

1.0 Policy

The Rutherford County Transit System is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. Rutherford County Transit System employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

2.0 Purpose

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655 as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

3.0 Applicability

This policy applies to all safety-sensitive and non-safety-sensitive transit system employees, paid part-time employees, contract employees, and contractors when they are on transit property or when performing any transit-related safety-sensitive or non-safety-sensitive business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contractor employees are governed by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy. Applicable standards are found in 49CFR, part 40.

A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee who holds a Commercial Driver's License. A list of safety-sensitive positions is attached.

4.0 Prohibited Substances

"Prohibited substances" addressed by this policy include the following:

4.1 Illegally Used Controlled Substances or Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana,

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amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Safety sensitive employees will be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidines as described in Section 6.0 of this policy.

4.2 Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a transit system supervisor. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription.

A legally prescribed drug means that individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

4.3 Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body while performing transit business is prohibited. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath testing device.

5.0 Prohibited Conduct

5.1 Manufacture, Trafficking, Possession, and Use

Transit system employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on transit authority premises, in transit vehicles, in uniform or while on transit authority business. Employees who violate this provision will be discharged. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

5.2 Intoxication/Under the Influence

Any safety-sensitive or non-safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substances, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Employees found to be under the influence of prohibited substance or who fail to pass a drug or alcohol test shall be removed from duty and subject to disciplinary action. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

5.3 Alcohol and Drug Use

No safety-sensitive or non-safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety-sensitive or non-safety-sensitive employee shall use alcohol while on duty, in uniform, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive or non-safety-sensitive employee shall use alcohol within four hours of

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reporting for duty, or during the hours that they are on call. No safety-sensitive employee shall use alcohol within four hours of reporting for duty, or during the hours they are on call. All safety-sensitive employees are prohibited from

reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49CFR Part 40 as amended. Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination.

5.4 Compliance with Testing Requirements

All safety-sensitive and non-safety-sensitive employees will be subject to urine drug testing and breath alcohol testing as a condition of employment. Any safety-sensitive or non-safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and their employment terminated. Any safety-sensitive or non-safety-sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and their employment terminated. Refusal can include an inability to provide a sufficient urine specimen or breath sample without a valid medical explanation, tampering, adulterating or substituting a urine specimen as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test. Also included is: leaving the collection facility prior to the completion of the test, failure to permit an observed or monitored collection when required, failure to take a second test when required, failure to undergo a medical examination when required, failure to cooperate with any part of the testing process. Drug tests can be performed anytime a safety-sensitive employee is on duty. An alcohol test can be performed when the safety sensitive employee is actually performing a safety sensitive duty, just before or just after the performance of a safety sensitive duty. DOT test results will not be changed or disregarded by the employer.

5.5 Treatment Requirements

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with transit system requirements for treatment, after care, or return to duty shall be (subject to disciplinary action, up to and including termination) terminated. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

5.6 Notifying the Transit System of Criminal Drug Conviction

All employees are required to notify the transit system of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

5.7 Proper Application of the Policy

The transit system is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination

6.0 Testing Procedures

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstance warrant or as required by Federal regulations. All safety-sensitive and non-safety-sensitive employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident as defined in Section 6.2, 6.3, and 6.5 of

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this policy. In addition, all safety-sensitive and non-safety-sensitive employees will be tested prior to returning to duty after failing a drug or alcohol test and after completion of the Substance Abuse Professional's recommended treatment

program and subsequent release to duty. Follow-up testing will also be conducted following return to duty for a period of one to five years, with at least six tests performed during the first year.

Those employees who perform safety-sensitive functions as defined in the attachment to this policy shall also be subject to testing on a random, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test results.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. Urine specimens will be collected using the split specimen collection method described in 49CFR, Part 40. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. If an employee's urine specimen is invalid or is considered to be a cancelled test result, a second observed collection must take place immediately without advance notice or additional consequence. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended. In instances where there is a reason to believe an employee is abusing a substance other than the five drugs listed above, the transit system reserves the right to test for additional drugs under the transit system's own authority using standard laboratory testing protocols.

The test results from the laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed test result. The MRO will contact the employee, notify the employee of the positive laboratory test result, and provide the employee with an opportunity to explain the confirmed test result. The MRO will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive laboratory result. If no legitimate medical explanation is found, the MRO will report the test as negative.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. Additional information is needed regarding the EBT.

