



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

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COMMISSIONER

**MEMORANDUM**

TO: Licensed Child Care Providers  
FROM: Lois Barrett Luke, Director of Child and Adult Care Licensing  
CC: Child and Adult Care Licensing Staff and Partners  
Barbara West Wall, Director of Child Care Services  
DATE: June 3, 2009  
RE: **New Drug Testing Requirements – Effective July 1, 2009**

Last summer we notified providers about the new legislation requiring child care agencies, including child care homes and persons providing contract services, to establish a drug testing policy for persons who have direct contact with children. The policy must note that drug testing will occur when there is reasonable suspicion that a person is engaged in the use of illegal drugs. The drug testing policy must include a plan for enforcement actions to be taken by the child care agency when a positive drug test is received and shall also include ways to maintain confidentiality of the results. The new legislation becomes effective July 1, 2009.

Licensing Program Evaluators will monitor for compliance with this law beginning July 1, 2009.

For your information, we have attached a copy of the bulletin to child care licensing staff that includes the specific requirements of the new law along with information about how the Program Evaluators will monitor for compliance.

Note that present law, requiring all child care agency drivers to submit to drug testing prior to the start of employment remains the same. Drivers will continue to submit drug test results before beginning employment; but the new law will allow additional drug tests if there is a reasonable suspicion that a driver may be using illegal drugs at any time.

As stated in the bulletin to staff, the new law does not automatically require you to begin drug testing your employees unless there is reasonable suspicion to request a drug test. The law simply requires you to establish the policy so that you are prepared to do the testing if a reason presents itself.

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As you establish your drug testing policy you will need to locate a reliable drug testing facility. There are many potential testing facilities throughout the state. It is important, however, to be sure that the testing facility is certified (and follows the testing procedures for certification) by:

- i) The College of American Pathologists; and/or
- ii) The National Laboratory Certification Program of the U.S. Department of Health & Human Services. (Note that laboratories certified under this program are commonly referred to as "DOT Labs").

You can check with your local courthouse or law enforcement agency to find a reliable drug testing facility in your area.

If you have questions regarding drug testing and federal and state employment laws, we urge you to consult the Department of Labor & Workforce Development (e.g., the "Drug-Free Workplace Program" and/or the "Wage & Hour division"), the federal Department of Health & Human Services or the Small Business Administration.

Dept. of Labor & Workforce Development:  
<http://www.state.tn.us/labor-wfd/dfwp.html>

US Dept of Health & Human Services/SAMHSA:  
<http://www.samhsa.gov/>

College of American Pathologists:  
<http://www.cap.org/apps/cap.portal>

Small Business Administration:  
<http://www.sba.gov>

If you require any additional information about the new drug testing policy requirements, please contact your Program Evaluator.

**Attachment: CCL Bulletin 09-005: Drug Testing Policy – Effective July 1, 2009**