



**Department of Transportation
Office of Drug and Alcohol Policy and Compliance
49 CFR Part 40 Interpretation Notice**

Question: Is an MRO required and/or authorized to release a positive drug test result to any employer or employers other than the employer who ordered the drug test?

Response: The Department's drug testing rule, at 49 CFR Part 40.35, permits disclosure of drug test results to persons other than the employer, employee, or decision maker in a lawsuit or grievance, only with written authorization of the employee. Consequently, an MRO is prohibited, absent written consent from the employee, from releasing a drug test result to an employer or employers other than the employer ordering the drug test. An MRO who did so would be in violation of the rule and, therefore, would not be in compliance with the rule.

Other provisions of Part 40, specifically 40.33(i)(1), permit MROs to release medical information (other than test results) gained during the verification process to third parties (e.g., the employer, a certifying physician, a DOT agency) without employee consent in certain situations. Beginning the verification interview, the MRO would inform the employee that the MRO could transmit to appropriate parties information concerning medications being used by the employee or the employee's medical condition only if, in the MRO's medical judgement, the information indicated that the employee may be medically unqualified under applicable DOT agency rules or would otherwise present a safety hazard. This section does not, however, compel MROs to do so, nor does it not permit disclosure to any employer other than the one ordering the drug test.

Neither section, 40.35 nor 40.33(i)(1), permits, sanctions, or authorizes MRO disclosure of drug test results nor pertinent medical information to an employer or employers other than the one requiring the test. This means that, if you are an MRO and review an employee's drug test for one company, you are prohibited -- absent specific written employee consent -- from providing the information to any other

employer.

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