

## Frequently asked questions

### Supplementary information

#### Canadian Model for Providing a Safe Workplace – Version 6.0 – July 1, 2018

The purpose of the Canadian Model for Providing a Safe Workplace (Canadian Model) is to contribute to a safe workplace for all workers by reducing the risks associated with the inappropriate use of alcohol and drugs. This supplementary information is intended to help create awareness and enhance understanding of the Canadian Model. If there is any lack of clarity or apparent conflict between the supplementary information and the Canadian Model, the terms of the Canadian Model Version 6.0 shall prevail. For more information, visit [coaa.ab.ca](http://coaa.ab.ca) and [EnergySafetyCanada.com](http://EnergySafetyCanada.com).

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Below is a list of frequently asked questions relating to the Canadian Model. Click on a heading to go directly to that group of answers. Note that all references in this document refer to the Canadian Model. As well, a number of terms have been assigned specific meanings. Please refer to section 6.0 in the Canadian Model for definitions.

**CLICK HERE TO VIEW THE CANADIAN MODEL v6**

Issued: July 1, 2018

#### General questions

1. What is the Canadian Model?
2. Why do we need alcohol and drug guidelines?
3. How is the Canadian Model kept up to date?
4. Is there a Canadian Model help desk?
5. Is there a presentation on the Canadian Model and/or an expert who can speak about treating and managing substance issues with employees?
6. Can my organization adopt the Canadian Model and list it as a best practice for third-party prequalification databases?
7. Can I get help if I think I have an alcohol or drug problem?
8. What is a recognized rehabilitation program?
9. Is followup testing required for rehabilitation?
10. What happens to self-referrals to employee assistance services?
11. Will I get fired if I have an alcohol or drug problem?
12. What if someone I know at work has an alcohol or drug problem?
13. What are the issues for companies and employees regarding providing alcohol at social functions?
14. Why are we using the U.S. Department of Transportation (U.S. DOT) standards for testing of Canadian workers?
15. Where can a copy of the U.S. DOT standards be obtained?
16. Why is this guideline called the Canadian Model? Is it endorsed in provinces other than Alberta?
17. Where can I get more information on safety and workplace alcohol and drug issues?

### **Testing questions**

18. What are the requirements for drug testing laboratories?
19. What are the requirements for breath alcohol testing?
20. What are the requirements for alcohol and drug sample collection?
21. Am I able to send samples for lab analysis only when the initial point of collection test (POCT) results are non-negative?
22. Does the Canadian Model state that post-incident testing and reasonable cause testing be done only by urinalysis?
23. Why is oral fluid testing not permitted for site access testing?
24. What are the criteria for collecting POCT oral fluid samples?
25. Why are there various levels or standards for testing for alcohol? For example, if the level for impaired driving is 0.08 grams of alcohol per 210 litres of breath, why does this model use 0.04 grams of alcohol per 210 litres of breath?
26. If the cut-off level is 0.040 grams per 210 litres of breath in the policy, why is there a need for confirmation testing at 0.020 grams per 210 litres of breath?
27. Which test meets Canadian Model standards – breath alcohol test or ethanol urine test? Is one more accurate than the other? Are both tests required to meet Canadian Model standards?
28. Can I challenge a positive test?
29. Can the company test me for other drugs besides those listed, or test for other medical purposes?
30. Is hair follicle testing appropriate for managing on-site safety risks?

### **Reasonable cause questions**

31. What are reasonable grounds?
32. How should reasonable grounds be documented under section 4.3.1 (i.e. non-compliance due to use, possession, etc.) and section 4.4 (i.e. non-compliance due to observed conduct)?
33. Is reasonable cause alcohol and drug testing appropriate if an employee leaves for the day at the end of the shift, returning the next morning?
34. Can employees suspected of alcohol and drug possession be searched during work hours?
35. Does section 3.1(c) mean that a simple refusal by an employee to confirm whether they are in compliance (i.e. not using, in possession, selling) is grounds for discipline, including dismissal?
36. Explain the term “use” as it relates to section 3.1(a). Why is “distribution” not included?

### **Post-incident questions**

37. Is there a threshold that determines whether an incident or accident warrants post-incident testing?
38. How soon after an incident or near miss should a request for alcohol and drug testing be made?
39. Where in the Canadian Model can details be found regarding testing of more than one employee who is involved in an incident on the job? For example, if a vehicle backs into a parked car, should the driver and the spotter be tested?
40. When an injured worker is hospitalized, can a physician be requested to perform an alcohol and drug test? Are hospitals equipped as collection sites? How do the test results get to the employer?
41. Explain the term “fitness-for-work” as it is used in section 4.9.2.
42. When should the police become involved and to what level?

