

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
WEST VIRGINIA DEPARTEMENT OF TRANSPORTATION  
AT CHARLESTON, KANAWHA COUNTY, WEST VIRGINIA**

**MEMORANDUM ORDER**

Compliance with the following guidelines and procedures shall be required by a party desiring to submit blood draw and blood analysis affidavits before the Office of Administrative Hearings as evidence in an administrative hearing, unless waived by the opposing party.

**Blood Draw and Blood Analysis Affidavits.**

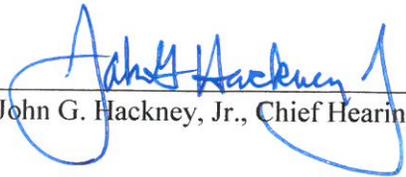
- In the event a party wishes to submit blood draw and blood analysis evidence, he or she may do so by submitting the affidavit of the person or persons who drew the blood and person or persons who analyzed the blood for evidence of alcohol, controlled substances or drug content: *Provided, That*, a party is required to file notification of such evidence with the Office of Administrative Hearings, with service upon the opposing party, at least ten (10) days prior to the hearing date. In the event the opposing party, upon receiving such notice, desires to cross examine such person or persons who drew blood or analyzed blood, it shall be incumbent upon such opposing party to subpoena the person or persons to testify at the administrative hearing: *Provided, further, That*, any person so subpoenaed, shall be allowed to testify by telephone.

**Contents and Requirements of Blood Draw and Blood Analysis Affidavits.**

- In the case of blood draw affidavits, the affidavit shall contain the name of the person who drew the blood sample, the person's job description or title, the name of his or her employer, the date and time the blood sample was drawn, the place where the blood sample was drawn, the name of the person whose blood was drawn, including the person's birthdate and place of residence, and the place to which - or the person to whom, the sample was delivered, including the date of the delivery.
- In the case of blood analysis, the affidavit shall contain the name of the person who analyzed the blood sample, the person's job description or title, the name of his or her employer, the date the blood sample was received and from whom it was received, the date and approximate time the blood sample was analyzed, the place where it was analyzed, the name of the person whose blood was analyzed, including the person's birthdate and place of residence, the results and/or conclusions reached from the analysis, and the place in which the blood sample was stored following analysis.

- Any affidavit submitted under this Rule shall be in the form of a written or printed declaration, made voluntarily and confirmed under oath or affirmation by the person making it, before a person having authority to administer oaths and affirmations.

It is so **ORDERED** this 21<sup>st</sup> Day of November, 2014.



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John G. Hackney, Jr., Chief Hearing Examiner