

Central Medical Review

840 S. Fairmont Ave.
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Lodi, CA 95240

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(209) 333-1751

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CONTRACT FOR DRUG TESTING AND MEDICAL REVIEW OFFICER SERVICES

THIS AGREEMENT is made between Ben G. Watson, MD, located at 840 S. Fairmont Avenue, Suite 9, Lodi, California hereinafter referred to as MRO, aka Central Medical Review, a random drug testing program and a self-employed Commercial driver hereinafter referred to as DRIVER.

_____	_____	_____	_____	_____
Last name	First name	Middle	Drivers license number DL State	Driver's DOB
_____ (Driver's mailing/street address)		_____ Driver's city	_____ Driver's state	_____ Driver's postal code)
_____ (Company Name)	_____ (DOT number for this company)	_____ (Cell Phone)	_____ (Other Phone)	

WHEREAS:

MRO provides medical review officer services to commercial drivers engaged in drug testing programs, and CMR acts as a Service Agent, Consortium/Third Party Administrator (C/TPA) for employers of safety-sensitive workers, and

DRIVER has requested participation in a program of drugs of abuse testing of commercial drivers and requires medical review officer services which Ben G. Watson MD can provide,

In consideration of the mutual covenants and promises set forth, the parties hereby enter into this agreement, the terms and conditions of which shall apply from the execution date of this contract, NOW THEREFORE, in consideration of the premises and the mutual promises, covenants, and agreements contained herein, the parties agree as follows:

ARTICLE I. Statement of Work

SECTION 1. SCOPE OF SERVICES

- A. The primary medical review officer responsibilities shall be carried out by Ben G. Watson, MD and/or another Medical Review Officer properly certified and qualified as defined by 49 CFR Part 40.
- B. The primary role of the MRO is to review and interpret confirmed positive test results obtained through the DRIVER's testing program. In carrying out this responsibility, the MRO shall examine alternative medical explanations for any positive test results. IF DRIVER who is alleged to be unqualified by reason of a confirmed positive test result shall have available as an affirmative defense, to be proven by the driver through clear and convincing evidence to the MRO, that his or her use of a controlled substance was prescribed by a health care professional who is familiar with the driver's medical history and assigned safety-sensitive functions, the test will not be verified as positive.
- C. Additional roles for MRO and CMR are specifically mandated in conjunction with the establishment of the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse for violations of drugs and alcohol testing, effective January 6, 2020. MRO and CMR are required to enter into the Clearinghouse any violations, including making a determination of refusal to test as defined by regulations. Specific procedures and responsibilities may change as further clarification and guidance are issued by FMCSA, and any understanding herein shall be superseded by any regulatory requirements.
- D. Service agent Central Medical Review (CMR) will maintain a consortium of drivers from whom drivers will be selected at the minimum rate required by Department of Transportation and Federal Highway Administration regulations. Drivers will

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be notified when they are to present at a site for urine collection and/or alcohol testing.

E. Consistent with requirements related to the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse for Drug and Alcohol rule violations, DRIVER shall designate Central Medical Review (CMR) as "Service Agent". Driver will register with the FMCSA Clearinghouse and will provide CMR with "Clearinghouse Queries" acquired from the clearinghouse to perform queries as required.

SECTION 2. MRO INTERVIEW

- A. If the laboratory reports a confirmed positive urine drug test, the MRO will conduct a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors.
- B. The MRO will review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. If, however, MRO determines there is a safety concern regarding medication or health issues, that shall be reported officially to the Designated Employer Representative.
- C. In case DRIVER disagrees with MRO reporting of a violation to Clearinghouse, the appeal process within FMCSA shall be the sole remedy for resolution of the disagreement.