### **Non-prescription medications, prescription medications and medical marijuana questions**

43. Do I have to report any non-prescription medication I take, such as cold, flu, allergy or headache medications?
44. How can I find out about the effects and side effects of medications prescribed for me?
45. What are the policies and procedures stated in the Canadian Model for prescription drugs, including medical marijuana?
46. How should organizations be preparing for the legalization of marijuana?

## **Communications / records questions**

47. Does the Canadian Model require that all positive drug test results receive medical review officer review? Can the designated company representative receive that result directly from the lab?
  48. Should the site owner be provided with the alcohol and drug test results from employees of contractors?
  49. If there is a repeat violation of section 3.1(b) after a person is back on site under a return-to-work agreement (i.e. strike two), does the employer have the right to terminate? Is the employer obligated to go through the whole process again?
  50. How long do records of alcohol and drug test results need to be retained? Is there a recommended time, a mandatory time or no limit?
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## **General questions**

### **1. What is the Canadian Model?**

The Canadian Model for Providing a Safe Workplace is a best practice alcohol and drug policy that stakeholders across Canada can adopt and follow as an integral part of an overall safety and loss management policy. Its purpose is to contribute to a safe workplace for all workers by reducing the risks associated with the inappropriate use of alcohol and drugs.

### **2. Why do we need alcohol and drug guidelines?**

As individuals, we may hold varying opinions about the use and the personal or societal impact of alcohol and drugs and make our own lifestyle choices accordingly. Regardless of a person's opinion, the fact is that alcohol and drugs can adversely affect an individual's mental and physical abilities. That fact presents an obvious and real concern for companies that are committed to providing employees with a safe workplace.

In addition, there may be certain requirements, either through regulations or owner and industry standards, that require guidelines and policies.

### **3. How is the Canadian Model kept up to date?**

The Canadian Model is updated by a committee of industry stakeholders and experts that is led by the Construction Owners Association of Alberta (COAA) and Energy Safety Canada. The most current Canadian Model, Version 6.0, was updated as of July 1, 2018. COAA and Energy Safety Canada have committed to ongoing stewardship and reviews of the Canadian Model, in consultation with industry stakeholders.

The Canadian Model Committee continuously monitors the evolving situation with respect to alcohol and drug safety in the workplace, including any updates from the U.S. Department of Transportation (U.S. DOT). The U.S. Drug Testing Advisory Board has been deliberating for some time regarding a number of issues, including the standard drugs being tested (e.g. the addition in 2018 of four synthetic opioids). As consensus emerges, the Canadian Model Committee will reconvene to consider how future changes should be incorporated into the Canadian context. At the present time, no review timeline has been set.

### **4. Is there a Canadian Model help desk?**

The Canadian Model is developed and updated by a committee of volunteer experts. Staff in the COAA and Energy Safety Canada offices do not have technical expertise and are, therefore, only able to answer basic questions about the Canadian Model. The answers to questions asked over the years are collected in this document as a resource for all users.

5. **Is there a presentation on the Canadian Model and/or an expert who can speak about treating and managing substance issues with employees?**

As the Canadian Model is updated by a committee of volunteer experts, there is no one available to speak or provide a presentation on the topic, and the COAA and Energy Safety Canada have no staff expertise in that area.

However, at most of the annual COAA Best Practices Conferences (held in Edmonton each May), a workshop is conducted on issues of current interest to users of the Canadian Model. This workshop is an excellent learning opportunity and also provides participants a chance to interact with experts. [Click here](#) for information about the conference. Additionally, supplemental information is available regarding the Canadian Model, and can be found at [coaa.ab.ca](http://coaa.ab.ca) and [EnergySafetyCanada.com](http://EnergySafetyCanada.com).

6. **Can my organization adopt the Canadian Model and list it as a best practice for third-party prequalification databases?**

The Canadian Model is freely available as a model policy to be adopted by COAA members, Energy Safety Canada members and other companies. Adopting means making the generic policy part of the company's policies (i.e. signed off by a senior executive, included in the company's policy manual, communicated to employees, etc.). In other words, the model policy would become the company's policy and would guide the company's procedures and actions.

