

Manual Section 2	Issue Date: 06/21/2010	Revision Date: 04/01/2024	Policy Number LLCP-014
	Fit-for-Duty		

Purpose

The Occupational Safety and Health Administration’s (OSHA) General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act, requires employers to furnish a workplace free from recognized hazards that may cause or are likely to cause death or serious physical harm.

To ensure this requirement is met, G.I.S. and its family companies have a responsibility to ensure all employees are able to safely perform essential job functions, with or without reasonable accommodation, in a manner that does not pose a direct threat to the health and safety of the employee or those around them.

This policy shall outline the essential components of G.I.S.’s Fit for Duty Program, including its purpose, scope and applicability, responsibilities and accountability, and administration.

Scope

All LLC Companies, including Blanchard Industrial, LLC, GIS Engineering, LLC, Grand Isle Shipyard, Inc., and GWIS, Mack Steel, NuWave, Sun Industries, Valvemax, Discovery Industries, Inc.; hereafter identified as “COMPANY.”

Applicability

An employee is considered fit-for-duty if they are able to perform their essential job functions in a safe and competent manner without posing a direct threat to the health and safety of themselves, co-workers, property, or the public.

An employee’s essential job functions are the fundamental duties of the position or the primary reasons the position exists.

This policy shall apply to all COMPANY employees, including part-time and/or temporary employees. This policy shall also apply to all sub-contractors, vendors, or any person who conducts work on the COMPANY’s behalf.

This policy shall apply when the COMPANY has objective information indicating that an employee is not able to perform their essential job duties or poses a direct threat to their health and safety or that of others.

Responsibilities

The COMPANY and COMPANY employees both have responsibilities when it comes to fitness for duty:

- **COMPANY**
Must ensure that employees are fit for duty and have the right to request medical assessments. The COMPANY shall have a policy in place to ensure worker fitness.
- **Employees**
Employees should report to work fit for duty and remain fit while on duty. If they are not fit for duty, they should immediately notify their supervisors or contact the HSE Hotline (in the absence of supervision). [Hot-Line: 855.543.5163](tel:855.543.5163)

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This policy shall be maintained and administered by the COMPANY’s Corporate Health, Safety, and Environmental (HSE) Department.

Fit for Duty Referrals

The COMPANY reserves the right to request a fit-for-duty evaluation on any COMPANY employee, including sub-contractors and vendors conducting work on the COMPANY’s behalf when:

- As a condition of employment or to conduct work for the COMPANY, the person must meet established requirements to ensure they are able to perform essential job functions safely and without direct threat to themselves or others.
- As required by statutory mandates such as but not limited to the Federal Motor Carrier Safety Administration, Pipeline and Hazardous Material Safety Administration, and the Occupational Safety and Health Administration.
- Upon returning to work following a work-related or non-work-related injury, illness, or prolonged absence (10 consecutive workdays).
- Practical information is presented to the COMPANY’s Vice President of HSE or Corporate HSE Manager regarding whether a worker can safely perform essential job duties (“for cause”). This may include but is not limited to an employee who has exhibited a sustained pattern of poor performance of duties, the employee may have exhibited a gradual or sudden deterioration of performance, an employee poses an imminent or serious safety threat to themselves or others, and if the employee appears to be under the influence of safety sensitive and/or controlled substance.
- High-risk or safety-sensitive jobs requiring periodic tests as deemed necessary by the COMPANY or governmental agencies.
- An individual has applied for or occupies a position with physical requirements or medical standards.
- An employee has applied for or is receiving continuation of pay or compensation as a result of on-the-job injury or illness.
- An employee is given a transfer or promotion, and the position to which the employee has reassignment rights has medical standards or specific physical requirements that are different from those of the employee’s previous position.
- An employee experiences a work-related or non-work-related illness or injury that may result in the employee being unable to perform work safely or pose a serious risk to an employee’s health and wellness.

To ensure compliance and non-discriminatory practices, the following stipulations must exist when performing a fit-for-duty evaluation:

- The examination is applied uniformly to all employees in the same job category.
- The COMPANY must base its decision only on information directly related to job fitness.

In situations where there is a question as to whether to perform a fit-for-duty evaluation on an employee, it shall be the responsibility of the COMPANY’s Vice President of HSE or Corporate HSE Manager to make the final determination as to whether a fit-for-duty evaluation is warranted.

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The Evaluation Process

A fit-for-duty evaluation may assess an employee’s physical, physiological, and psychological state. The following mechanisms may be utilized in determining an employee’s fit-for-duty status.

