SUBJECT: Drugs and Alcohol in the Workplace  

PURPOSE: It is the policy of MMSC to employ a work force free from the use of controlled substances and abuse of legal drugs or alcohol. The purpose of this policy is to advise employees of the hospital's expectations relative to this issue and identify the limited circumstances where screening tests may be requested.

MMSC reserves the right to modify or terminate the provisions of this testing policy at any time.

POLICY:

I. Introduction

This policy provides an overview of MMSC's program to maintain a work environment free of substance abuse. A detailed procedure is on file in the Patient Safety & Occupational Health Department and is available upon request.

II. Definitions

A. The following terms, when used in this policy, are defined as follows:

B. "Drug" – A substance considered a controlled substance and included in schedule I, II, III, IV, or V under the federal Controlled Substances Act, 21 U.S.C. § 801, et seq.

C. "Employee" – A person employed by the Organization, including the chief executive officer, president, vice presidents, supervisors, managers, and officers of the Organization who are actively involved in the day-to-day operations of the business.

D. "Good faith" – A reasonable reliance on facts, or that which is held out to be factual, without the intent to be deceived, and without reckless, malicious, or negligent disregard for the truth.

E. "Prospective employee" – A person who applies, whether orally or in writing, for employment with the Organization.

F. "Sample" – A sample from the human body capable of revealing the presence of drugs or their metabolites. "Sample" does not include blood, except in circumstances where a blood test was administered by or at the direction of a person providing treatment to an employee involved in a workplace accident. A blood sample cannot be administered at the request or suggestion of the employer.

G. "Legal drug" – A prescription medication prescribed for the employee consuming the medication, and being taken in the amount prescribed by the employee's treating physician, and in accordance with the prescribed directions, or over-the-counter medication being taken and used for its intended purpose and in accordance with any applicable directions.
H. "Under the influence of alcohol" – Being under the influence of alcohol shall mean having a alcohol concentration level of .04 grams of alcohol, or greater, per two hundred ten liters of breath, or its equivalent.

III. Prohibited Conduct

A. MMSC strictly prohibits the use, possession, consumption, sale, transfer (or any attempt to sell or transfer) of alcohol or any illegal or unauthorized drug including any "look alike" substance, or being under the influence of alcohol or any illegal or unauthorized drug, during work time, while conducting any type of business on the Organization's behalf, or while on the Organization's premises or property. MMSC reserves the right to immediately discharge any employee who tests positive for alcohol or drug use pursuant to the procedures outlined in this policy, and to the extent permitted by Iowa law, without first offering the employee substance abuse evaluation, treatment, rehabilitation, or any related service.

B. Impairment During Work Hours

1. An employee whose faculties appear to be impaired during work hours will not be allowed to work, regardless of the cause.

2. An employee whose faculties are impaired during work hours due to the effects of use of alcohol, use of a controlled substance or abuse of a legal drug has committed misconduct and is subject to corrective action, up to and including discharge, even for the first offense. However, if a drug or alcohol test is performed, corrective action will only be imposed in accordance with Sections V-B and V-C of this policy.

C. Possession of Drugs or Alcohol

Except as otherwise stated in Section D below, an employee bringing or attempting to bring onto the hospital's premises or property, having possession of, using, consuming, selling, transferring, or attempting to sell or transfer, any alcoholic beverage, any prescription drug, any "look-alike" substance, or any form of controlled substance while on hospital business or at any time during working hours, whether or not the employee is on duty, and whether or not on hospital business or property, has committed misconduct and is subject to corrective action, up to and including discharge, even for the first offense. This rule does not apply to alcoholic beverages provided by the hospital for use at special hospital-sponsored events.

D. Use of Legal Drugs

1. An employee may bring to work and take a prescription drug during work hours only if the drug has been prescribed for the employee by a physician or other authorized prescriber (such as a dentist) and only if the drug is taken in accordance with the prescriber's directions. All prescription drugs should be kept in the container in which they were received from the pharmacy. If not, the co-worker may be asked to provide a copy of the prescription(s) for these medication(s)
2. An employee may bring to work and take an over-the-counter drug during work hours only if the drug is used for its intended purposes and in accordance with package directions and any supplemental directions of the employee’s physician.

3. An employee must notify his or her supervisor whenever he or she is using a prescription or over-the-counter drug which potentially may affect safety or work performance. The hospital has the right to take appropriate action (including sending the employee home from work) if use of the drug is impairing or is deemed likely to impair the employee’s faculties or work performance.

4. Abuse of legal drugs will not be tolerated and will be dealt with in the same manner as the use of a controlled substance.

IV. Drug Testing

A. Collections of samples will be taken by the Employee Health Coordinator or other authorized management personnel, in compliance with state and federal law and conducted in manners to protect individual rights and ensure integrity of the specimen.