Typically, third-party prequalification databases accept such company policies when there is evidence of effective adoption and implementation. Two cautions:

- Be sure you are working with the most current version of the Canadian Model (at the time of writing, Version 6.0 – July 1, 2018). Visit [coaa.ab.ca](http://coaa.ab.ca) or [EnergySafetyCanada.com](http://EnergySafetyCanada.com) for updates.
- As companies adopt the model policy, typically non-substantive customizations must be made to "fit" the policy to the specific circumstances of the company (e.g. when and to whom the policy applies, who the designated employer representatives are, what the procedure is for one-up consultations, etc.). It is very important that your company seek legal and other expert advice to confirm that the as-modified company policy is legally defensible in the context of your own work site. The independent legal opinion on the model policy (Appendix D of the Canadian Model) provides a good starting point for the legal review.

7. **Can I get help if I think I have an alcohol or drug problem?**

Yes. You can access the employee assistance services program made available by your company or union or labour provider for personal counselling.

8. **What is a recognized rehabilitation program?**

A recognized rehabilitation program would be any substance abuse treatment program recommended by a substance abuse expert. In general, a physician, a social worker, an employee assistance services plan, a company occupational health department, or company human resources department can direct individuals to a recognized rehabilitation program.

9. **Is followup testing required for rehabilitation?**

Normally, the substance abuse expert will make the determination of followup testing as part of the recommended treatment program.

10. **What happens to self-referrals to employee assistance services?**

Self-referrals are confidential between the employee and the provider of the employee assistance service as long as the employee complies with the terms and conditions of the treatment program and the employee presents no safety risk to the employee or others at the workplace.

11. **Will I get fired if I have an alcohol or drug problem?**  
The Canadian Model states that self-referrals will not compromise employment. If you have a problem and are found to test positive after being tested for cause, you will be subject to the company's discipline and/or discharge policies.
12. **What if someone I know at work has an alcohol or drug problem?**  
Every individual at a workplace has a personal responsibility to ensure the safety of themselves and others. Part of that responsibility would be to encourage and help that individual seek assistance through an employee assistance service or a supervisor. If that individual is putting himself/herself or others in danger, you have a responsibility to report that individual to your supervisor or leader.
13. **What are the issues for companies and employees regarding providing alcohol at social functions?**  
There are both corporate and legal issues to this question.
- **The corporate issue** – Companies that have alcohol and drug policies should be aware that offering alcohol at company events may be perceived by employees as inconsistent with the policy. Therefore, a company with an alcohol and drug policy may want to be more selective about when it will provide alcohol at company functions.
  - **The legal issue** – An employer who provides alcohol to employees has the same duty at law as a tavern-owner, namely to ensure that no employee is too impaired to drive and, if impaired, does not have access to a vehicle.
14. **Why are we using the U.S. Department of Transportation (U.S. DOT) standards for testing of Canadian workers?**  
The U.S. DOT standards are a rigorous set of procedures and protocols for employment-related drug testing. They were developed to ensure fair and reliable testing of workers covered by the U.S. mandatory drug testing legislation. Canada, of course, has no mandatory drug testing. The U.S. DOT standards have been mandated for the Canadian Model to ensure quality testing and legal defensibility of results.
15. **Where can a copy of the U.S. DOT standards be obtained?**  
Copies of the standards may be obtained from laboratories that are certified to perform testing under the U.S. DOT standards. Alternatively, the standards can be found on the Internet.
16. **Why is this guideline called the Canadian Model? Is it endorsed in provinces other than Alberta?**  
The model policy is called the Canadian Model because, while based on a recognized standard developed by U.S. DOT, it has been adapted for use in this country. In addition to construction and oil and gas companies, the multi-stakeholder consultation process included groups such as the Progressive Contractors Association of Canada, Christian Labour Association of Canada and Canada's Building Trade Unions. The Canadian Model is not formally endorsed by any provincial or other level of government in Canada. It is being applied beyond Alberta by some companies that have operations in other provinces or territories.
17. **Where can I get more information on safety and workplace alcohol and drug issues?**  
Links to other education and awareness resources are provided on the COAA and Energy Safety Canada websites at [coaa.ab.ca](http://coaa.ab.ca) or [EnergySafetyCanada.com](http://EnergySafetyCanada.com).

## **Testing questions**

### **18. What are the requirements for drug testing laboratories?**

Section 4.8.1 of the policy requires:

- That a laboratory, as defined in the policy, be retained, and
- That the testing be conducted in accordance with the applicable provisions of the current U.S. DOT Workplace Drug and Alcohol Testing Programs.

Section 6.1(n) defines laboratory as follows: A laboratory providing urine-based drug testing services or oral fluid-based testing services must be certified by the United States Department of Health and Human Services under the National Laboratory Certification Program. A laboratory providing oral fluid-based drug testing services must ensure that the oral fluid-based testing be performed in such a manner that:

- Acceptable forensic practices and quality systems are maintained
- Specimen validity testing is deployed
- Regular independent audits occur, and
- Proficiency test samples are included.

