

## **Fitness for Duty**

**(HC22)**

### **POLICY STATEMENT**

The New Orleans Regional Transit Authority (RTA) is dedicated to providing safe, dependable and efficient transportation services to its passengers and a safe and productive work environment for its employees. To achieve this, RTA is committed to ensuring that its employees are fit for duty, and are able to perform their essential job duties at all times without posing a health or safety risk to themselves, co-workers or the public.

### **PURPOSE**

To establish fitness for duty standards and procedures for assessing employees'/job candidates' ability to perform their essential job duties (with or without an accommodation), without posing a health or safety risk to themselves, co-workers, or the public.

### **APPLICATION**

This policy applies to all RTA employees. If a conflict occurs between this policy and a Collective Bargaining Agreement (CBA), the CBA will prevail.

### **ADOPTED BY:**

The RTA Board of Commissioners on XX/XX/2021, Resolution XX-XXX

### **APPROVED BY:**

---

Alex Z. Wiggins  
Chief Executive Officer

Effective Date: X/XX/2021  
Date of Last Review: X/XX/2021

## **1.0 PROCEDURES**

To assure safety in the workplace and for the public, RTA conducts medical fitness examinations under routine specified situations, or in response to evidence indicating a lack of fitness. All inquiries and examinations are specifically job-related and consistent with business necessity. Under the Genetic Information Nondiscrimination Act of 2008 (GINA), RTA does not seek genetic information from an employee or job-candidate, and requests that none be disclosed during any examination or inquiry.

### **1.1 Systematic Fitness for Duty Examinations**

RTA requires medical examinations for employees and job candidates in the following situations:

- pre-employment, as a condition of hire for safety-sensitive and physically demanding positions, after a job offer is made;
- transfer into a position with different physical requirements;
- before rehire or reinstatement;
- renewal of medical certificate for Commercial Driver's License;
- before returning to work from a non-occupational medical leave of 30 calendar days or longer;
- before returning to work from a military leave of 30 calendar days or longer;
- before returning to work from a serious non-occupational injury or illness requiring hospitalization;
- before returning to work if employee experienced a medical episode that suggests serious potential safety risks including, but not limited to: chest pains, loss of consciousness, dizziness, blurry vision, temporary paralysis, extremely elevated blood pressure, suspected heart attack, suspected sleep apnea, etc.;
- when advised by a Health Care Provider (HCP) or public health official that an employee may pose a risk of spreading a highly contagious, serious disease to co-workers; or
- to comply with Occupational Safety & Health Administration (OSHA).

All RTA-required medical examinations will be administered by a contracted RTA HCP at RTA's expense. Once an employee has begun the exam process at an RTA clinic, the employee must complete the exam at that same clinic. In some cases, an employee may also be required to return to a designated clinic for future examinations.

### **1.2 Special Fitness for Duty Examinations**

Employees must report to work in a physical, mental, and emotional state which enables the employee to perform the essential tasks of his or her work assignment in a manner which does NOT threaten the safety or health of oneself, co-workers, property, or the public at large. Employees are encouraged to notify the manager/supervisor if they observe a co-worker who may not be fit for duty. In cases when the possibly impaired individual is the employee's manager, the employee should notify the next level manager or the Human Capital department.

When managers observe an employee's impaired performance, they should discuss their observations with that employee, recording what they observed and the employee's response. If retraining is appropriate, the manager will arrange for retraining. If a medical evaluation appears appropriate, the manager will refer the matter to the Human Capital department.

RTA may require an employee to undergo a special fitness for duty examination when:

- the employee is having difficulty performing work duties in a manner that is safe for the employee, the employee's co-workers, RTA or the public; or
- the employee poses an imminent and serious safety threat to self or others.

### **1.2.1 Procedure for Special Fitness for Duty Evaluation**

When a Manager/Supervisor observes or is notified of an employee's possible lack of fitness for duty, the manager/supervisor should consult with the Human Capital department. However, if an immediate threat of violence exists, the Manager/Supervisor should call 911 or RTA Security.

1. In consultation with the Human Capital Department, the Manager/Supervisor investigates the circumstances to determine:
  - if there is a reasonable explanation for the employee's behavior;
  - if the Human Capital medical records indicate the employee is already under medical treatment;
  - if the employee should be referred to the Employee Assistance Program (EAP) for an initial assessment and recommendations regarding the need for a fitness for duty examination; or
  - if the risk is sufficiently imminent that it warrants removing the employee from duty immediately, and placing them on paid leave pending examination.
2. Based on the circumstances and information gathered, the Human Capital department may convene a roundtable discussion with the Manager/Supervisor, General Counsel, Employee & Labor Relations Representative, and Risk Management, if applicable. The roundtable will be conducted to review all relevant information regarding the employee and to make a determination as to the appropriate course of action. A fitness for duty

examination may not be used as a substitute for discipline, a performance improvement plan, or performance-based disqualification.

