

THE CONTROLLED SUBSTANCE EXAMINATION REGULATION ACT

**North Carolina General Statutes
Chapter 95, Article 20**

AND

ADMINISTRATIVE RULES

**North Carolina Administrative Code
Title 13, Chapter 20**

WITH REVISIONS THROUGH SEPTEMBER 2007



**Wage and Hour Bureau
1101 Mail Service Center
Raleigh, North Carolina 27699-1101
(919) 807-2796 or 1-800-NC-LABOR (1-800-625-2267)**

**Cherie K. Berry
Commissioner of Labor**

Introduction

This publication contains the North Carolina Controlled Substance Examination Regulation Act (Chapter 95, Article 20 of the North Carolina General Statutes) and Administrative Rules (Title 13, Chapter 20 of the North Carolina Administrative Code). It is intended for use by employers, employees and prospective employees to inform them of their rights and responsibilities in controlled substance testing and notification. Although the Controlled Substance Examination Regulation Act (“CSERA”) does not require employers to conduct controlled substance testing within the workplace, it establishes procedures to be followed by employers or employer representatives who perform employment-related drug testing. The provisions of the CSERA apply to any person, firm or corporation, including government agencies, doing business in the state that performs or has performed on its behalf controlled substance examinations. Specific exemptions from the provisions of the CSERA are provided for examinations required by the U.S. Department of Transportation, Nuclear Regulatory Commission or any branch of the armed forces. Enforcement of the provisions of the CSERA is assigned to the Wage and Hour Bureau. Applicants or employees who believe that employers are not in compliance with the requirements of the CSERA are invited to avail themselves of the services of the Wage and Hour Bureau.

We encourage and solicit public comments concerning these laws and regulations. Please direct your comments and questions to the Wage and Hour Bureau, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101.

Cherie K. Berry
Commissioner of Labor

September 2007

Table of Contents

<u>N.C. General Statutes</u>	<u>Page</u>
Chapter 95, Article 20 Controlled Substance Examination Regulation Act	1
§ 95-230 Purpose.....	1
§ 95-231 Definitions	1
§ 95-232 Procedural Requirements For the Administration of Controlled Substance Examinations	1
§ 95-233 No Duty to Examine.....	2
§ 95-234 Violation of Controlled Substance Examination Regulations; Civil Penalty	2
§ 95-235 Certain Federal Agencies Exempted.....	3
§ 95-236 through 95-239 (Reserved for Future Codification Purposes).....	3
 <u>N.C. Administrative Code</u>	
Title 13, Chapter 20 – Controlled Substance Examination Regulation	5
Section .0100 Definitions.....	5
.0101 Definitions.....	5
Section .0200 General Provisions	6
.0201 Computing Time Provisions	6
.0202 Applicability	6
.0203 Confirmation of Samples	6
Section .0300 Use of Contractors	6
.0301 Examiner Options	6
.0302 Current Employees (Repealed).....	7
.0303 Prospective Employees (Repealed).....	7
.0304 Contractor Procedures.....	7
.0305 Laboratory Instructions.....	7
.0306 Retesting Laboratory Instructions.....	8
Section .0400 Notice to Examinees	8
.0401 Initial Notice to Examinees.....	8
.0402 Post-Testing Notice to Examinees	8
Section .0500 Confidentiality	8
.0501 Confidentiality of Information Related to Controlled Substance Examinations	8
.0502 Examples.....	9
.0503 Release of Confidential Information.....	9
Section .0600 Payment of Expenses	9
.0601 Payment of Expenses	9
.0602 Reasonable Expenses	9
 <u>Miscellaneous</u>	
Appendix	11
Form – Initial Notice to Employees/Applicants (in English)	12
Form – Initial Notice to Employees/Applicants (in Spanish).....	13
Form – Post-Test Notice to Employees/Applicants (in English).....	14
Form – Post-Test Notice to Employees/Applicants (in Spanish)	15
Frequently Asked Questions	16

N.C. GENERAL STATUTES

CHAPTER 95 – DEPARTMENT OF LABOR

ARTICLE 20 – CONTROLLED SUBSTANCE EXAMINATION REGULATION

§ 95-230. Purpose.