A list of such certified laboratories is updated monthly at <https://www.transportation.gov/odapc/labs>. Quite simply, if a laboratory is on the list, it is satisfactory for the purposes of the Canadian Model. If it is not on the list, it is not compliant with the policy.

### **19. What are the requirements for breath alcohol testing?**

Similarly, section 4.8.1 requires that alcohol testing be conducted by personnel in accordance with the standards and procedures in the U.S. DOT Workplace Drug and Alcohol Testing Programs.

Breath and oral fluid alcohol testing devices must be listed on the National Highway Traffic Safety Administration's (NHTSA) conforming products lists:

- The list for screening devices is at <https://www.transportation.gov/odapc/Approved-Screening-Devices-to-Measure-Alcohol>
- The list for evidentiary devices is at <https://www.transportation.gov/odapc/approved-evidential-breath-testing-devices>

These devices must also meet the function requirements outlined in the U.S. DOT rules and regulations.

### **20. What are the requirements for alcohol and drug sample collection?**

There are a number of requirements for collection sites and personnel, some of which are highlighted in Appendix A of the Canadian Model. Some of those are as follows:

- Technicians must meet the requirements of the relevant provisions of the U.S. DOT Workplace Drug and Alcohol Testing Programs
- Oral fluid collection devices must collect sufficient volume for a retest to be conducted if requested by the donor
- Urine fluid collection specimens must be split into two specimen bottles with tamper-evident seals
- Sample documentation and chain of custody procedures must be followed rigorously
- In respect of any collection that may be incomplete or determined to be a refusal, the collection site person must promptly document all circumstances and details respecting the collection effort and the reasons it was incomplete.

Employers are encouraged to engage in regular discussions with their service providers to ensure the rigorous requirements set out in the Canadian Model are met or exceeded.

21. **Am I able to send samples for lab analysis only when the initial point of collection test (POCT) results are non-negative?**

There are no provisions in the Canadian Model for the use of POCTs for pre-employment, reasonable cause or post-incident tests. All such drug tests must be conducted in accordance with the requirements in the Canadian Model (i.e. using laboratory tests).

Because POCTs are not as accurate as laboratory tests, the Canadian Model provides for the use of POCTs only for the limited purpose of assessing the risk of returning an employee to work while awaiting the results of a laboratory drug test (i.e. while awaiting the receipt of the medical review officer's report). Specifications for the POCT devices that may be used for this limited purpose and the procedures that must be followed are prescribed in section 4.8.5.

22. **Does the Canadian Model state that post-incident testing and reasonable cause testing be done only by urinalysis?**

The Canadian Model contemplates either oral fluid or urinalysis for post-incident and reasonable cause testing: both oral fluid and urine laboratory testing are appropriate. Under section 4.8.2, oral fluid testing is not permitted for site access or follow up as part of return-to-work agreements; these tests must be done by urine laboratory testing.

The only use of POCT (urine-based) is as a risk assessment tool located under section 4.8.5 (there is no provision in the Canadian Model for oral fluid POCT testing).

A distinction should be made between the model policy and individual company policies or collective agreement provisions. For instance, the Canadian Model identifies both urinalysis and oral fluid analysis testing for post-incident, reasonable cause and random triggers. However, many collective agreements with the Building Trades of Alberta require oral fluid testing for post-incident, reasonable cause and random triggers.

23. **Why is oral fluid testing not permitted for site access testing?**

The Canadian Model Committee decided that oral fluid testing should not be used for tests where the worker has advance knowledge (e.g. pre-access testing and testing required under a return-to-work plan). The use of laboratory oral fluid testing has been approved for post-incident, reasonable cause and random testing.

24. **What are the criteria for collecting POCT oral fluid samples?**

There is no provision in the Canadian Model for oral fluid POCT testing; the reliability of such devices and the accuracy and precision at the model policy cut-off levels are not yet sufficient.

25. **Why are there various levels or standards for testing for alcohol? For example, if the level for impaired driving is 0.08 grams of alcohol per 210 litres of breath, why does this model use 0.04 grams of alcohol per 210 litres of breath?**

Police use a level of 0.08 grams of alcohol per 210 litres of breath as the legal limit for alcohol when operating a motor vehicle. It is recognized that some degree of impairment can occur at much lower levels. Because the operation of large vehicles and equipment in a commercial setting can be more demanding than the operation of a motor vehicle, the acceptable level has been set lower. The U.S. DOT uses a level of 0.02 grams of alcohol per 210 litres of breath as cause to immediately suspend a driver from driving without further disciplinary action; a level of 0.04 grams of alcohol per 210 litres of breath is cause for suspension and disciplinary action.