SECTION 3. NOTIFICATION OF SELECTION FOR TESTING

- A. If and when DRIVER is selected for drug testing in conjunction with 49 CFR Part 40 and Part 382, DRIVER will be notified by Certified US mail or commercial courier with tracking of delivery time and person receiving the delivery. Upon receiving notice to be tested, DRIVER shall proceed directly and as immediately as possible to a collection site for testing.
- B. If mail is undeliverable, DRIVER will be notified by telephone that s/he must immediately proceed to testing. If a driver cannot be contacted and has not notified CMR in advance that s/he is not available, MRO shall report a refusal to test.
- C. If DRIVER allows a designated person to receive mail on his/her behalf, that person shall immediately notify DRIVER to proceed directly to a collection site. If the testing is not completed as immediately as possible, CMR shall determine whether the delay constitutes a refusal under DOT regulations. This decision is solely the responsibility of the MRO as required by FMCSA. If testing is not accomplished as immediately as possible, and at most within 72 hours of delivery of the Certified mail or courier package, CMR shall report a refusal to test to the Clearinghouse.

SECTION 4. OBTAINING ADDITIONAL LABORATORY TESTS, REANALYSIS, AND INFORMATION

- A. **SPLIT SAMPLE RETEST PROTOCOL:** If DRIVER requests an analysis of the split sample within 72 hours of having been informed of a verified positive test MRO will direct, in writing, the laboratory to provide the split sample to another SAMSHA certified laboratory for analysis. If the analysis of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split sample is unavailable, inadequate for testing, or un-testable, the MRO will cancel the test and report the reasons for the cancellation to the DRIVER.
- B. In this and other situations where additional testing is needed, DRIVER will be responsible for costs and time required.
- C. The MRO may independently order a reanalysis of a sample.
- D. MRO may order additional laboratory separation and quantitation of d & l isomers of methamphetamine and amphetamine when necessary.
- E. MRO may request, if needed, a quantitative description of test results and maintain same in appropriate files.
- F. MRO may order additional laboratory tests for the purpose of determining adulteration.
- G. MRO will receive and maintain a certified copy of the original chain of custody form which should include a daytime telephone number where the DRIVER may be reached.
- H. MRO may consult with laboratory director and representatives concerning laboratory results.
- I. MRO may cancel laboratory results that do not comply with DOT, or DHHS guidelines.

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SECTION 5. REPORTING RESULTS TO DRIVER

- A. Driver may act as Designated Employer Representative (DER) or may assign the role of DER to another person employed by the driver's company. DER agreement must be reviewed, agreed to, and signed.
- B. The verified results of a controlled substances test will be reported to DER; if positive, the identity of the controlled substance(s) for which the test was verified positive will be reported.
- C. All positive tests reported to the DER by the MRO in which the MRO did not discuss the results with the DRIVER shall be so noted and be accompanied by complete documentation of the MRO's efforts to contact the DRIVER.

SECTION 6: CENTRAL MEDICAL REVIEW REGISTRY

The purpose of Central Medical Review Registry (hereinafter referred to as REGISTRY) is to provide organizations (e.g., contracting carrier, broker, or other entity) to whom DRIVER may wish to contract services evidence of participation in a Drugs of Abuse and Alcohol Testing Program. These organizations will be referred to as EMPLOYERS.

- A. DRIVER shall qualify for membership in CMR REGISTRY if:
 - DRIVER has negative urine drug test performed upon entry to the program, OR
 - DRIVER gives evidence of a negative DOT drugs of abuse test within the prior six (6) months, OR
 - DRIVER gives evidence of participation in a random DOT drug testing program for the continuous prior twelve (12) months, AND
 - pays the necessary fees, AND
 - provides a signed directive for each EMPLOYER.
- A. If DRIVER has a verified positive urine drug test or a positive Breath Alcohol Test, membership in REGISTRY may be continued so long as DRIVER meets with and complies with the program developed by the SAP.
- B. If DRIVER cannot be contacted for taking a test, or for discussion of any confirmed positive result, membership will be discontinued, and all listed EMPLOYERS.
- C. If DRIVER is a member, in good standing, of Central Medical Review REGISTRY, reports will be made to each and every company, carrier, or organization currently listed by and paid for by DRIVER. These reports will include only:
 - That DRIVER is a member of a random drug and alcohol testing program consistent with requirements of the Department of Transportation and Federal Highway Administration requirements.
 - That DRIVER has had a negative drug test upon entering the program
 - Whenever DRIVER tested, the results of the test as verified by MRO.
 - If MRO has determined there is a risk to the safety to the public or DRIVER as in Section 6, Part A, below.
 - Whether the DRIVER has chosen to leave the program, either by failing to renew membership, default of payment, or by written directive.