The General Assembly finds that individuals should be protected from unreliable and inadequate examinations and screening for controlled substances. The General Assembly also finds that employers who test employees for controlled substances shall use reliable and minimally invasive examinations and screenings and be afforded the opportunity to select from a range of cost-effective and advanced drug testing technologies. The purpose of this Article is to establish procedural and other requirements for the administration of controlled substance examinations. (1991, c. 687, s. 1; 2001-487, s. 66(a).)

§ 95-231. Definitions.

As used in this Article, unless the context clearly requires otherwise:

- (1) "Approved laboratory" means a clinical chemistry laboratory which performs controlled substances testing and which has demonstrated satisfactory performance in the forensic urine drug testing programs of the United States Department of Health and Human Services or the College of American Pathologists for the type of tests and controlled substances being evaluated.
- (1a) "Controlled substance" is as defined in G.S. 90-87(5) or a metabolite thereof.
- (1b) "Controlled substance examination" means all actions related to drug testing for the purpose of determining if an examinee has used controlled substances.
- (2) "Examiner" means a person, firm, or corporation, doing business in the State, including State, county, and municipal employers, who is the employer or prospective employer of the examinee and who performs or has performed by an approved laboratory a controlled substance examination.
- (3) "Examinee" means an individual who is an employee of the examiner or an applicant for employment with the examiner and who is requested or required by an examiner to submit to a controlled substance examination.
- (4) "Screening" means initial controlled substance examination performed for the purpose of determining use of controlled substances by an examinee. (1991, c. 687; 1993, c. 213, s. 1.)

§ 95-232. Procedural requirements for the administration of controlled substance examinations.

(a) An examiner who requests or requires an examinee to submit to a controlled substance examination shall comply with the procedural requirements set forth in this section.

(b) Collection of samples: the collection of samples for examination or screening shall be performed under reasonable and sanitary conditions. Individual dignity shall be preserved to the extent practicable. Samples shall be collected in a manner reasonably calculated to prevent substitution of samples and interference with the collection, examination, or screening of samples. Samples for prospective or current employees may be collected on-site or at an approved laboratory.

(c) Screening test of samples:

(1) Prospective employees: a preliminary screening procedure that utilizes a single-use test device may be used for prospective employees.

(2) Current employees: the screening test of samples for current employees shall only be performed by an approved laboratory.

(c1) Confirmation test of samples: if a preliminary screening procedure or other screening test produces a positive result, an approved laboratory shall confirm that result by a second examination of the sample utilizing gas chromatography with mass spectrometry or an equivalent scientifically accepted method.

(d) Retention of samples: a portion of every sample that produces a confirmed positive examination result shall be preserved by the laboratory that conducts the confirmatory examination for a period of at least 90 days from the time the results of the confirmed positive examination are mailed or otherwise delivered to the examiner.

(e) Chain of custody: the examiner or his agent shall establish procedures regarding chain of custody for sample collection and examination to ensure proper record keeping, handling, labeling, and identification of examination samples.

(f) Retesting of positive samples: the examinee shall have the right to retest a confirmed positive sample at the same or another approved laboratory. The examiner, through the approved laboratory, shall make confirmed positive samples available to the affected examinee, or a designated agent, during the time which the sample is required to be retained. The examinee must request release of the sample in writing specifying to which approved laboratory the sample is to be sent. The examinee incurs all reasonable expenses for chain of custody procedures, shipping, and retesting of positive samples related to this request. (1991, c. 687, s. 1; 1993, c. 213, s. 2; 1995, c. 383, s. 1; 2006-264, s. 52(a).)

§ 95-233. No duty to examine.

