



ISSUE MEMORANDUM

DATE	August 4, 2009
TO	SB 1441 Substance Abuse Coordination Committee
FROM	SB 1441 Uniform Standards Staff Working Group Kim Madsen, BBS and Anne Sodergren, Pharmacy
SUBJECT	SB 1441 Uniform Standard #8

SB 1441 REQUIREMENT

(8) Procedures to be followed when a licensee tests positive for a banned substance.

DRAFT UNIFORM STANDARD #8

The procedures below shall be followed when a licensee tests positive for a banned substance:

1. Communication with the board probation coordinator or recovery program if applicable;
2. Confrontation of the licensee;
3. Communication with the employer and worksite monitor, if applicable;
4. Communication with any treatment provider including support group facilitator.

Based on information gathered, at least one of the procedures below shall be followed in response to a positive test for a banned substance:

1. Pursue administrative options include revocation and/or suspension
2. Require participation in inpatient and/or outpatient treatment
3. Increase frequency of testing
4. Practice restrictions e.g. increased level of supervised practice, limit the scope of duties.
5. Removal from practice for the purpose of assessment.

DISCUSSION

The workgroup considered the circumstances in which a licensee would be subjected to testing either through the terms/conditions set forth in a disciplinary order or in a recovery program contract. The workgroup was cognizant that in either of these circumstances specific consequences for a positive may already be specified.

Written comment was received from Kaiser Permanente Northern California Division Physician David Pating and Kaiser Permanente Southern California Division Physician Stephanie Shaner. Both Dr. Pating and Dr. Shaner requested that the option of removing the licensee from practice for the purpose of assessment be added to the standard.

Public comments received during the public hearing indicated support for inclusion of this option.

The workgroup determined that adding the option of removing a licensee from practice for assessment was appropriate.

Elinore McCance-Katz M.D., PhD provided written comments regarding the use of a Medical Review Officer (MRO) to interpret the results of the test, if necessary. Dr. McCance-Katz stated that it was extremely important that the boards understand what a MRO does. Dr. McCance-Katz explained that if a urine test is positive for a prohibited substance (e.g. Oxycodone in a licensee who is opioid-addicted); a MRO would look into this and if the MRO found that the licensee had a valid prescription; it would be called a negative screen.

Further, Dr. McCance-Katz stated that a health care professional with addiction is not to use prohibited substances, prescribed or not, if they are working in their profession. Dr. McCance-Katz suggested a better approach would be to have a medical director for these monitoring programs who have MRO experience, but understands the nature of addiction in healthcare professionals and can attend to public safety.

Dr. McCance-Katz also suggested adding the option of immediate cessation from practice if a licensee was practicing their healthcare profession. The cessation of practice would remain in place until an assessment is completed and recommendations were reviewed and considered by the Board.

The workgroup considered the comments of Dr. McCance-Katz relating to the use of a MRO. The Use of an MRO is to determine if a positive drug test can be attributed to another cause other than ingestion of a prohibited substance.

PROS

The procedures recommended by the workgroup are ones that can be followed in cases which a disciplinary order or recovery program contract exist. Moreover, the procedures provide boards with consistent options when responding to a positive test; ensuring consumer protection.

CONS

Due to statutory conflict, some boards will need to make statute changes to coincide with uniform standard #8.