SECTION 7. CONFIDENTIALITY

- A. In accordance with DOT regulations, the MRO will not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process except, the MRO may disclose such information to the DRIVER has directed MRO to do so as part of Central Medical Review REGISTRY, AND
 - An applicable DOT regulation permits or requires such disclosure, or,
 - In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule, or
 - In the MRO's reasonable medical judgment the information indicates that continued performance by the employee could pose a significant safety risk, or,
 - Disclosure is requested by DRIVER and MRO is provided with a written request and release from DRIVER.

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SECTION 8. MRO RECORD KEEPING AND RECORD RETENTION

- A. The MRO shall be the sole custodian of test results. MRO shall maintain all dated records and notifications, identified by individual, for a minimum of five years for verified positive results.
- A. MRO shall maintain all dated records and notifications, identified by individual, for a minimum of one year for negative and canceled test results.
- B. MRO will not release individual test results to any person, without first obtaining specific written authorization from the tested individual. Nothing in the paragraph shall prohibit MRO from releasing the information to officials of the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances testing program.

SECTION 9. DRIVER RESPONSIBILITIES:

- A. When DRIVER receives notice of a drug and/or alcohol test, DRIVER shall proceed directly to the nearest collection site. MRO will have sole discretion to determine if DRIVER does not meet this requirement of 49 CFR 382.305(h) and therefore has refused to test.
- B. DRIVER must have a collection site and testing facility available immediately wherever DRIVER may be at any time. If DRIVER expects to have specimens collected at locations other than CMR in Lodi, CA, s/he must keep a Custody and Control Form (CCF) from CMR, at all times. Driver must request CCF from CMR whenever it may be needed.
- C. DRIVER shall provide MRO with a current mailing address at all times.
- D. DRIVER shall provide MRO with at least one current telephone number at all times. If DRIVER cannot be reached for testing after reasonable attempts to do so with all available means over a period of 3 days on two separate occasions at least one week apart, DRIVER will be considered to have discontinued enrollment in the program.
- E. If DRIVER is to be unavailable for more than 3 days, AND will not be operating a commercial vehicle during that period of time, MRO must be informed in advance.
- F. If DRIVER is not available for more than 30 days, DRIVER must suspend participation in the program. Upon return to work after such an interval, a pre-employment DOT drug test must be performed as part of re-activating participation.
- G. If MRO is unable to contact an employee for an interview, MRO shall contact DRIVER as soon as practicable by mail and request DRIVER to contact the MRO within 24 hours of receipt of the letter. Lack of response may result in verification of the test as positive for drugs and shall notify Clearinghouse of the result.
- H. If the DRIVER does not come to the Lodi office of CMR for testing, DRIVER is responsible for ensuring the collection practice meets all DOT and/or DHHS requirements for drug testing.
- I. If DRIVER does not come the Lodi office of CMR for testing, DRIVER is responsible to pay for any alcohol testing required at that time.
- J. If post-accident, return-to-duty, or follow-up testing is performed, DRIVER is responsible for the cost. If collection is made at a site other than CMR Lodi CA facility, DRIVER shall pay the site its usual fee for collection. For tests requiring observation of collection, extra charges apply.
- K. DRIVER is responsible for all additional laboratory costs for reanalysis and additional tests.
- L. If DRIVER's test is determined a VERIFIED POSITIVE or a REFUSAL by MRO, DRIVER is to find a Substance Abuse Professional on the Clearinghouse website, to whom DRIVER may turn for evaluation and return-to-work plan. DRIVER alone will be responsible for any costs incurred.
- M. In accordance with DOT guidelines, the following rules will be followed where the MRO or the laboratory has canceled a test:
 - A DRIVER whose urine specimen was submitted for controlled substances testing for pre-employment or return to duty testing, which is canceled by the laboratory or the MRO shall resubmit a urine specimen for testing.
 - A DRIVER whose urine specimen was submitted for testing for post-accident or random controlled substances testing under this policy which is canceled by the laboratory or MRO shall not resubmit a urine specimen for testing.