Nothing in this Article shall be construed to place a duty on examiners to conduct controlled substance examinations. (1991, c. 687.)

§ 95-234. Violation of controlled substance examination regulations; civil penalty.

(a) Any examiner who violates the provisions of this Article shall be subject to a civil penalty of up to two hundred fifty dollars (\$250.00) per affected examinee with the maximum not to exceed one thousand dollars (\$1,000) per investigation by the Commissioner of Labor or his authorized representative. In determining the amount of the penalty, the Commissioner shall consider:

(1) The appropriateness of the penalty for the size of the business of the employer charged; and

(2) The gravity of the violation.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and which final determination shall be subject to judicial review in a judicial proceeding pursuant to Article 4 of Chapter 150B.

(b) The amount of the penalty when finally determined may be recovered in a civil action brought by the Commissioner in the General Court of Justice.

(c) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Assessment of penalties under this section shall be subject to a two-year statute of limitations commencing at the time of the occurrence of the violation.

(e) The Commissioner of Labor may adopt, modify, or revoke such rules as are necessary for carrying out the provisions of this Article. The rules adopted shall promote individual dignity and privacy while not posing an undue burden on employers. (1991, c. 687, s. 1; 1993, c. 213, s. 3; 1998-215, s. 113; 2003-308, s. 7; 2007-231, s. 11.)

§ 95-235. Certain federal agencies exempted.

The provisions of this Article shall not apply to a controlled substance examination required by the United States Department of Transportation or the United States Nuclear Regulatory Commission. (1993, c. 213, s. 4.)

§§ 95-236 through 95-239. Reserved for future codification purposes.

N.C. ADMINISTRATIVE CODE
TITLE 13 – DEPARTMENT OF LABOR
CHAPTER 20 – CONTROLLED SUBSTANCE EXAMINATION REGULATION

SECTION .0100 – DEFINITIONS

13 NCAC 20 .0101 DEFINITIONS

As used in G.S. 95, Article 20 and this Chapter:

- (1) "All actions" means procedures performed on the sample to detect, identify, or measure controlled substances. Examples include, but are not limited to, "examinations and screening for controlled substances," "controlled substances testing," "drug testing," "screening," "screening test," "confirmation," and "confirmation test".
- (2) "Chain of custody" means the process of establishing the history of the physical custody or control of the sample from the time the examiner provides the container for the sample to the examinee through the later of:
 - (a) The reporting of the negative result to the examiner;
 - (b) The 90 day period specified in G.S. 95-232(d); or
 - (c) The completion of the retesting described in G.S. 95-232(f).
- (3) "On-site" means any location, other than an approved laboratory, at which a screening test is performed on prospective employees. For example, "on-site" locations include, but are not limited to, the examiner's place of business or a hospital, physician's office, or third-party commercial site operated for the purpose of collecting samples to be used in controlled substance examinations.
- (4) "Sample" means the examinee's urine, blood, hair or oral fluids obtained in a minimally invasive manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance of drug testing.
- (5) "Employer or person charged" means an examiner found by the Commissioner to have violated G.S. 95, Article 20.
- (6) "Preliminary screening procedure" means a controlled substance examination that uses a single-use test device that:
 - (a) Is portable and can be administered on-site;
 - (b) Meets the requirements of the U.S. Food and Drug Administration for commercial distribution contained in Title 21, Part 807 of the Code of Federal Regulations; and
 - (c) Meets the generally accepted cutoff levels contained in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration in 69 FR 19644.
- (7) "Single-use test device" means the reagent-containing unit of a test system that:
 - (a) Is in the form of a sealed container or cartridge that has a validity check, a nonresealable closure, or an evidentiary tape that ensure detection of any tampering;
 - (b) Is self-contained and individually packaged;
 - (c) Is discarded after each test; and
 - (d) Does not allow any test component or constituent of a test system to interact between tests.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001;
Temporary Amendment Eff. January 16, 2002;
Amended Eff. July 1, 2003;
Temporary Amendment Eff. November 30, 2006;
Amended Eff. February 1, 2007.*

