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DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
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DEPARTMENTAL DIRECTIVE
NO. 20.1*

2 April 2012

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
DRUG TESTING POLICY FOR EMPLOYEES

1. PURPOSE

a. The purpose of this policy is to protect the integrity, credibility, and effectiveness of the Department of Military and Veterans Affairs (hereafter DMAVA); and to further ensure a drug free workplace for all employees and those cared for by the DMAVA. It provides the procedures to be employed by the DMAVA to establish and maintain a drug testing program as required by State law and regulations for direct care staff and those considered direct care employees.

b. This Directive supports Departmental Directive 020, dated 15 March 2006, New Jersey Department of Military and Veterans Affairs Drug and Alcohol Free Workplace Policy.

2. APPLICABILITY

The policy and procedure for scheduled and random drug testing applies to all direct care staff and all applicants for direct care positions. The term employee includes State contracted employees and temporary hires.

3. REFERENCES

a. New Jersey Public Law 2009, Chapter 220 (2010).

b. New Jersey Department of the Treasury (2010). Employee Advisory Services (EAS). Retrieved from: <http://www.state.nj.us/treasury/owid/eas/eas-index.shtml>.

**This directive supersedes Departmental Directive No. 20.1, dated 22 March 2011*

c. U.S. Department of Labor (2005). Office of the Assistant Secretary for Policy. Contact Information: New Jersey State Law Library, P.O. Box 520, John Fitch Plaza, Trenton, New Jersey (609-292-6230). Topic: Laws and Regulations. Substance Abuse Information Database (SAID) – New Jersey State Law – Unemployment Compensation. Retrieved from: <http://www.dol.gov/asp/programs/drugs/said/StateLawList.asp#NJ>.

d. U.S. Department of Labor (2005). Office of the Assistant Secretary for Policy Contact Information: New Jersey State Law Library, P.O. Box 520, John Fitch Plaza, Trenton, New Jersey (609-292-6230). Topic: Laws and Regulations. Substance Abuse Information Database (SAID) – New Jersey State Law – Workers’ Compensation. Retrieved from: <http://www.dol.gov/asp/programs/drugs/workingpartners/dfworkplace/dfwp.asp>.

e. U.S. Department of Labor (2005). Working Partners for an Alcohol-and Drug-Free Workplace (e-laws – Drug-Free Workplace Advisor). Retrieved from: <http://www.dol.gov/asp/programs/drugs/workingpartners/dfworkplace/dfwp.asp>.

f. U.S. Drug Enforcement Administration (DEA) (2005). Appendix: Sample Drug and Alcohol Abuse Policy, 4. Definitions. Retrieved 6 June 2005, from U.S. DEA Website New Jersey Department of Military and Veterans Affairs (1990). Corrective and Disciplinary Action Policies and Responsibilities. Departmental Directive Number 230.5, dated 28 December 1990 (as revised). New Jersey Civil Service Commission (2005). New Jersey Administrative Code Title 4A. Retrieved from: http://www.state.nj.us/csc/nj_title4a/index.htm.

g. New Jersey Department of Personnel. Statewide Policy – Drug and Alcohol Testing of employees required to Maintain a Commercial Driver’s License (CDL) (2005). Effective 1 January 1995. Revised 1 January 2005. Retrieved from State of New Jersey Department of Personnel Employee Advisory Services.

h. State of New Jersey Executive Order #204 (1989). Order and direct: Policy for a Drug-Free Workplace in State Government. Governor Thomas H. Kean, dated 14 March 1989. Retrieved from: <http://www.state.nj.us/infobank/circular/eok204.htm>.

i. Departmental Directive No. 020, dated 15 March 2006, New Jersey Department of Military and Veterans, Drug and Alcohol-Free Workplace Policy.

4. DEFINITIONS

a. **Adulterated Specimen** means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine.

b. **Cancelled Test** means a drug test that has a problem identified that cannot be or has not been corrected, or which otherwise requires to be cancelled. A cancelled test is neither a positive nor negative result.