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ARTICLE II. General Terms and Conditions

SECTION 1. TERM

This agreement shall be in effect from the date of execution and be in effect for that calendar year. It will be renewed unless canceled by either party, upon receipt of payment each year. The responsibilities and obligations and liabilities shall survive the term of this agreement. Prices may be changed at the beginning of each calendar year, or as provided for in Section 6 of this Article.

SECTION 2. INDEPENDENT CONTRACTORS

Both parties to this agreement are independent contractors, and nothing contained herein shall be construed to place the parties in the relationship of partners, joint venturer, principal-agent or DRIVER-employee, and neither party shall have the power to obligate or bind the other whatsoever beyond the terms of this agreement.

SECTION 4. COMPLIANCE WITH FEDERAL AND STATE LAW

DRIVER agrees to comply with and shall be responsible for all requirements of Federal, State, and local laws and regulations relating to substance abuse testing.

SECTION 5. INDEMNIFICATION

DRIVER shall indemnify, defend, and hold harmless MRO, MRO's directors, officers, agents and employees, and each one of them, from and against any and all claims, suits, and damages of whatever nature made or asserted, arising out of or in any way related to services provided by the MRO under this Agreement.

SECTION 6. SIGNIFICANT CHANGES

If during the term of this agreement there is a significant change in the requirements of the MRO, or other service covered under this agreement as the result of regulatory changes, or changes mandated by federal or state law, both parties agree to renegotiate the services and fees provided for herein.

SECTION 7. SECTION HEADINGS

Section heading contained in this agreement are for reference purposes only and shall not affect, in any way, the meaning and interpretation of this Agreement.

SECTION 8. SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the parties shall, if possible, agree on a legal, valid, and enforceable substitute provision which is as similar in effect to the deleted provision as possible. The remaining portion of the Agreement not declared illegal, invalid, or unenforceable goes to the essence of this Agreement and shall remain in effect.

SECTION 9. WAIVER

The failure of either party to exercise or enforce any right conferred upon it under this Agreement shall not be deemed to be a waiver of any such right, nor to operate to bar the exercise or performance of any right at any time.

SECTION 10. GOVERNING LAW

The provision of this Agreement shall be construed, interpreted, and governed by the substantive laws of the State of California, including all matters of construction, validity, and performance but without giving effect to California choice-of-law or conflict-of-law principles.

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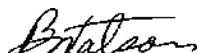
ARTICLE 3: FEES

Fees for services under this agreement are included below. Failure to meet the obligations outlined herein will release MRO from further obligations under the Agreement until and unless the Agreement is specifically reinstated. Prices are subject to change.

SERVICE	INCLUDES	PRICE
Random Testing Program	Program Administration, Lab Fees for Random Urine Testing, Collection of specimens at OHS Lodi, and Medical Review Officer Services.	\$135.00 per year
Single Urine Drug Screens	Pre-employment, Post-accident, reasonable suspicion, follow-up.	\$55.00
Breath Alcohol Testing	Lodi	Included if all testing is done in Lodi
Breath Alcohol Testing	Other Sites	Varies by Location
Other testing	d,l isomers, split specimen retest	at cost plus \$25.00
Clearinghouse Services	Reporting and Query functions	Included in membership

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year executed below:

MRO: Ben G. Watson MD



Date

Driver signature: _____

Printed name: _____

Date: _____

**Please sign and return this page
to establish a contract for testing**

Mail or fax (see top of page) or email to memberships@cmrtesting.com.