SECTION .0200 – GENERAL PROVISIONS

13 NCAC 20 .0201 COMPUTING TIME PERIODS

In computing any period of time described in G.S. 95, Article 20 or this Chapter, the day of the triggering act or event shall not be counted. If the last day of the period falls on a Saturday, Sunday or a legal holiday, it shall not be counted and the period shall end at the close of the next day which is not a Saturday, Sunday, or a legal holiday. The Commissioner shall use Rule 6 of the NC Rules of Civil Procedure, G.S. 1A-1, Rule 6(a), as a guide in interpretation of this Rule. "Legal holiday" means the legal holidays observed by the Superior Courts of North Carolina. A list of legal holidays is available from the Administrative Office of the Courts and each local Clerk of Superior Court in North Carolina.

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0202 APPLICABILITY

The provisions of G.S. 95, Article 20 and this Chapter regarding the collection and handling of samples apply whenever an on-site screening test is performed.

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0203 CONFIRMATION OF SAMPLES

For confirmation of positive results or for retesting of confirmed positive results, the approved laboratory shall use gas chromatography with mass spectrometry (GC/MS) or the examiner shall bear the burden of proof to show that the substitute testing method used is an equivalent scientifically accepted method.

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

SECTION .0300 – USE OF CONTRACTORS

13 NCAC 20 .0301 EXAMINER OPTIONS

In collecting and transporting the sample to the approved laboratory, the examiner may:

- (1) Collect and transport the sample itself; or
- (2) Send the examinee to the approved laboratory for the collection; or
- (3) Contract with a third party to collect and transport the sample. Examples of a third party include physicians, medical clinics, hospitals, or consortia established to negotiate rates for these services.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0302 CURRENT EMPLOYEES
13 NCAC 20 .0303 PROSPECTIVE EMPLOYEES

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001;
Temporary Repeal Eff. November 30, 2006;
Repealed Eff. February 1, 2007.*

13 NCAC 20 .0304 CONTRACTOR PROCEDURES

If the examiner contracts with a third party for collection, screening, or confirmation testing, the examiner shall ensure that the contractor's procedures comply with requirements of G.S. 95, Article 20 and this Chapter. Compliance with the requirements of the United States Department of Health and Human Services (DHHS), 59 Federal Register No. 110, pages 29908 through 29931 (June 9, 1994), for all aspects of the controlled substance examination shall meet the requirements of G.S. 95, Article 20 and this Chapter. Compliance with the requirements of the College of American Pathologists' (CAP) Forensic Urine Drug Test Inspection Checklist shall meet the requirements of G.S. 95, Article 20 and this Chapter for screening, confirmation and retesting of confirmed samples. If the examiner adopts alternative procedures, the examiner shall ensure that the alternative procedures meet the requirements of G.S. 95, Article 20 and this Chapter. However, nothing in the DHHS or CAP requirements shall be interpreted to:

- (1) require the examiner to use the services of a medical review officer; or
- (2) allow the examiner to conduct on-site screening for current employees.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0305 LABORATORY INSTRUCTIONS

The examiner shall follow procedural instructions of the approved laboratory regarding the controlled substance examination, unless the examiner follows equally reliable procedures which it has previously adopted in writing. The examiner shall bear the burden of proof to show these alternative procedures are equally reliable. Examples of procedural instructions include, but are not limited to, instructions regarding:

- (1) collection of samples;
- (2) reasonable and sanitary conditions for collection;
- (3) chain of custody;
- (4) preservation of examinees' individual dignity;
- (5) prevention of substitution or adulteration of samples;
- (6) prevention of interference with the collection, examination, or screening of samples;
- (7) on-site screening;
- (8) confirmation of positive tests;
- (9) any other action to be taken with regard to the collection, labeling, packaging, transportation, screening, documentation, or preservation of samples used for controlled substance examinations.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0306 RETESTING LABORATORY INSTRUCTIONS

If the examinee chooses to have the confirmed positive sample retested, the examiner and, where applicable, the examiner's agent (the original testing laboratory) shall follow the retesting laboratory's instructions in facilitating the retest of the positive sample.