26. **If the cut-off level is 0.040 grams per 210 litres of breath in the policy, why is there a need for confirmation testing at 0.020 grams per 210 litres of breath?**

Section 3.1(b)(i) of The Canadian Model states that an employee may not report to work, or work with a breath-tested alcohol level equal to or in excess of 0.040 grams per 210 litres of breath. The testing procedures (Appendix A-1, Alcohol breath testing, 7) state that if the breath-tested result shows an alcohol level at or above 0.020 grams per 210 litres of breath, the breath alcohol technician informs the donor of the need to conduct a confirmation test.

The difference lies in the testing equipment used. When an evidential breath alcohol device is used, the results are accurate and may reliably be compared with the policy limit of 0.040 grams per 210 litres of breath. Breath alcohol devices used for screening tests are not as accurate, so a factor of safety is applied to the policy limit. The screening test can quickly alleviate a concern (below 0.020) or can confirm the necessity (above 0.020) of doing a confirmatory test using an evidential breath alcohol device before any judgment is made regarding compliance or non-compliance with the Canadian Model.

27. **Which test meets Canadian Model standards – breath alcohol test or ethanol urine test? Is one more accurate than the other? Are both tests required to meet Canadian Model standards?**

For alcohol testing, the Canadian Model provides for either breath or oral fluid for the screening test. Only evidentiary-quality breath alcohol testing is appropriate for confirmation. The Canadian Model does not provide for urine testing for alcohol.

28. **Can I challenge a positive test?**

A donor may challenge a positive test by providing a legitimate reason for the positive test when contacted by the medical review officer (MRO). The donor may also request that the MRO arrange for a retest on the split portion of the urine specimen or a retest of the remainder of the oral fluid specimen, at the donor's expense, at an alternative certified laboratory. This request must be made within 72 hours of the employee being notified by the MRO that the original test was found to be positive.

29. **Can the company test me for other drugs besides those listed, or test for other medical purposes?**

A company may choose to test for other drugs but these should be stated in the company's specific policy. The employee should be made aware of the drugs to be included in the testing. No testing for other medical purposes (e.g. pregnancy, AIDS, diabetes, etc.) should ever be performed pursuant to this policy.

30. **Is hair follicle testing appropriate for managing on-site safety risks?**

Hair follicle testing answers one question – did an individual consume alcohol or drugs over the time period during which the hair grew. While growth rates vary, four centimetres of hair can reveal what was in a person's system from approximately 90 days previously to about a week previously (it takes seven to 10 days for a drug to be metabolized and for hair to be grown above the scalp). Hair follicle testing is useful for confirming if an individual has consumed alcohol or drugs over a longer period of time, for instance as part of a relapse monitoring agreement in which an individual has agreed to abstain from use. There are some limitations of this form of testing, including that it:

- Does not tell when an individual consumed alcohol or drugs
- Does not tell if an individual involved in a recent incident had alcohol or drugs in their system at that time
- Does not tell if an individual is currently fit for duty.

## **Reasonable cause questions**

### **31. What are reasonable grounds?**

In a case where an employee is caught distributing, possessing, consuming or using alcohol or drugs at work, an alcohol and drug test is not required to establish a breach of the standards. The act itself constitutes a breach of the standards set by the guidelines.

Appreciating that there may not always be direct evidence of a breach and recognizing that early detection of safety concerns before the occurrence of an accident or incident is the hallmark of effective safety and loss management, testing is encouraged in cases where there are reasonable grounds for a supervisor or leader to believe that an employee may have consumed or used alcohol or drugs at work or may be under the influence of alcohol or drugs.

Reasonable grounds for believing that an employee may be in breach of the standards concerning detectable levels of alcohol or drugs can arise in two general situations.

Firstly, reasonable grounds can exist in a situation where the supervisor or leader observes, overhears or otherwise discovers something that would cause any reasonable person in that situation to believe the employee is in breach of the guidelines, including, for example:

- Where the smell of alcohol is detected on an employee's breath, or
- Where the supervisor or leader overhears a conversation at work in which an employee admits to just having consumed or used alcohol or drugs.

A supervisor or leader in such a case can, but is not required to, question the employee about the observation or discovery to determine whether or not the belief is reasonable. Alternatively, the supervisor or leader can simply request the employee to submit to an alcohol and drug test.

