



State of Nevada

Department of Administration

RISK-Y BUSINESS

Risk Management Division

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Revised NAC 284.888

Re: Drug and Alcohol Testing.

In January 2012 the Nevada Administrative Code Section 284.888 (3)(a) was amended to allow the State of Nevada to administer drug and alcohol screening for any state employee who is involved in a motor vehicle accident that causes more than \$500 in property damage while on State business. In the next few weeks, the Risk Management Office will be sending out envelopes containing the chain of custody forms for the drug and alcohol testing. These envelopes are to be placed in the glove compartment of your agency's vehicles. If one of your employees has a motor vehicle accident while driving an agency vehicle and seeks medical attention for injuries sustained as a result of said accident, then the employee must take the DAT form into the first stop/urgent care where he/she seeks medical attention. Prior to sending out the forms we will send out an "All Agency" memorandum explaining the process. Please email us at <http://risk.state.nv.us/> if you have questions. Following is the revised NAC:

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his or her duties safely and efficiently include, but are not limited to:
 - (a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;
 - (b) The odor of alcohol or a controlled substance on the breath of the employee;
 - (c) Observation of the employee consuming alcohol;

- (d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source; or**
- (e) The occurrence of any accident while the employee is on the premises of the workplace for which the employee receives medical treatment.**

2. Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Division of Human Resource Management.

3. The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to paragraph (b) of subsection 2 of NRS 284.4065. As used in subsection 2 of NRS 284.4065, “substantial damage to property” includes, but is not limited to:

(a) The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or

(b) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A by Personnel Comm’n by R066-09, 10-27-2009; R193-09, 4-20-2010; R010-11, 10-26-2011)

Nevada Traffic Deaths Jump In First Quarter of 2012

The number of Nevada traffic deaths jumped by nearly 25 percent in the first quarter of 2012 when compared with the same time period last year. From January through March, 57 people died in Nevada traffic accidents, 11 more than last year.

Twelve pedestrians died in the first quarter, double the number from the same time last year. Nine of the 12 pedestrians killed were in Clark County. The 45 total fatalities in Clark County for the first three months of the year also were up significantly, from 37 in 2011. Elsewhere, there were 3 deaths each so far this year in Elko and Nye counties, two in Washoe and one each in Douglas, Humboldt, Lander and Mineral.

The rise in traffic deaths comes despite a new campaign emphasizing traffic safety and a new law making it illegal to text or talk on a hand-held cell phone while driving. That law to crack down on distracted driving went into effect October 1, but penalties did not kick in until Jan 1. Nevada’s “Zero fatalities” campaign evolved after a record 432 traffic deaths in 2006. In 2011, road fatalities dropped to 246.

While the State is striving to make roads safer, the traffic safety ultimately relies on each and every driver.

WORKERS' COMPENSATION LIAISONS

We update our Workers' Compensation Agency Liaison list posted on our division's web page http://risk.state.nv.us/Worker_Comp2.htm daily.

Please contact Mary Lehrer when there has been a change to any personnel assigned as a WC Liaison. 775-687-3188 mlehrer@admin.nv.gov

Risk Management Is Bringing Our Training To You

The concept of reaching out to more of our most valuable assets, our human resources, while conserving limited fiscal resources has become a reality. The Risk Management Division recently acquired Polycom videoconferencing equipment which we will begin "testing" in early August 2012. Our first class, Supervisor Safety, is slated for August 29, 2012, on a limited basis. The class will be held in-person at our location and will also be made available to a small number of agencies via videoconference. As we go forward, more classes will be conducted in this manner and will be made available to more and more locations. Stay tuned to our newsletters and web page for upcoming announcements.

We are excited about the possibilities this system will bring for all of us and look forward to "seeing" you soon.

New Deputy Risk Manager

Mandy Payette has been promoted to the Deputy Risk Manager position for the Risk Management Division effective June 11, 2012. She originally joined the division in June 2008 as the Health Program Specialist. In her new position Mandy is responsible for the division's operations; overseeing the Workers' Compensation program for the state; assisting agencies with Fitness for Duty requests and providing supervisory training in Workers' Compensation and Fitness for Duty Evaluations in conjunction with State Personnel.

Ms. Payette has 23 years experience in the Workers' Compensation field. She started her career in Workers' Compensation in 1986 with the State Industrial Insurance System (SIIS) as a student worker and then promoted progressively to Receptionist, File Clerk, Claims Assistant, Rehabilitation Assistant, Receptionist Supervisor and Lost Time Claims Examiner. She was trained in all aspects of Workers' Compensation, including specializing in large construction groups. Ms. Payette worked for Sierra Nevada Administrators for 7 ½ years as the Lead Adjuster specializing in Heart and Lung claims and catastrophic claims. Mandy was appointed by the Governor to serve on the Employee Management Committee and is currently serving her second term. She is currently working on obtaining her Associate in Risk Management through The American Institute for CPCU.

Please join us in congratulating Mandy on her promotion. She is available to assist you with your workers' compensation related questions and can be reached at (775) 687-3191 mpayette@admin.nv.gov.

INSURANCE AND CONTRACTS

Why Insurance?

In the practice of good risk management, the State often will attempt to transfer the risk of accidental loss through contracts. Usually, the State requires the other party to a contract (contractor) to assume some of the State's liability arising out of the activity described in the contract. This transfer generally is appropriate, as the contractor is most often the party in the best position to control loss.

This intended transfer of risk is achieved by requiring suppliers, contractors, tenants and users of public facilities (i.e. the other party to most State contracts) to protect themselves and the State against claims or judgments arising from their products, activities or use of our facilities. Usually the best way to assure that the transfer actually takes place (i.e. that the loss will be paid by someone other than the State) is to require insurance. The insurance should also protect the State, its officers, officials, employees and volunteers.

The State's standard requests for proposal, bid specifications and contracts should contain a description of the required insurance. In addition, they should contain appropriate hold harmless and indemnification clauses. Hold harmless and indemnification clauses are agreements by which one party assumes the liability of another and agrees to defend them in the event of a claim. These are the legal instruments of the risk transfer, while the insurance is the financial guarantee. The hold harmless and indemnification clauses should be written to take effect immediately upon execution of the contract. They should contain provisions that the State be held harmless, defended and indemnified, and should describe the extent of such indemnification.

Insurance Policies & Evidence of Coverage

The insurance policy which financially supports the hold harmless and indemnification clauses does not automatically become effective upon execution of the contract. Coverage applies only when the other party's insurance company issues the required insurance policies or endorses existing policies to conform to the State's requirements. As the insurance coverage does not become effective automatically, the State should require proof that the insurance is in effect before the contract is accepted.

As proof of coverage, most insurance agents and brokers will provide a document called a certificate of insurance. Issuance of a certificate serves as evidence that the contractor has a policy of insurance. However, the certificate does not modify the insurance policy itself. It does not guarantee that the required policy provisions are in place. Nor does the certificate tell the reader what exclusions or limitations may be found in the contractor's insurance policy. Therefore, the State must receive and review a copy of the policy or an endorsement amending the coverage to make sure that the actual coverage required is in effect. You should make every effort to obtain and review the endorsement or actual policy before work begins pursuant to the contract.