

**Office of Drug Enforcement and Program Compliance
49 CFR Part 40 Interpretation**

Question: Does the medical review officer (MRO) have to personally conduct the verification of a positive drug test result?

Response: Section 40.33(c)(2) states "*The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the employee.... the MRO shall talk directly with the employee before verifying a test as positive*".

The DOT requirement that the MRO be a licensed physician with knowledge of substance abuse disorders (40.33(b)(1)) indicates the importance that the Department placed on this function. The regulatory requirement is that prior to making a final decision to verify a positive test result, the individual is given an opportunity to discuss the test result directly with the MRO. An appropriately medically trained staff person (e.g., a nurse with substance abuse training) may gather information from an employee about the employee's explanation for a positive result. In every case, however, the MRO must talk to the employee before making the decision to confirm a laboratory positive as a verified positive drug test result. No staff person can make this decision for the MRO.