- **Review of Documentation** – A review of documentation, including the initial incident report (if work-related), associated medical records from treating practitioners, test results, and work releases pertinent to the case, may be requested.
- **Interview** – A fit-for-duty interview includes a qualified evaluator recording the examinee’s full medical history, including an assessment of activities, a social history, and an occupational history.
- **Physical Exam** – A basic medical or physical examination may include vital signs, coordination, testing, and a mental status examination. Advanced evaluations may consist of psychometric testing or neurocognitive testing.
The fitness-for-duty medical exam shall be conducted by a licensed healthcare provider.
- **Observation** – A fit-for-duty evaluator may observe the examinee’s gait and posture, walking and standing, speech, eyes, face, appearance, breath, odor, eating and chewing, demeanor, actions, and cognitive abilities.
- **Functional Job Testing** – Functional capacity evaluations may include stair or ladder climbing and postural, lift, carry, push, and pull tests representing physical work demands specific to the individual’s job.
- **Neuropsychological Testing** – A test that compares individuals’ cognitive abilities to a normative standard, and their results can indicate impaired behavior that might compromise safety on the job. This test may be utilized when an employee has a pattern of compromised performance that is not attributable to issues such as lack of training or poor supervision. This type of testing should not be utilized to address behavioral or interpersonal problems that may be addressed administratively or through human resource interventions.
- **Additional Testing** – The examiner may sometimes require additional testing such as drug and alcohol screening, imaging, bloodwork, and pulmonary function tests, or the examinee follow up with a specialist such as a cardiologist to ensure the employee meets fitness-for-duty standards.

Prior to conducting any of the above-listed mechanisms, the evaluator or medical provider shall be provided with the examinee’s job description, which shall clearly lists all essential job functions, including competency, agility, and physical demands.

Assessing Risk, Capacity, and Tolerance of Work

The *American Medical Association’s Guides to the Evaluation of Work Ability and Return to Work* stipulates that an evaluator should consider three primary factors when assessing an examinee’s ability to work.

- **Risk** – Risk refers to the chance that an examinee may cause harm to self or others when performing work. The fit-for-duty evaluator may determine risks related to known medical conditions. The Americans with Disability Act (A.D.A.) provides the “direct threat” standard.

The A.D.A. defines a direct threat of harm as a significant risk to an employee's or others' health or safety that cannot be eliminated by reasonable accommodation.

- **Capacity** – Capacity refers to scientifically measurable physical abilities, such as strength, flexibility, and endurance.

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- **Tolerance** – Tolerance refers to the ability to tolerate performing sustained work or work at a certain level.

When considering these factors, the fit-for-duty evaluation process must account for the examinee’s job description, the requirements the examinee may need to meet to safely escape in an emergency situation, and/or the availability of medical care.

For example, offshore employees may have delayed access to medical care and should an emergency occur may be required to survive in water.

Special Considerations

In cases where the examinee is found to be taking opioids or other legal pain medication, the examiner may elect to discontinue the fit-for-duty evaluation based on these factors. Such drugs may mask pain enough to allow further tissue damage to occur during fit-for-duty testing without the examinee reporting increased pain. Also, the performance of an examinee taking pain medication during a fit-for-duty test may exceed and falsely represent what can be performed at work.

Family Medical Leave Act (FLMA) and Fitness-for-Duty

It is COMPANY policy that as a condition of restoring an employee whose FLMA leave was due to the employee’s serious health condition that made the employee unable to perform the employee’s job, the employee must obtain and present certification from a licensed medical practitioner stating that the employee can resume work and can safely perform all essential job functions. This policy shall be uniformly applied.

The COMPANY may seek a fitness-for-duty certification only with regard to the particular health condition that caused the employee’s need for FLMA leave. The certification from the employee’s health care provider must certify that the employee is able to resume work. If the employee is placed on FLMA due to a non-occupational illness or injury the employee shall be responsible for any associated cost.

Fit-for-Duty Flow Process

The COMPANY’s Corporate Health, Safety, and Environmental Department (HSE) shall be responsible for initiating and maintaining the flow process for this policy.

1. When an incident occurs involving a COMPANY employee, subcontractor, or vendor working on behalf of the COMPANY, it shall be the responsibility of the Corporate HSE Department to identify if the employee involved meets any criteria in *Fit-for-Duty Referrals* list. The COMPANY’s Corporate HSE Department shall be responsible for informing the employee of what documentation will be required to return to duty.
2. The involved employee shall submit all required documentation to the COMPANY’s Corporate HSE Department by way of one of the following mediums:
 - a. Secure electronic mail at fitforduty@gisy.com
 - b. Secure fax addressed “Attention: Fit for Duty” at [985.475.7946](tel:985.475.7946)
 - c. Hand-delivered or mailed to 18838 Highway 3235, Galliano, LA, 70354 “Attention: Fit for Duty”

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3. At minimum, the employee shall be required to submit the COMPANY’s Fitness-for-Duty / Return to Work Authorization Form (Appendix 1). This form along with the employee’s job description listing essential job functions shall be provided to the employee upon initial evaluation.
4. Upon completion and submission of the COMPANY’s Fitness-for-Duty / Return to Work Authorization Form, the Corporate HSE Manager or the Vice President of HSE shall review the form, the employee’s job description, regulatory compliance, and any customer or client-specific job specifications.