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

SECTION .0400 – NOTICE TO EXAMINEES

13 NCAC 20 .0401 INITIAL NOTICE TO EXAMINEES

At the time of the provision of the sample, the examiner shall provide examinees with written notice of their rights and responsibilities under the Controlled Substance Examination Regulation Act.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0402 POST-TESTING NOTICE TO EXAMINEES

Within 30 days from the time that the results are mailed or otherwise delivered to the examiner, the examiner shall give notice to the examinee, in writing:

- (1) of any positive result of a controlled substance examination; and
- (2) of the examinee's rights and responsibilities regarding retesting under G.S. 95-232(f).

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

SECTION .0500 – CONFIDENTIALITY

13 NCAC 20 .0501 CONFIDENTIALITY OF INFORMATION RELATED TO CONTROLLED SUBSTANCE EXAMINATIONS

In order to preserve individual dignity and privacy, examiners and their agents shall keep information confidential relating to examinees' controlled substance examinations, unless otherwise authorized by law or this Chapter.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0502 EXAMPLES

Examples of confidential information include: controlled substance examination results or information provided by examinees about their medical histories and lawful prescription drug use.

*History Note: Authority G.S. 95-231; 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0503 RELEASE OF CONFIDENTIAL INFORMATION

Examiners and their agents may release information which would otherwise be confidential under this Chapter in the following circumstances:

- (1) to the examinee or to any other person upon written authorization signed by the examinee;
- (2) to laboratories performing screening, confirmation tests, or retests of confirmed positive results;
- (3) for employment-related reasons. Examples of employment-related reasons include: performance evaluations, discipline and provision of references; or
- (4) to a government agency, court or other tribunal having jurisdiction over any claim or proceeding involving the examinee and the examiner.

*History Note: Authority G.S. 95-231, 95-232; 95-234;
Eff. April 1, 2001.*

SECTION .0600 – PAYMENT OF EXPENSES

13 NCAC 20 .0601 PAYMENT OF EXPENSES

The examiner shall pay expenses related to all controlled substance examinations except examinee-requested retests. The examinee shall pay all reasonable expenses for retests of confirmed positive results.

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

13 NCAC 20 .0602 REASONABLE EXPENSES

"Reasonable expenses for retesting" means:

- (1) the actual cost of the retest charged by the approved laboratory;
- (2) fees assessed by the approved laboratory for expenses associated with the retest. Examples of laboratory expenses include chain of custody procedures and shipping;
- (3) a maximum of fifteen dollars (\$15.00) for the examiner's expenses, if any, to comply with chain of custody procedures related to the retest. The amount of fifteen dollars (\$15.00) for the expenses described in this Item shall be deemed to be a reasonable amount. The examiner may charge more than fifteen dollars (\$15.00) for the expenses described in this item if the examiner proves the actual cost of expenses greater than fifteen dollars (\$15.00); and
- (4) the actual cost of any shipping expenses the examiner incurs related to the retest.

*History Note: Authority G.S. 95-232; 95-234;
Eff. April 1, 2001.*

Appendix

[COMPANY NAME]

N.C. CONTROLLED SUBSTANCE EXAMINATION REGULATION ACT

INITIAL NOTICE TO EMPLOYEES/APPLICANTS

In accordance with our company policy, you have been selected for a _____ controlled substance test (specify "post-accident," "random," etc.). In accordance with 13 NCAC 20.0401, this Notice explains your rights and responsibilities under the N.C. Controlled Substance Examination Regulation Act ("CSERA") (Chapter 95, Article 20 of the N.C. General Statutes) and the corresponding administrative rules (Title 13, Chapter 20 of the N.C. Administrative Code).