3. If a fitness for duty examination is recommended, the Human Capital department will schedule the employee to take a fitness for duty examination with a contracted RTA HCP. Employees may be required to provide their own relevant medical records to the RTA HCP as part of the examination process.
4. The RTA HCP will determine whether the employee is fit for duty, but will not necessarily establish a diagnosis or definitive cause. He/she may either clear the employee to return to work, or may hold the employee out of service and recommend further examination by a specialist. The examination report is not intended for purposes of treatment and will be limited in scope to information directly related to the employee's ability to safely perform the duties of his/her position.
5. If the employee is referred to a specialist, the employee will be notified in writing; requested to cooperate with the examining HCP; and informed that failure to cooperate will be considered insubordination, and grounds for disciplinary action. RTA will pay for the contracted RTA HCP and specialist examination(s).

### 1.3 Fitness for Duty Determinations

- **Fit for Duty:** The employee will return to work; poor performance will be addressed through alternative means, including potential discipline.
- **Fit for Duty with Restrictions:** If the employee is determined to be fit but has restrictions, the employee may seek reasonable accommodation under the Reasonable Accommodation (HC31) policy.
- **Unfit for Duty:** The employee will be taken out of service and placed on medical leave until the medical problem has been resolved and a follow-up examination indicates fitness has been restored. The employee must use Paid Time Off (PTO), sick time or paid sick leave in accordance with the Paid Time off (HC20), Attendance and Work Schedule (HC1), and Medical Leave (HC39) policies; and the applicable collective bargaining agreement.

**Permanently Unfit for Duty:** If the employee is determined to be unable to return to his or her position, a medical disqualification hearing may be held and an interactive process initiated to determine if another unoccupied position that the employee is qualified to perform and does not create an undue hardship on the organization may be available (see the Reasonable Accommodation (HC31) policy).

These same procedures are applied to determinations based on use medications as described in Section 1.4.

## **1.4 Fitness for Duty and the Use of Prescription and Over-the-Counter Medications**

RTA and the Federal Transit Administration (FTA) recognize that some medical conditions require the use of prescription (Rx) and over-the-counter (OTC) medications that can impair an employee's ability to perform his/her job duties safely. Employees may only use medication with a valid prescription in their own name.

All employees must:

- notify their manager/supervisor when they may not be fit for duty, including impairment from taking medications;
- read medication warning labels and be aware of possible side effects; and
- inform their HCP of their job duties so the HCP can determine if medication would interfere with the safe performance of these job duties.
- Complete the Prescription / Non-Prescription Medication Notification Form
- Any medication that may interfere in an employee's ability to perform their job duties cannot be consumed eight (8) hours prior to the start of the employee's scheduled shift as outlined in RTA's Drug and Alcohol Free Workplace (SAF1) policy

### **1.4.1 Guidelines for Safety-Sensitive Employees**

- Safety-sensitive employees may not perform any safety-sensitive function if their medication carries a warning label that mental functioning, motor skills or judgment may be adversely affected; unless the medication is being used in accordance with the instructions of the HCP who has provided a written determination that the substance will not adversely affect the employee's ability to perform his/her job duties safely. Medications may be used off-duty eight (8) hours prior to the start of the employee's scheduled shift.
- Not all medications pose a risk. The RTA Medication Reporting Form (Attachment 1) lists medications that do not typically cause impairment, and do not need to be reported.
- Any medication not listed on the Medication Reporting Form requires a written determination by the employee's HCP. Employees must take a copy of the form with them to their HCP and have it completed at the time the prescription is given.
- Employees must submit a completed Prescription / Non-Prescription Medication Notification Form any time they receive a new prescription for a medication, including annual prescriptions for medications in continued usage. Employees with Commercial Driver Licenses must bring a copy of their completed reporting form(s) with them to the medical fitness examination.