B. The following is a list of drugs for which testing will be conducted:

   - Marijuana (regardless of legal or illegal use)
   - Cocaine
   - Opiates (including morphine and codeine)
   - Phencyclidine
   - Amphetamines (including methamphetamines)

C. A test result indicating an alcohol concentration level of greater than .04 grams of alcohol per two hundred ten liters of breath, or its equivalent, shall be considered a positive test result within the meaning of this policy.

D. Confidentiality

   MMSC shall regard as confidential all communications it receives that pertain to the drug and alcohol test results of an employee or prospective employee, or any information MMSC otherwise receives through its drug and alcohol testing program. MMSC, however, reserves the right to disclose the results of a drug or alcohol test, or other related information, under the following circumstances:

   1. In an administrative agency or judicial proceeding under workers’ compensation laws, or unemployment compensation laws, or under common or statutory laws where any action taken by MMSC based on a positive test result as defined by this policy is either relevant or challenged.

   2. To any federal agency or other unit of the federal government as required under federal law, regulation, or order, or in accordance with compliance requirements of a federal government contract.
a. To any state agency authorized to license individuals if the employee tested is licensed by that agency and the rules of that agency require such disclosure.

b. To a substance abuse evaluation or treatment facility or professional for the purpose of evaluation or treatment of the employee.

E. Refusal of a current employee to submit to any drug or alcohol testing under this policy including, but not necessarily limited to, an employee’s or prospective employee’s failure to report in a timely manner to a collection site, sign any required consent form or otherwise fully cooperate in the collection of any authorized sample, is strictly prohibited. Such action will be treated by MMSC the same as a confirmed positive drug test and shall be considered gross insubordination which may result in corrective action, up to and including discharge, even for the first offense.

F. If a drug or alcohol test is conducted for violations of this policy, discipline will be imposed only in accordance with Sections V-B and V-C of this policy. Any action taken against an employee or prospective employee pursuant to this policy based on a drug or alcohol test, will be based only on the results of the drug or alcohol test.

V. When Drug or Alcohol Testing will be conducted

MMSC reserves the right to conduct any form of drug or alcohol testing permitted under Iowa law. The testing methods MMSC may use to test employees or prospective employees for drug or alcohol use include, but are not necessarily limited to, the following methods:

A. Post offer Drug Testing

1. All prospective employees will be required to pass a drug test during the final stages of the post offer assessment process. To be considered qualified for employment with MMSC, a “negative” report on the drug test must be received. If that qualification is not met, the potential employee will be deemed “not qualified,” and any conditional offer of employment that has been extended will be withdrawn. A prospective employee’s refusal to submit to a drug test shall be viewed as a confirmed positive drug test.

2. A prospective employee with a positive drug test result or one that has refused to provide a testing sample may initiate another inquiry with MMSC in 2 years.

3. Prospective employees will be given an opportunity to provide any information which may be considered relevant to the test, including identifying prescription or non-prescription drugs currently or recently used, or other relevant medical information. At the time of providing a sample for testing, the employee should complete a disclosure of relevant information and place in a sealed envelope to be included with their employee health record, to be provided to the Medical Review Officer in the event of a positive drug test results. The employee should not disclose this information to the MMSC representative taking the employee’s sample.
B. Reasonable Suspicion Drug or Alcohol Testing

1. Current employees may be requested to receive a drug or alcohol test upon the approval of the Chief Operations Officer/Chief Nursing Officer or other authorized management personnel when there is reasonable suspicion to believe an employee is under the influence of an illegal or unauthorized drug or alcohol while on hospital premises, during working hours, or while engaged in hospital business. A reasonable suspicion will be deemed to exist when the hospital has evidence that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience.

For purposes of this policy, facts and inferences may be based upon, but are not limited to, any of the following:

- observable phenomena while at work such as direct observation of drug or alcohol use or abuse or of the physical symptoms or manifestations of being impaired due to drug or alcohol use;
- abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- a report of drug use provided by a reliable and credible source;
- evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the current employer;
- evidence that an employee has caused an accident while at work which resulted in an injury to a person that, if suffered by an employee, a record or report could be required by Chapter 88 of the Iowa Code, or resulted in damage to property, including to equipment, in an amount reasonable estimated at the time of the accident to exceed one thousand ($1,000) dollars;
- evidence that an employee has manufactured, sold, distributed, solicited, possessed, used, or transferred drugs while working or while on the employer’s premises or while operating any of the employer’s vehicles, machinery, or equipment. Any employee who refuses to submit to a drug test under this provision will be deemed to have received a confirmed positive drug test.