- c. **Controlled Substances** means those substances defined in 29 CFR 40.85.
- d. **Confirmation Drug Test** means a second analytical procedure performed on a urine specimen to identify the presence of a specified drug or metabolite.
- e. **Criminal Drug Statute** means a Federal or State Criminal Statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.
- f. **Department** means the New Jersey Department of Military and Veterans Affairs.
- g. **Department premises or Department facilities** means all property of the New Jersey Department of Military and Veterans Affairs including, but not limited to, the offices, facilities, Veterans Memorial Homes, and surrounding areas on New Jersey Department of Military and Veterans Affairs-owned or –leased property, parking lots, and storage areas. The term also includes New Jersey Department of Military and Veterans Affairs owned or leased vehicles and equipment, wherever located.
- h. **Dilute Specimen** means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine. This specimen does not register as either a true positive or a true negative test.
- i. **Direct Care Employee** refers to any person employed by DMAVA who has direct contact with residents (see paragraph 6c below).
- j. **Drugs** means a word used interchangeably with “controlled substance,” prescribed or otherwise, or illegal drugs as follows: amphetamines/methamphetamines, barbiturates, benzodiazepine, cannabinoids, cocaine, methadone, phencyclidines, opiates, and illegal steroids.
- k. **Drug Testing** means the specific analysis of urine, blood, breath, saliva, hair, tissue, and other specimens of the human body for the purpose of detecting a drug or alcohol.
- l. **Employee** means all State employees of the Department or agency, full-time or part-time, and whether in the career service, executive service, or unclassified service. This term includes contracted employees, hourly employees, temporary hires, and paid or unpaid interns.
- m. **Illegal Drug or Controlled Dangerous Substance** means any drug which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose(s); any over-the-counter drug being used at a dosage level other than that intended by the manufacturer or being used for a purpose other than that intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances such as marijuana and hashish, cocaine, heroin, methamphetamine, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.
- n. **Legal Drug** means any prescribed drug or other-the-counter drug that has been legally obtained and is being used for the purpose for which it was prescribed or manufactured.

o. **Moving Violation** means any violation of New Jersey State Law which results in the issuance of a police summons which is directly related to the movement of a vehicle.

p. **On Duty** means any time period (regular work hours, overtime, hourly services), including breaks, during which an employee is required to comply with a directive from a supervisor and the employee may be expected to perform and/or be available to perform a directed driving or direct care function.

q. **Positive Drug Test** means a controlled substance test result reported positive by the screening facility and subsequently, in the case of a drug test, confirmed by the secondary laboratory.

r. **Prohibited Drugs** means cocaine, marijuana, opiates, amphetamines, and phencyclidine (see drugs at 4.j. above).

s. **Random Drug Testing** means a standardized random selection methodology of testing individual employees for drugs that does not depend upon reasonable individualized suspicion and does not predetermine who will be tested.

t. **Reasonable Belief** means a belief based on objective facts sufficient to lead a prudent person to conclude that a particular employee is unable to satisfactorily perform his or her job duties due to drug impairment. Such inability to perform may include, but not be limited to, decreases in the quality or quantity of the employee's productivity, judgment, reasoning, concentration, psychomotor control, and marked changes in behavior. Accidents, deviations from safe working practices, and erratic conduct indicative of impairment are examples of "reasonable belief" situations.

u. **Split Specimen** means an additional specimen collected with the original specimen, to be tested in the event the original specimen tests positive.

v. **Under the Influence** means a condition in which a person is affected by a drug in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior, or to the obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of being under the influence can be established by a professional opinion, a scientifically valid test, such as urinalysis or blood analysis, and in some cases by the opinion of a layperson.

w. **Urinalysis** means a urine test administered under approved conditions and procedures for detecting illegal drug usage.

x. **Workplace**, for purposes of this policy, means the physical area of operations of a department or agency, including buildings, grounds, and parking facilities provided by the State. It includes any field location or site at which an employee is engaged, or authorized to engage, in work activity, and includes any travel between such sites.

5. OBJECTIVE

a. All employees of DMAVA are required to report to work mentally and physically able to perform their duties and to carry out their responsibilities without endangering their own health or safety, or that of other employees, residents, volunteers, visitors, and/or the general public.

b. DMAVA has a vital interest in maintaining a safe, healthy, and efficient working environment. Being under the influence of a drug on the job poses serious safety and health risks to the user and to all those who work with the user.

c. Since DMAVA is responsible for the care and safety of our Veteran Memorial Home residents, it is imperative that a drug free environment is maintained.

6. ADMINISTRATION

a. Drug testing will be implemented in accordance with Public Law 2009, Chapter 220 and other applicable State regulations.

b. Drug testing will be administered by an approved local vendor in coordination with each DMAVA facility through the Human Resources Office of that facility.

c. Direct care staff member means: a Human Services Technician; Human Services Assistant; physicians; psychiatrist; dentist; psychologist; nurse, nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff member employed who provides direct care to a resident at the facility as determined by the Adjutant General.

7. CIRCUMSTANCES AND PROCEDURES FOR TESTING

a. Post-Offer for Final Applicants (Pre-Employment).

(1) All applicants for employment in direct care positions, as a condition of employment, shall consent to undergo drug testing for controlled dangerous substances (Appendix 1).

(2) Drug testing shall be at the expense of the applicant.

(3) An applicant that tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, shall be removed from consideration for employment.