Secondly, reasonable grounds can exist in a situation where the leader has a reasonable suspicion that an employee may be in breach of the guidelines and policy based on observations or discoveries, which are less conclusive and which seem more consistent with a breach of the guidelines than with any other reasonable explanation, for example:

- Where an empty liquor bottle or drugs are found in a vehicle used by the employee
- Where the employee's appearance and behavior strongly suggest that the employee is under the influence of alcohol or drugs, or
- Where the employee's failure to correct a chronic performance problem strongly suggests that the employee may be using or is under the influence of alcohol or drugs at work.

A supervisor or leader in such a case should not request the employee to submit to an alcohol and drug test unless the supervisor or leader has discussed the observations or concerns in question with the employee and has given the employee an opportunity to provide an explanation. If the explanation provides additional information that causes the supervisor or leader to conclude that the employee has not breached the guidelines, then the employee should not be required to submit to an alcohol and drug test. However, if the employee's explanation does not dispel or contradict the supervisor or leader's suspicion, then the employee should be tested.

32. **How should reasonable grounds be documented under section 4.3.1 (i.e. non-compliance due to use, possession, etc.) and section 4.4 (i.e. non-compliance due to observed conduct)?**

Reasonable grounds is defined in section 6.1(v). Observations and objective evidence are required before asking the worker if he or she is in possession of alcohol or drugs while on the work site. Immediate observations may include conditions such as slurred speech, glassy eyes, odor, inattentiveness or distracted behaviour. Longer term observations on patterns of behaviour over time may include changes in attendance, personality or personal appearance. The observations and evidence must be documented in writing. Note that, while one-up consultation is not strictly required under 4.4.1, as it is under 4.5.1 and 4.5.4, it is considered to be good practice. Reviewing with the next higher level of management is prudent as a cold-eyes check and to ensure support by the company for supervisor actions.

On the other hand, alcohol and drug issues should not always be the first assumption when subtle changes in behaviour occur over time. Mood swings, emotional outbursts, negativity, long term depression or increased absenteeism might signal the misuse of alcohol or drugs, or they might signal personal stresses such as illness, interpersonal issues or domestic problems. It is important that a supervisor or human resource specialist speak privately with the employee to ask if the employee wishes to seek help and to make sure access is available to employee and family assistance counselling.

33. **Is reasonable cause alcohol and drug testing appropriate if an employee leaves for the day at the end of the shift, returning the next morning?**

Normally, the answer to this question is no. The employer must ensure that an employee to be tested is in the care and control of a supervisor until the test is conducted, to prevent either naive or intentional actions that might affect test results. If delays are lengthy or continuity of care and control is lost, the defensibility and relevance of doing the tests comes into question. Some employer policies include prohibitions on alcohol or drug use for 24 hours or longer after an incident, but this normally is not as defensible as actual supervisory care and control.

The Canadian Model does not include a specific timeframe for a test other than in section 4.5.3, which states that “A supervisor or manager must make a request under section 4.8 as soon as reasonably practicable following an incident.”

34. **Can employees suspected of alcohol and drug possession be searched during work hours?**

Section 4.3.1 requires that if a representative of the company or the owner has reasonable grounds to believe an employee may be in possession of alcohol or drugs while on company property or at a company workplace (i.e. in violation of section 3.1(a)), the representative must request the employee to confirm his or her compliance with the Canadian Model. The representative may request assistance of appropriate authorities in doing so. It is a violation of the Canadian Model if the employee refuses to comply with the request.

35. **Does section 3.1(c) mean that a simple refusal by an employee to confirm whether they are in compliance (i.e. not using, in possession, selling) is grounds for discipline, including dismissal?**

Yes. If the employer has reasonable cause for asking the question, then under the Canadian Model the worker must comply with the request or be determined to be in non-compliance with the policy. The consequences of non-compliance are specified under section 5.1.

36. **Explain the term “use” as it relates to section 3.1(a). Why is “distribution” not included?**

“Use” includes on-site personal consumption of alcohol or drugs; “distribution” is implied in “offer for sale.”

## **Post-incident questions**

**37. Is there a threshold that determines whether an incident or accident warrants post-incident testing?**

All incidents or near misses, as defined in 6.0(m), which cause or have potential to cause serious injury or damage provide cause for testing. If there is objective evidence to believe that the use of alcohol or drugs was not a factor in the occurrence, then the requirement for testing may be waived.