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be observed and performed between fifteen minutes and no more than 30 minutes from the completion of the original test, using a NHTSA-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout along with an approved alcohol testing will be used to document the test, the subsequent results, and attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40 as amended. The procedures will be followed as prescribed to protect the employee and to maintain the integrity of the

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alcohol testing procedures and validity of the test result. A safety-sensitive or non-safety-sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02. The inability to perform safety-sensitive duties due to an alcohol test result of greater than 0.02 but less than 0.04 will be considered an unexcused absence from work subject to transit system disciplinary procedures. An alcohol concentration of 0.04 or greater will

be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety-sensitive employees.

Any safety-sensitive or non-safety-sensitive employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. A positive drug and/or alcohol test will also result in disciplinary action up to and including termination.

The transit system affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

6.1 Employee Requested Testing

Any safety-sensitive or non-safety-sensitive employee who questions the results of a required drug test under paragraphs 6.2 through 6.8 of this policy may request that the split sample be tested. This test must be conducted at a different DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. All costs for such testing are paid by the employee unless the result of the split sample test invalidates the result of the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

6.2 Pre-Employment Testing

All safety-sensitive and non-safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment or transfer into a safety-sensitive position. Receipt by the transit system of a negative drug test result is required prior to employment. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of 120 days. A referral to a certified SAP will be made by the Transit Authority Director or the Human Resources Director for any applicant who does not have a negative drug test. Evidence of the absence of drug dependency from a Substance Abuse Professional that meets with the approval of the company and a negative pre-employment drug test will be required prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual. A pre-employment pre-transfer test will also be performed anytime a employee's status changes from an inactive status in a safety-sensitive position to an active status in a safety-sensitive position. This includes but is not limited to return from Worker's Compensation leave, or a return from leave which exceeds ninety days in length.

6.3 Reasonable Suspicion Testing

All safety-sensitive and non-safety-sensitive employees may be subject to a fitness for duty evaluation, and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the short-term effects of substance abuse or alcohol misuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Physical signs and symptoms consistent with prohibited substance use or alcohol misuse.

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2. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substance.

3. Occurrence of a serious or potentially serious accident that may have been caused by prohibited substance abuse or alcohol misuse.

4. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

5. Vehicle accidents

Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse.

6.4 Late Arrivals

Employees will be notified prior to the time they are to report to the collection site for random, post accident, reasonable suspicion, follow-up or return to duty testing. If the employee does not report to the collection site at the appointed time it will be considered to be a refusal to test. Refusal to test will result in termination.

6.5 Post-Accident Testing

All safety-sensitive employees will be required to undergo urine and breath testing if they are involved in an accident with a Rutherford County Transit vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes all surviving safety-sensitive employees that are operating in the vehicle and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage; unless the employee can be completely discounted as a contributing factor to the accident.

Following an accident, the safety-sensitive employees will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. Employees tested under this provision will include not only the operations personnel, but any other covered employee whose performance could have contributed to the accident.

6.6 Random Testing

Employees in safety-sensitive positions will be subjected to random, unannounced testing. The selection of safety-sensitive employees for random alcohol testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year. Tests can be conducted at any time during an employee's shift (i.e., beginning, middle, end). Employees will be notified verbally by the Transit Department Director of their selection for random testing. Employees are required to proceed immediately to the collection site upon notification of their random selection, and arrive no later than thirty minutes from the time of the notification of random selection. A form will be completed and placed in the employees file noting the date, place and time of the random test.

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6.7 Return-To-Duty Testing

All safety-sensitive and non-safety-sensitive employees who previously tested positive on a drug or alcohol test must test negative (below 0.02 for alcohol) on a return-to-duty test and be evaluated and released to duty by the Substance Abuse Professional before returning to work.

A Substance Abuse Professional is a licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. The SAP must also have clinical experience in the diagnosis and treatment of drug and alcohol related diseases. Before scheduling the return to duty test, the SAP must assess the employee and determine if the required

treatment has been completed.

6.8 Follow-Up Testing

Safety-sensitive and non-safety-sensitive employees will be required to undergo frequent, unannounced urine and/or breath testing following their return to duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up test, beyond the minimum, will be determined by a qualified Substance Abuse Professional.