- You may refuse this test; however, your job or employment opportunity may be in jeopardy.
• Although applicants may be screened by means of a "Quick Test," any positive results must be confirmed by an approved lab using gas chromatography with mass spectrometry (GS/MS) or equivalent scientifically accepted method before hiring decisions are made.
• Current employees cannot be screened by means of a "Quick Test."
• An approved laboratory must perform testing of samples.
• You can request a "re-test" of any positive sample. Retests must be of the same sample and must be paid for by the employee.
• You can file a complaint with the N.C. Department of Labor – Wage and Hour Bureau at (919) 807-2796 or 1-800-NC-LABOR if you believe procedural requirements of the CSERA were violated. The Department has no jurisdiction regarding an employer's requirement for controlled substance testing or its decisions regarding results of controlled substance testing.

Employee/Applicant

Date

Employer Representative

Title

Disclaimer: The foregoing information is presented solely for the convenience of the reader and is not intended to replace any official source. Under no circumstances shall the Department of Labor be liable for any actions taken or omissions made from reliance on any information contained herein.

[NOMBRE DE COMPAÑÍA]

N.C. ACTO DE REGLA DE LA EXAMINACIÓN CONTROLADA DE LA SUSTANCIA AVISO INICIAL A EMPLOYEES/APPLICANTS

De acuerdo con nuestra política de la compañía, le han seleccionado para _____ a prueba controlada de la sustancia (especifique "después del accidente," "al azar," el etc.). De acuerdo con 13 NCAC 20.0401. este aviso explica las sus derechas y responsabilidades bajo N.C. Controlado Acto de regla de la examinación de la sustancia ("CSERA") (capítulo 95, artículo 20 de la N.C. Estatutos generales) y las reglas administrativas correspondientes (título 13, capítulo 20 de la N.C. Código Administrativo).

- Usted puede rechazar esta prueba; sin embargo, su trabajo o posibilidad de empleo puede estar en peligro.
- Aunque los aspirantes pueden ser defendidos por medio de una "prueba rápida," cualquier resultado positivo se debe confirmar por un laboratorio aprobado usando la cromatografía de gas con el spectrometry total (GS/MS) o el equivalente aceptó científico método antes de que se tomen las decisiones que emplean.
- Los empleados actuales no pueden ser defendidos por medio de una "prueba rápida.
- Un laboratorio aprobado debe realizar la prueba de muestras.
- Usted puede solicitar una "contra-prueba" de cualquier muestra positiva. Las contras-prueba deben estar de la misma muestra y deben ser pagadas para por el empleado.
- Usted puede archivar una queja con la N.C. Departamento del trabajo - la oficina del salario y de la hora en (919) 807-2796 o 1-800-NC-LABOR si usted cree los requisitos procesales del CSERA fue violada. El departamento no tiene ninguna jurisdicción con respecto al requisito de un patrón para la prueba controlada de la sustancia o sus decisiones con respecto a resultados de la prueba controlada de la sustancia.

Employee/Applicant

Fecha

Representante Del Patrón

Título

Negación: la información precedente se presenta solamente para la conveniencia del lector y no se piensa para substituir ninguna fuente oficial. Bajo ningunas circunstancias el departamento del trabajo será obligado para cualquier acción tomada o las omisiones hechas de confianza en cualquier información contenida adjunto.

C O N F I D E N T I A L
[COMPANY NAME]

N.C. CONTROLLED SUBSTANCE EXAMINATION REGULATION ACT
POST-TEST NOTICE TO EMPLOYEES/APPLICANTS

The sample you provided on _____, as required by our company policy and the N.C. Controlled Substance Examination Regulation Act (“CSERA”), has tested positive for _____.

We were notified of this positive result on _____. In accordance with 13 NCAC 20.0402, this Notice explains your rights and responsibilities under the CSERA (Chapter 95, Article 20 of the N.C. General Statutes) and the corresponding administrative rules (Title 13, Chapter 20 of the N.C. Administrative Code).