**38. How soon after an incident or near miss should a request for alcohol and drug testing be made?**

The request should be made as soon as practicably possible, after taking such steps to ensure the safety of the workplace and all people in the vicinity. The reasons for any delay should be documented. If the testing does not occur within eight hours for alcohol testing or within 32 hours for drug testing, the relevance of the test results will be diminished.

**39. Where in the Canadian Model can details be found regarding testing of more than one employee who is involved in an incident on the job? For example, if a vehicle backs into a parked car, should the driver and the spotter be tested?**

Following an incident, an investigation is required. The Canadian Model poses three questions:

1. Was there an actual "incident," as defined in 6.0(m)?
2. Are there reasonable grounds to believe that an employee was involved (section 4.5.1)? An employee is involved if, by his or her action or inaction, or decisions or failure to make decisions, he or she could have been part of the cause of the incident. In the example given, it is probable that both the driver and spotter were involved in the collision of a reversing vehicle.
3. Is there objective evidence (section 4.5.4) that leads to the conclusion that alcohol and drugs can be ruled out as a causal factor?

The answers to these questions, together with the one-up consultation, would determine which, if any, employees must be tested in the wake of an incident.

**40. When an injured worker is hospitalized, can a physician be requested to perform an alcohol and drug test? Are hospitals equipped as collection sites? How do the test results get to the employer?**

If the worker is injured to the extent that hospitalization is required, it is generally inappropriate for the employer to ask for alcohol and drug testing. The employer's primary concern must always be for the well-being and health of the employee and his or her family. At this point, compassion and empathy from an employer are more important than trying to determine if the use of alcohol or drugs was a factor in an incident.

The attending physician's responsibility and priority is first and foremost with his or her patient. The doctor, and by extension the hospital, will rightfully focus on the immediate needs of the injured worker. If an employer requests that an alcohol and drug test be conducted in the hospital, it is highly unlikely that the doctor or hospital would provide it. Further, even if a sample was collected, hospitals are generally not familiar with the chain of custody, analysis and reporting protocols of the Canadian Model.

41. **Explain the term “fitness-for-work” as it is used in section 4.9.2.**

The fitness-for-work assessment referred to in section 4.9.2 is not a particular methodology, such as the substance abuse expert assessment or a physical demands analysis (although the latter could, in some circumstances, be a consideration). Rather, it is a risk assessment, normally in consultation with a physician or another person with relevant medical expertise, as to whether the employee’s work assignment can be performed safely with the employee continuing to use the prescription or non-prescription medication as directed or prescribed, or if not, what work, if any, can be performed safely while using the medication. This has, since the inception of the model policy, been an obligation for supervisors and managers in receipt of a safety advisory or when privy to a disclosure pursuant to section 3.2.

42. **When should the police become involved and to what level?**

Whether the police may be involved depends on the specific situation. First person observations or reports that an individual has been selling in the workplace would warrant consultation with the police before confronting the individual. In cases of alcohol use by one or two individuals on site, police involvement is normally not needed.

Judgment is necessary for situations on the spectrum in between. In the event that a person suspected of alcohol or drug use insists on operating a vehicle to leave the site, every effort to dissuade the person should be made and the police should be notified immediately if the efforts fail.

**Non-prescription medications, prescription medications and medical marijuana questions**

43. **Do I have to report any non-prescription medication I take, such as cold, flu, allergy or headache medications?**

Any medication, prescription or non-prescription, that may affect a worker’s ability to perform his or her job safely must be reported. Other medications that do not affect a worker’s ability to perform his or her job safely need not be reported. Any medications or medical information reported will be treated as confidential.

44. **How can I find out about the effects and side effects of medications prescribed for me?**

The effects and side effects of prescription medications are usually provided by pharmacies. Effects and side effects of non-prescription medications are also provided with medication. More information can be obtained from your pharmacist or physician. Workers are advised to make their physicians or pharmacists aware of their safety-sensitive occupation and other medications they may be taking.

45. **What are the policies and procedures stated in the Canadian Model for prescription drugs, including medical marijuana?**

As a point of clarification of the question, marijuana is not prescribed in Canada. Rather, there is a legal framework that authorizes possession and use but may place limits on the form and amount of the substance.

For most organizations and industrial work sites in Alberta, workers are required to pass a site access alcohol and drug test. In the event the lab result is positive, the medical review officer (MRO) will engage in discussion with the worker to determine if there is a medical explanation for the positive results.

For a worker employed on site, if he or she is in possession of any prescription or non-prescription drug that has potentially unsafe side effects, section 3.2(b) requires that the worker must notify their supervisor or manager before starting work. An informed decision can then be made, possibly with the assistance of an occupational physician, about appropriate work assignments.