- Employees must give a copy of the completed and signed RTA Medication Reporting Form to the Human Capital department.
- Managers and supervisors must send all forms to the Human Capital department for review and incorporation into the employee's central medical file.
- If the employee's HCP determination seems contrary to current guidance from the Department of Transportation, the Human Capital department will consult with a RTA-contracted HCP. The employee may be required to meet with this provider to discuss the medication being used, as well as alternatives. The RTA provider's determination, which will be based on safety concerns, will override the determination by the employee's personal HCP.
- An employee, who has not obtained signed authorization from his/her HCP to consume medication with a warning label that indicates potential impairment, may not perform safety-sensitive duties if this medication has been taken within the past eight hours. The Human Capital department may grant a temporary authorization.
- When the employee's HCP determines that the employee cannot safely perform safety-sensitive functions while taking a medication as prescribed, the employee must report this to the manager or supervisor. The employee may not perform safety-sensitive job duties while on the medication. If no other work is available for the employee, he/she may use PTO, sick time or paid sick leave as discussed in Section 1.3.
- Submitting a RTA Prescription / Non-Prescription Medication Notification Form does not exempt an employee from being required to have a fitness for duty evaluation if evidence of impairment exists as outlined in Section 1.2.

#### **1.4.2 Guidelines for Non-Safety Sensitive Employees**

- Non-safety sensitive employees should report medications that may cause an inability to perform their duties on the Prescription / Non-Prescription Medication Notification Form even if they are not required to drive a RTA vehicle or operate heavy machinery.

### **1.5 Confidentiality and Privacy Rule**

- RTA abides by all applicable federal and state regulations regarding confidentiality and privacy. Medical records are kept confidential and secured.
- Information regarding the fitness determination is released to managers and supervisors only on a need-to-know basis.

## 1.6 Consequences for Failure to Comply with Fitness for Duty Policy

- Candidates may be disqualified and not hired for misstatements and/or concealments of relevant medical history and health conditions.
- Employees may be disciplined up to and including termination for misstatements and/or concealments of relevant medical history and health conditions.
- Employees may be disciplined for failure to submit Prescription / Non-Prescription Medication Notification Form on a timely basis.

## 2.0 DEFINITION OF TERMS

**Fitness for Duty Exam** - An examination conducted by a contracted RTA HCP and/or specialist to evaluate an employee's physical and/or mental condition(s) and determine if the employee can safely perform his/her job duties.

**Genetic Information** - Information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history). Genetic information also includes an individual's request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by the individual or a family member of the individual, and the genetic information of a fetus carried by the individual.

**Health Care Provider (HCP)** - A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or podiatrists, dentists, clinical psychologists, optometrists, nurse practitioners, nurse-midwives, clinical social workers, and chiropractors .

**Valid Prescription** - A written authorization by a health care professional licensed to prescribe the use of the medication. The prescription must include the employee's name, the name of the substance, quantity/amount to be dispensed, instructions on frequency and method of administration, number of refills, date medication was prescribed, and length of time medication is prescribed, if applicable. Use of prescriptions more than a year old is not considered valid unless under the specific advice of the HCP.

## 3.0 RESPONSIBILITIES

Employees:

Be aware of medical conditions and implications for job.

- Be aware of possible Rx/OTC medication side effects that may compromise safety.
- Use medications in compliance with prescribed and/or recommended dosage and frequency and timeframe.

- Inform personal HCP of job duties.
- Discuss Rx/OTC side effects and dosages with the prescribing HCP and assure the HCP is aware of medications prescribed by others.
- Read warning labels and be cautious in the use of medications.
- Follow procedures for reporting the use of medications.

Managers/supervisors:

- Apply this policy in a fair and consistent manner.
- Observe, monitor, and document employees for signs of impairment.
- Respect and protect the employee's privacy and confidentiality.
- Consult with Talent Acquisition regarding possible impairment.

Human Capital Department:

- Administer this policy in a fair and consistent manner.
- Respect and protect the privacy and confidentiality of candidates and employees.
- Review Medication Reporting Forms and seek professional medical guidance as needed.
- Select, contract, and schedule evaluations with appropriate licensed HCPs.

#### **4.0 FLOWCHART**

N/A

#### **5.0 REFERENCES**

- Reasonable Accommodation (HC31)
- Drug and Alcohol Free Workplace (SAF1)
- Workplace Violence Prevention (HC3)
- Attendance and Work Schedule (HC1)
- Medical Leave (HC39)
- Paid Time Off (HC20)
- Health Insurance Portability and Accountability Act (HIPAA)
- Genetic Information Nondiscrimination Act of 2008 (GINA)

#### **6.0 ATTACHMENTS**

1. RTA Prescription / Non-Prescription Medication Notification Form

#### **7.0 PROCEDURE HISTORY**

N/A

#### **8.0 SPONSOR DEPARTMENT**

Human Capital