- You must be given written notice of any positive result of a controlled substance examination within thirty (30) days of employer notification of the positive result.
- You must be given a copy of this Notice or other written notice of your rights and responsibilities regarding re-testing.
- You may request, in writing, a re-test of the above sample at the same or other approved laboratory with ninety (90) days of the date you are notified of the result. You must pay all expenses associated with the re-test.
- Results of controlled substance examinations, medical histories and use of lawful prescription drugs must be kept confidential by the employer.
- You can file a complaint with the N.C. Department of Labor – Wage and Hour Bureau at (919) 807-2796 or 1-800-NC-LABOR if you believe procedural requirements of the CSERA were violated. The Department has no jurisdiction regarding an employer’s requirement for controlled substance testing or its decisions regarding results of controlled substance testing.

Employee/Applicant

Date

Employer Representative

Title

Disclaimer: The foregoing information is presented solely for the convenience of the reader and is not intended to replace any official source. Under no circumstances shall the Department of Labor be liable for any actions taken or omissions made from reliance on any information contained herein.

C O N F I D E N T I A L

[NOMBRE DE COMPAÑÍA]

N.C. ACTO DE REGLA DE LA EXAMINACIÓN CONTROLADA DE LA SUSTANCIA

AVISO DE POST-TEST A EMPLOYEES/APPLICANTS

La muestra que usted proporcionó encendido _____, según los requisitos de nuestra política de la compañía y de la N.C. El acto de regla de la examinación controlada de la sustancia ("CSERA"), ha probado el positivo para _____.

Encendido nos notificaron de este resultado positivo _____. De acuerdo con 13 NCAC 20.este aviso 0402. explica las sus derechas y responsabilidades debajo del CSERA (capítulo 95, artículo 20 de la N.C. Estatutos generales) y las reglas administrativas correspondientes (título 13, capítulo 20 de la N.C. Código Administrativo).

- Usted debe ser dado el aviso escrito de cualquier resultado positivo de una examinación controlada de la sustancia en el plazo de treinta (30) días de la notificación del patrón del resultado positivo.
- Usted debe ser dado una copia del este aviso o del otro aviso escrito de las sus derechas y responsabilidades con respecto a reexaminar.
- Usted puede solicitar, en la escritura, la contra-prueba de la muestra antedicha en igual o el otro laboratorio aprobado con noventa (90) días de la fecha que le notifican del resultado.Usted debe pagar todos los costos asociados a la contra-prueba.
- Los resultados de las examinaciones controladas de la sustancia, de los historiales médicos y del uso de las drogas legales de la prescripción se deben mantener confidenciales por el patrón.
- Usted puede archivar una queja con la N.C. Departamento del trabajo - la oficina del salario y de la hora en (919) 807-2796 o 1-800-NC-LABOR si usted cree los requisitos procesales del CSERA fue violada.El departamento no tiene ninguna jurisdicción con respecto al requisito de un patrón para la prueba controlada de la sustancia o sus decisiones con respecto a resultados de la prueba controlada de la sustancia.

Employee/Applicant

Fecha

Representante Del Patrón

Título

Negación:la información precedente se presenta solamente para la conveniencia del lector y no se piensa para substituir ninguna fuente oficial.Bajo ningunas circunstancias el departamento del trabajo será obligado para cualquier acción tomada o las omisiones hechas de confianza en cualquier información contenida adjunto.

N.C. CONTROLLED SUBSTANCE EXAMINATION REGULATION ACT

FREQUENTLY ASKED QUESTIONS

Q: Are employers required by North Carolina law to conduct controlled substance examinations?

A: No. North Carolina law allows employers to conduct controlled substance examinations within the guidelines of this regulation; however, such examinations are not required.

Q: Does my employer have to have a written policy on drug testing?