2. If the employee being tested holds a position involving duties which could subject the employee, or property to injury or damage, the employee will be removed from his or her normal work duties and will be placed in a job that will not subject the employee, or others, or property to injury or damage until the results of the drug screening test are received.

3. Employees will be given an opportunity to provide any information which may be considered relevant to the test, including identifying prescription or non-prescription drugs currently or recently used, or other relevant medical information. At the time of providing a sample for testing, the employee should complete a disclosure of relevant information and place in a sealed envelope to be included with their employee health record, to be provided to the Medical Review Officer in the event of a positive drug test result. The employee
should not disclose this information to the MMSC representative taking the employee’s sample.

4. An employee will not be subject to corrective action due to his or her drug involvement the first time a test performed at the hospital’s request indicates the presence of a controlled substance if the employee undergoes a substance abuse evaluation and successfully completes substance abuse treatment when recommended.

   • However, failure to comply with one or both of these requirements as applicable, may result in corrective action up to and including discharge even for the first offense.

5. If an employee, who has previously tested positive in association with a hospital initiated drug or alcohol test, tests positive on a second or subsequent occasion, the employee may be subject to corrective action up to and including discharge.

C. Post Accident Testing

1. Current employees may be requested to receive a drug or alcohol test upon the approval of the Chief Operations Officer/Chief Nursing Officer or other authorized management personnel if an employee (including the employee causing the accident) suffers a reportable injury or the accident causing the injury is estimated to cause more than $1,000 in damage including equipment.

   • For purposes of this policy, the term “injury” shall mean any harm or damage to a person that constitutes a reportable injury under Iowa’s Occupational Safety and Health Act, Iowa Code Ch. 88.

   • MMSC shall follow the same procedures and methods it uses with respect to reasonable suspicion drug testing. The methods and procedures are contained in Section IV-B of this policy.

2. A blood sample may be used if the test is administered by or at the direction of a person providing treatment to the injured employee. MMSC cannot administer or suggest the taking or testing of the blood sample.

3. An employee will not be subject to corrective action due to his or her drug involvement the first time a test performed at the hospital’s request indicates the presence of a controlled substance if the employee undergoes a substance abuse evaluation and successfully completes substance abuse treatment when recommended.

   • However, failure to comply with one or both of these requirements as applicable, may result in corrective action up to and including discharge even for the first offense.

4. If an employee, who has previously tested positive in association with a hospital initiated drug or alcohol test, tests positive on a second or subsequent occasion, the employee may be subject to corrective action up to and including discharge.
VI. Evaluation and Treatment

A. If an employee fails a drug test requested by the hospital for the first time, MMSC will support the evaluation and treatment of the employee in conjunction with the laws of the State of Iowa.

B. Employees who believe they may have a substance abuse problem are encouraged to seek appropriate treatment. The hospital’s confidential Employee Assistance Program (EAP) is a no cost option to receive initial assistance. EAP can be contacted at 1-800-424-6061. In addition, MMSC will support an employee’s first-time treatment process with a leave of absence, if applicable, and the development of a rehabilitation agreement to support the employee’s return to work following successful completion of a treatment process.

VII. Possible Rehabilitation

A. MMSC reserves the right to discharge any employee the first time he or she receives a positive test result for drug use, and will not offer drug evaluation or rehabilitation to employees unless required to do so under applicable law.

B. The Organization shall, however, provide rehabilitation, treatment, or counseling in a program approved by the Organization to any employee who receives a positive test result indicating an alcohol concentration in excess of .04 grams of alcohol per two hundred ten liters of breath, or its equivalent provided each of the following conditions are met:

1. The employee has been employed by the Organization for at least twelve of the preceding eighteen months,

2. The employee agrees to undergo the rehabilitation, treatment, or counseling as offered by the Organization, and

3. The employee has not previously violated this policy.

C. If rehabilitation is offered pursuant to the terms of this policy, the cost of the rehabilitation shall be apportioned between the Organization and the employee in the manner and to the extent required by Iowa law.

VIII. Access to Records

A. Employees or prospective employees who are subject to a drug or alcohol test pursuant to this policy, and for whom a positive test result is obtained, shall be given access to any records relating to the employee’s drug or alcohol test, including records of the laboratory where the testing was conducted, and any records relating to the medical review officer selected by the Organization to interpret the test result.

B. Notwithstanding the above, a prospective employee shall be entitled to records under this section only if the prospective employee requests the records within fifteen calendar days from the date MMSC provides the prospective employee with written notice of his or her test result as required by Iowa law. MMSC shall not release any records concerning a
positive test result obtained by a prospective employee unless the records are requested within that fifteen-day period.

C. All requests for drug or alcohol testing records shall be made in writing and addressed to the attention of MMSC’s Human Resources Director.

Originated by: Administration
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Authorized by:

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