(4) The drug test must indicate a pure or true negative employment. A result of "dilute specimen" will require a re-test at the expense of the applicant.

(5) Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Adjutant General.

b. Random Drug Testing.

(1) A person employed as a direct care staff member shall be subject to random drug testing for controlled dangerous substances performed at such intervals as the Adjutant General deems appropriate.

(2) The Adjutant General shall annually perform random drug tests on 100 direct care staff members. The employee will receive notice of the random testing (Appendix 2). Once notified of selection for testing, an employee must proceed immediately to a collection site to accomplish specimen collection.

(3) Current regulations allow for screening tests to be conducted using saliva, hair, blood, and urine samples.

(4) Random testing does not have to be conducted in the immediate time proximity to performing direct care functions.

(5) Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Adjutant General.

(6) Random drug testing shall be at the expense of the Department of Military and Veterans Affairs.

c. Reasonable Suspicion.

(1) A person who is employed as a direct care staff member may be required to undergo drug testing for controlled dangerous substances if the employee's immediate supervisor(s) has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety.

(2) The supervisor(s) shall report this information to his/her immediate supervisor in a manner specified by the Adjutant General.

(3) If the supervisor(s) concurs that there is reasonable suspicion to believe that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the Chief Executive Officer or other designated executive level officer of the facility and request approval in writing for ordering the employee to undergo drug testing.

(4) Drug Testing of an employee shall not be ordered without the written approval of the Chief Executive Officer or other executing level officer as designated by the Adjutant General.

(5) Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Adjutant General.

(6) Drug Testing shall be at the expense of the Department of Military and Veterans Affairs.

(7) When the Chief Executive officer or designee has a reasonable suspicion that an employee is in violation of this policy or has received a report of such, he/she shall contact Human Resources to discuss the appropriate course of action.

(8) Once a decision is made that reasonable suspicion exists, the supervisor will complete the Supervisor's Report Form (Appendix 3) prior to initiating the testing of an employee.

(9) Reasonable suspicion is the belief that the employee has committed a violation based upon his/her contemporaneous observation, articulable observations, facts, and reasonable inferences drawn from those observations concerning the appearance, behavior, speech, or body odors of the employee in the light of past experience.

(10) The supervisor/manager will inform the employee that he/she suspects the employee of being in violation of policy and will give the employee the opportunity of responding. After considering the employee's response, the supervisor/manager will determine if testing is warranted and will notify the employee if testing is required.

(11) Prior to testing, the employee will receive official notice of random testing and/or notice of reasonable suspicion (Appendix 2) for testing. The employee must consent to release of information and will be informed that refusal to testing or the release of results is grounds for disciplinary action, up to and including, termination of employment. The supervisor/manager is required to give this notification prior to the employee reporting for testing.

d. Return to Duty Drug Testing Procedure.

(1) Before a DMAVA employee returns to his/her duty after engaging in prohibited conduct involving drugs, the employee must undergo a return-to-duty drug test.

(2) The return to duty test must be a verified negative result for drug use. The employee must have the lab send the results to DMAVA's Employee Relations Officer (ERO). The DMAVA ERO will initiate the necessary actions to return the employee to duty, while informing the VMH Human Resource Manager of this action.

(3) The return to work drug test must indicate a "pure" or "true" negative for re-employment. A result of "dilute" specimen will require a re-test.

(4) Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Adjutant General.

(5) Drug testing for return to work shall **not** be at the expense of the employee.

(6) If the results of the return to duty drug testing are **positive**, DMAVA ERO will take the necessary actions to place the employee off duty in accordance with established disciplinary procedures while informing the VMH Human Resource Manager of the action.

e. Follow-up Drug Testing.

(1) Follow-up drug testing is required for any employees who are permitted to return to duty after testing positive for controlled dangerous substances. DMAVA ERO will contact the local Human Resource Manager. He/she will notify the appropriate supervisor and ensure the employee reports for testing as required. All employees will be escorted by a representative of Human Resources or the appropriate supervisor.

(2) When an employee returns to duty, the employee shall be subject to unannounced follow-up dangerous controlled substance tests at least three times in the first twelve months following the return to duty **at his/her own expense.**

(3) Additional follow-up testing shall not exceed 60 months from the date of the employee's return to duty.

8. RANDOM TESTING PROCEDURES AND MEASURES

a. Each Veterans Memorial Home (VMH) will maintain a list of affected employees and will update this list on a monthly basis for submission to the testing company vendor.

b. On a randomly selected basis, the testing company will contact the VMH Human Resources/Employee Relations Office with the names of the employees who are to be tested and agree to date(s)/time(s) when the employee will undergo testing.

c. The VMH Human Resources/Employee Relations Office and the DMAVA site manager will take all appropriate measures to protect the confidentiality of this information.

d. The DMAVA site contractor will arrive at the VMH and assume control of the testing location and explain the testing procedures to all employees who will be randomly tested as per the pre-established list.

e. The site manager will document the attendance of the test group and advise the testing company that all of the names that were designated as part of the test group are present for testing.