When a worker has authorization to use marijuana in respect to a health condition, it is likely that an occupational physician will be asked to individually assess the worker to determine whether he or she can safely perform work in a safety-sensitive environment. A number of factors will be considered by the physician, including specific information about the tasks and the work environment.

Fundamentally, the Canadian Model is concerned with elevated workplace safety risks when alcohol and drug levels exceed the limits specified in section 3.1(b). A valid medical reason does not by itself reduce the safety risks, therefore, the test result must be reported to the employer, so they can then take appropriate action to protect the safety of that worker and others on the work site.

In the United States, the U.S. DOT directs the MRO not to accept a physician's recommendation for use of marijuana as a valid medical reason to overturn a positive laboratory test. In Canada, there is no specific regulation, making it less cut and dry. If such a test were to be reported as a negative test, it must be accompanied by a safety advisory requiring medical evaluation for fitness to work.

The independent medical opinion in the Canadian Model (Appendix E) is a valuable initial resource when considering potential safety risks arising from the use of prescription or authorized medications.

**46. How should organizations be preparing for the legalization of marijuana?**

In the absence of new science-based evidence on marijuana use and attendant workplace safety risks, there is no rationale to change the Canadian Model upon the legalization of marijuana in Canada – either the drug panel maxima or the overarching principle.

The Canadian Model states, as part of the alcohol and drug work rule, that “An employee shall not ... report to work or work ... while the employee's ability to safely perform his or her duties is adversely affected because of the use of alcohol and/or drugs, whether prescription drugs or non-prescription drugs, lawful or unlawful.” The overarching principle of the Canadian Model is that workers, as well as supervisors and companies, are responsible for ensuring that fellow workers are not placed at unacceptable risk due to potential safety deficits, whether from cocaine, marijuana or prescription pain medication.

Employers can be proactive in educating their workers that very little will change with respect to work site safety once marijuana is legalized. Additionally, it will be helpful to educate workers about the workplace safety risks associated with marijuana use. Ensuring supervisors have current training, with respect to employee observation and response, and reminding employees of the availability of employee assistance programs, are worthwhile efforts at any time.

Both employers and employees who are interested in learning more can access an authoritative review of marijuana facts by Dr. Brendan Adams, posted on the CLR-A website at <https://clra.org/p/marijuana+and+the+safety+sensitive+worker>.

## Communications / records questions

47. **Does the Canadian Model require that all positive drug test results receive medical review officer review? Can the designated company representative receive that result directly from the lab?**

Sections 4.8.1 and 4.8.2 require the employer to retain a laboratory as defined by the Canadian Model. Appendix A: A-2 Drug Testing describes the steps to be taken by the laboratory to communicate test results to the company's MRO. Section 4.9 of the Canadian Model requires that all non-negative test results be reviewed by an MRO who will make the final determination whether the test is positive, negative, negative with safety advisory, refusal to test, or cancelled with or without further direction. The MRO will then provide a confidential written report to the designated employer representative.

48. **Should the site owner be provided with the alcohol and drug test results from employees of contractors?**

The employee's test results must only be disclosed to a person who needs to know the results in order to discharge an obligation under the Canadian Model (i.e. the direct employer of the employee and not the site owner). Under sections 5.4 and 5.5, owners and bargaining agents/labour providers may also exercise a role under the Canadian Model: to fill those roles, they need to know only that a violation of the Canadian Model occurred, not the details of the test results.

49. **If there is a repeat violation of section 3.1(b) after a person is back on site under a return-to-work agreement (i.e. strike two), does the employer have the right to terminate? Is the employer obligated to go through the whole process again?**

The answer to this will be determined by the specific provisions of the person's return-to-work agreement.

50. **How long do records of alcohol and drug test results need to be retained? Is there a recommended time, a mandatory time or no limit?**

Records retention has not been addressed in the Canadian Model. There are several considerations that an employer may weigh when deciding to retain alcohol and drug test results for shorter or longer periods:

- **Privacy legislation** – Requires an employer to only maintain records for as long as reasonably necessary for legal or business purposes. Consult your corporate privacy officer or human resources specialist to confirm your company-specific timelines.
- **Legal considerations** – Employers should review their retention policies to ensure they are retaining records in accordance with any statutory requirements and for as long as necessary for the purposes of any legal proceedings.

Records should include items such as documented reasons for asking for an alcohol and drug test, referral to a substance abuse expert, referral and followup through an employee and family assistance program and return-to-work conditions.