniform requirements for disciplinary or rehabilitative actions it will take against an employee or prospective employee upon receipt of a confirmed positive result for drugs or alcohol or upon the refusal of an employee or prospective employee to provide a testing sample are as set forth in the Policy and this Iowa Supplement.