A: No. This regulation does not require an employer to have a written policy before conducting controlled substance testing; however, a written policy is essential to a successful drug prevention program. A written policy will set out the expectations of the particular employer and allow employees and supervisors to become familiar with those expectations.

Q: Can my employer require me to take a drug test?

A: Yes. An employer can require an employee or applicant to submit to a drug test as a condition of hiring or of continued employment.

Q: Under what conditions can my employer require that I submit to a drug test?

A: An employer can establish the circumstances and conditions that trigger drug tests, such as post-accident, random, safety-sensitive, pre-employment, follow-up or reasonable suspicion. Although a written policy is not required, use of a company policy to identify the circumstances or conditions helps to remove fears and alleviate employee apprehension.

Q: Can my employer conduct drug tests on the premises?

A: It depends on whether you are a prospective employee (e.g., an applicant for employment), or a current employee. If you are a **prospective employee**, then your potential employer can both collect the sample and conduct the screening test on-site, provided that samples that demonstrate a positive drug test result are sent to an approved laboratory for confirmation. However, if you are a **current employee**, your employer can still collect the sample on-site, but it must then send the sample to an approved laboratory to perform the screening test.

For purposes of CSERA, “on-site” means any location other than an approved laboratory, such as the employer’s place of business, a hospital, physician’s office, or a third-party commercial site operated for the purpose of collecting samples to be used in controlled substance examinations.

Q: What happens if I refuse to take a drug test?

A: A prospective employer may remove you from employment consideration. Your current employer may elect to terminate employment.

Q: Can my employer refuse to use the sample provided for controlled substance testing?

A: If the employer has reason to believe that the sample has been adulterated (diluted or contaminated), the employer can refuse that sample for testing. Methods used to determine adulteration include: observation, temperature of sample, pH of sample and specific gravity of sample.

Q: Is parental consent required prior to a drug test for employees who are less than 18 years of age?

A: Parental consent is not required by CSERA; however, employers may wish to consult with their attorney before conducting drug tests on minors.

Q: If the parents of a “minor” employee/applicant request the results of their child’s drug test, are employers allowed to provide that information to the parents?

A: Not without the consent of the employee/applicant.

Q: Does the Controlled Substance Examination Regulation Act cover testing for alcohol?

A: No. Alcohol is not listed in N.C. Gen. Stat. §90-87(5) as one of the drugs that can be tested under this law.

Q: What are the reasons an employer may be found in violation of this statute?

A: Since this statute deals primarily with the procedures to be used when conducting drug tests, employers are generally cited for violations of the procedures relating to collection, chain of custody, on-site versus approved laboratory testing of samples, failure to notify employees or applicants of their rights and responsibilities at the time of testing and upon receipt of a positive test, and failure to maintain the confidentiality of an employee/applicant’s controlled substance examination.

Q: Who should I call/contact if I have questions about the drug testing laws and regulations or to file a complaint against my employer for violations of the drug testing laws?

A: You should contact the N.C. Department of Labor – Wage and Hour Bureau at (919) 807-2796 or 1-800-NC-LABOR (1-800-625-2267) with questions or to file a complaint.

Q: What can an employee/applicant do if he/she believes the “positive” result is based on the use of a legal or prescribed substance?

A: The employee/applicant can request a retest of that sample and insure that the laboratory is aware of the use of the legal or prescribed substance. The confirmation testing methodology required by this statute is sensitive enough to determine whether or not the tested sample actually contains the drug/substance that initially provided the positive result.

Q: How can I determine if the laboratory used for testing my sample is an “approved” lab?

A: Approved labs must be certified by either the U.S. Department of Health and Human Services, (301) 443-6014, or the College of American Pathologists, 1-800-323-4040.

Q: What happens to employers who are found to have violated the requirements of the controlled substance testing law?

A: Employers who are found in violation of the requirements of CSERA and the corresponding administrative rules are subject to a penalty of up to \$250 per employee/applicant; the maximum penalty that can be assessed in a single investigation is \$1,000.