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not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items:

- (1) Employee's name and SSN or employee ID No.;
 - (2) Employer's name and address;
 - (3) Reason for the initial assessment (specific DOT violation and date);
 - (4) Date(s) and format (*i.e.*, face-to-face or remote) of initial assessment and synopsis of treatment plan;
 - (5) Name of practice(s) or service(s) providing the recommended education and/or treatment;
 - (6) Inclusive dates of employee's program participation;
 - (7) Clinical characterization of employee's program participation;
 - (8) Date(s) of the first follow-up evaluation;
 - (9) Date(s) of any further follow-up evaluation the SAP has scheduled;
 - (10) SAP's clinical reasons for determining that the employee has not demonstrated successful compliance; and
 - (11) SAP's telephone number.
- (f) As a SAP, you must also provide these written reports directly to the employee if the employee has no current employer and to the gaining DOT regulated employer in the event the employee obtains another transportation industry safety-sensitive position.

(g) As a SAP, you are to maintain copies of your reports to employers for 5 years, and your employee clinical records in accordance with Federal, state, and local laws regarding record maintenance, confidentiality, and release of information. You must make these records available, on request, to DOT agency representatives (*e.g.*, inspectors conducting an audit or safety investigation) and representatives of the NTSB in an accident investigation.

(h) As an employer, you must maintain your reports from SAPs for 5 years from the date you received them.

[65 FR 79526, Dec. 19, 2000, as amended at 88 FR 27650, May 2, 2023]

49 CFR Subtitle A (10–1–25 Edition)

Subpart P—Confidentiality and Release of Information

§ 40.321 What is the general confidentiality rule for drug and alcohol test information?

Except as otherwise provided in this subpart, as a service agent or employer participating in the DOT drug or alcohol testing process, you are prohibited from releasing individual test results or medical information about an employee to third parties without the employee's specific written consent.

(a) A "third party" is any person or organization to whom other subparts of this regulation do not explicitly authorize or require the transmission of information in the course of the drug or alcohol testing process.

(b) "Specific written consent" means a statement signed by the employee that he or she agrees to the release of a particular piece of information to a particular, explicitly identified, person or organization at a particular time. "Blanket releases," in which an employee agrees to a release of a category of information (*e.g.*, all test results) or to release information to a category of parties (*e.g.*, other employers who are members of a C/TPA, companies to which the employee may apply for employment), are prohibited under this part.

§ 40.323 May program participants release drug or alcohol test information in connection with legal proceedings?

(a) As an employer, you may release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings.

(1) These proceedings include a lawsuit (*e.g.*, a wrongful discharge action), grievance (*e.g.*, an arbitration concerning disciplinary action taken by the employer), or administrative proceeding (*e.g.*, an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results).

(2) These proceedings also include a criminal or civil action resulting from