The Vice President of HSE or the Corporate HSE Manager shall grant final approval for all fit-for-duty inquiries. The employee shall not be eligible to return to duty until a “Fitness for Duty Authorization” (Appendix 2) has been completed and submitted to the employee’s operational manager and client as required.

Duty to Protect Employee Healthcare Information

The COMPANY has a legal and ethical responsibility to protect employee privacy and handle personal information with care.

Several regulations, such as the Health Insurance Portability and Accountability Act (HIPAA) and the Americans with Disabilities Act (A.D.A.), have been implemented to protect employees' health information.

Under HIPAA, the Privacy Rule does not protect employment records, even if the information in those records is health-related. Per this policy, the COMPANY reserves the right to request a doctor's note or other health information as needed for sick leave, workers' compensation, or to determine fitness-for-duty.

In most circumstances, healthcare providers can only give the employer the information with authorization from the employee unless other laws require them to do so.

While the COMPANY is not considered a covered entity under HIPAA compliance and privacy laws, to avoid potential breaches of employee-protected health information, the COMPANY shall ensure that all sensitive data subject to HIPAA or the A.D.A., regardless of how the COMPANY acquired that access, shall be treated as protected health information and shall meet all HIPAA compliance standards.

To ensure employee information is handled with care and to meet all requirements under applicable law, the COMPANY shall not share an employee’s protected personal or health information outside of the organization unless legally allowed and only in specific circumstances.

Use of Medications and Fitness-for-Duty

For the purposes of this policy, a **drug** is any chemical substance that has a physiological effect when ingested or otherwise introduced into the body.

A **medication** is a drug used to diagnose, cure, treat, or prevent disease. It may be prescribed, obtained over the counter, or as a supplement.

An **illegal drug** is any drug or medication that an employee is not allowed to own or use under the laws of the United States or the state in which the employee lives or works, including temporary residence. This may include medications, drugs, chemicals, herbals, and dietary supplements that are legal in other countries but illegal in the United States or under state law. The employee shall be responsible for ensuring all substances taken or in their possession are permitted by federal and state law, the COMPANY, and the customer.

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Medications, drugs, chemicals, herbals, and dietary supplements **shall not:**

- Reduce an employee’s ability to perform essential job functions or their ability to operate in a safety-sensitive environment by posing a direct threat to themselves or others.
- Impair an employee’s mental or physical functions while off-duty but residing in a COMPANY or customer-owned facility where emergency actions, escape, and survival may be required.

It shall be against this policy for any employee to withhold or neglect taking medications, drugs, chemicals, herbals, or dietary supplements as prescribed or advised by a licensed healthcare provider to treat a medical condition to be compliant with this policy. In such situations, employees should contact the COMPANY’s Corporate HSE Department to discuss if reasonable accommodations can be made.

The COMPANY reserves the right to suspend safety-sensitive work and request a fitness-for-duty evaluation, if the COMPANY is made aware that employee’s ability to safely perform essential job functions safely may be compromised by an underlying medical condition after the employee reports a medication.

It shall be the employee's responsibility to ensure any over-the-counter or prescribed medication brought onto COMPANY or customer premises is in the original, labeled container(s) as required by federal or state law. If the medication labels are not in English, the employee must also possess an explanatory medical document signed by the prescribing physician in English.

Medications, drugs, chemicals, herbals, or dietary supplements shall be kept in their original containers while the employee has them on COMPANY or customer property.

All employees shall be responsible for immediately reporting taking or being prescribed any medications, drugs, chemicals, herbals, or dietary supplements identified in **Appendix 3 (This is not an exhaustive list)** of this document. These items are considered safety-sensitive and may compromise an employee’s fitness for duty.

Violation of this Policy

Any employee found in violation of this policy may be subject to the COMPANY’s disciplinary action policy.

Retention of Records

All employee records shall be in kept in the COMPANY’s electronic or physical filing system as directed by the COMPANY’s Human Resource Department.

Questions Regarding this Policy

For questions or further clarification on this policy, the COMPANY’s Corporate HSE Department should be contacted.

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Appendix Number 1

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