6.9 Observed Collection

If an employee's urine specimen meets any of the following criteria: temperature of the specimen is out of range, collection personnel observes attempt to adulterate specimen, specimen is invalid with no medical explanation, split specimen is unavailable to confirm following a positive adulterated or substituted test result. Then the employee will be required to have an observed collection. The employer will be notified and permission given for an observed collection. Observation must be made by individuals of the same gender as the donor. Observer must view urine stream from donor to collection container.

6.10 Alcohol or Drug Test Refusals

The following circumstances will constitute an alcohol test refusal: failure to appear in a timely manner, failure to remain at the site until the test is complete, failure to provide a specimen, failure to provide sufficient volume without a valid medical explanation, failure to undergo medical examination when required, failure to sign the Alcohol Test Form, failure to cooperate with any part of the testing procedure.

The following circumstances will constitute a drug test refusal: failure to provide a specimen, insufficient volume without a valid medical explanation, tampering, adulterating or substituting a specimen, failure to appear in a timely manner, leaving the scene of an accident without just cause prior to submitting to a test, leaving the collection site before the test is complete, failure to permit and observed or monitored collection

When required, failure to take a second test when required, failure to undergo a medical examination when required and failure to cooperate with any part of the testing process.

Any condition as defined above will constitute a test refusal. Test refusals will result in termination.

6.11 Incomplete Tests

If the initial or confirmatory , random, reasonable suspicion, follow-up, return to duty, post accident alcohol or drug test cannot be completed, a new test is performed. If there is insufficient volumes of breath or urine provided there must be a medical inability to provide the breath or urine specimen as verified by a licensed physician within five days or if there is an ascertainable physiological condition or medically documented

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pre-existing psychological disorder documented.

7.0 Employment Assessment

Any safety-sensitive or non-safety-sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be referred for evaluation by a Substance Abuse Professional (SAP). A SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-and drug related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Assessment by a SAP or participation in the company's Employee Assistance Program does not shield an employee from disciplinary action or guarantee employment or reinstatement with the transit system. The Rutherford County

Transit Disciplinary Code should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

If a safety-sensitive or non-safety-sensitive employee is allowed to return-to-duty, he/she must properly follow the rehabilitation program prescribed by the SAP, the employee must have negative return-to-duty drug and alcohol tests, and be subject to unannounced follow-up testing for a period of one to five years. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

8.0 Information Disclosure

All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information of unauthorized persons does not occur. Information will only be released in the following circumstance:

1. To a third party only as directed by specific, written instruction of the employee.
2. To the decision-maker if a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested.
3. To a subsequent employer upon receipt of a written request from the employee.
4. To the National Transportation Safety Board during an accident investigation.
5. To the DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed guide way systems or
6. To the employee, upon written request.

9.0 Employee and Supervisor Training

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Information on the signs, symptoms, health affects and consequences of alcohol misuse are presented in Attachment 2 of this policy.

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10.0 Re-Entry Contracts

Employees who re-enter the workforce must agree to a re-entry contract. That contract may include (but is not limited to);

1. A release to work statement form the Substance Abuse Professional.
2. A negative test for drugs and/or alcohol.
3. An agreement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year.
4. A statement of work-related behaviors.
5. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.

11.0 System Contact

Any questions regarding this policy or any other aspect of the drug free and alcohol-free transit program should contact the following transit system representative:

Program Manager:

Name: Gene Adair
Title: Director, Rutherford County Transit
Address: 174 Fairground Rd.
Spindale, N.C. 28160
Telephone Number: (828) 287-6153
FAX Number: (828) 287-6058

OR

Name: Judith H. Toney
Title: Human Resource Director
Address: 289 N. Main Street
Spindale, N.C. 28160
Telephone Number: (828) 287-6145
FAX Number (828) – 287-6262

Medical Review Officer:

Name: Dr. Denis O'Neill
Address 206 Reservation Drive
Spindale, N.C. 28160
Telephone Number: (828) 287-0200

Substance Abuse Professional:

Name: Mr. Rick Watson
Title: Rutherford-Polk Area MHC
Address: Spindale, NC 28160
Telephone Number: (828) 287-6110
FAX Number: (828) 287-6302

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Rutherford County Transit Department

Safety-Sensitive Functions

Transportation Dispatcher (If Performs Dispatch or Driver Functions)
Full-time Bus Drivers
Part-Time Bus Drivers

Lead man/Mechanic
Mechanic
Bus Washer/Fueler