



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

Question: Can employees who are referred for SAP evaluation be required to waive liability with regard to negligence or malpractice on the part of the SAP?

Response: No. In keeping with the Department's rules regarding other portions of the drug and alcohol testing program, the Department believes that employees may not be required to waive liability with regard to negligence and/or malpractice related to the SAP evaluation, referral, and follow-up evaluation processes, nor to indemnify any person or group for the negligence of others in the SAP process. SAPs, SAP networks, and third party administrators should not ask or require employees to sign any form, statement, or authorization with regard to waiving SAP liability.