NOTE: If an employee is designated as part of the test group and is in work that day, that employee must be tested. If an employee is off premises on the designated day of testing, that employee will be considered excused. An employee who is on an approved leave is not required to be tested for that designated test.

f. On the day of testing, each employee scheduled for testing will receive written notice to immediately report to the testing site for random testing (Appendix 2).

g. Each employee scheduled for random testing must sign acknowledging receipt of notification for random drug testing and report to the designated testing location.

h. The supervisor/manager providing employee notification for random testing must sign the notice and return it to the VMH Human Resources Office for filing.

i. The testing company will perform the test in accordance with their procedures.

j. All employees randomly selected to be tested will remain in the test site until released by the testing company. Leave time will not be granted, except in cases of extreme emergency.

(1) The following conditions may apply as exceptions to random testing, including, but not limited to:

(a) Employee is on an approved leave: sick, vacation, administrative/personal leave, or furlough approved prior to test notification.

(b) Employee is serving on Jury Duty.

(c) Employee is off premises at an official activity (i.e. training).

(d) Employee is no longer employed in a covered title.

(e) Employee is suspended.

(2) Should an employee become ill while waiting to be tested, the site manager will arrange for the employee to be taken to an authorized medical facility for treatment and arrange with the testing company for testing. If the employee reports extreme illness, an ambulance should be called. The testing company will dispatch someone to the medical care facility to retrieve a test sample.

(3) Employees leaving the test site without authorization will be considered to have refused the test, which will result in termination.

NOTE: The “shy bladder rule” governs situations in which employees cannot provide a sufficient urine sample. The final rule amends the regulations to provide up to three hours for an employee to drink up to 40 ounces of fluid before making the second attempt to provide a complete specimen. If the employee refuses to drink the fluids or if the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection site person shall discontinue the collection and notify the VMH Human Resources/Employee Relations Office. The employee must receive a medical evaluation, at his/her own expense, to determine the reason why a sample was not possible. The physician doing the evaluation must have expertise in the appropriate medical issue(s) (i.e. urology).

k. As employees are released by the testing company, the site manager will direct those employees to return to their work assignments.

9. TEST RESULTS FROM RANDOM TESTING – FIRST 72 HOURS AFTER TESTING

The test results are not immediately known, therefore, the following procedure should be followed during the time between testing and result notification:

- a. The employee is to remain in full duty status.
- b. Employees will not receive notification of negative test result.
- c. If the test results are anything other than negative, the testing company vendor Medical Review Officer (MRO) will contact the employee directly to obtain additional information relative to the test results.
- d. Within twenty-four (24) hours after testing, the MRO will notify the VMH Human Resources/Employee Relations Officer of all negative drug test results. Notification is done by telephone and facsimile.
- e. The MRO will notify the VMH Human Resources/Employee Relations Office of all **positive** drug test results.
- f. The VMH Human Resources/Employee Relations Office will notify DMAVA Central Office Human Resources/Employees Relations Office of any positive drug test results. Notification is to be done by telephone to maintain confidentiality.
- g. Upon receipt of documentation which substantiates a positive drug test, the VMH Human Resources/Employee Relations Office will contact the employee to explain the procedures with regard to his/her mandated referral to the Employee Advisory Service (EAS) and a return to work screen. The employee will not be allowed to return to work until cleared by EAS and authorized for return to work by the appropriate VMH Human Resources/Employee Relations Office. The employee may request to use their leave accruals as appropriate. If the employee does not have appropriate leave time, he/she may request a leave of absence, in accordance with N.J.A.C. Title 4A.

10. REASONABLE SUSPICION TESTING PROCEDURES AND MEASURES

- a. Direct Care Employee Responsibility
 - (1) Direct Care employees must submit to drug testing if the immediate supervisor or any other appropriate in-line supervisor or manager observes the employee's behavior, and has reasonable suspicion that the employee is impaired.
 - (2) Direct Care employees are subject to the "Reasonable Suspicion Testing Procedure" upon reporting for work, anytime during the work shift and immediately following the work shift.

(3) Reporting to work for the normal assigned work shift and/or overtime assignments constitutes being available for work.

(4) Direct Care employees must not report to work under the influence of, or impaired by any controlled dangerous substance.

b. Supervisory Responsibility

(1) The immediate supervisor or any appropriate in-line supervisor or manager must decide if a drug test should be administered in accordance with the reasonable suspicion provision of this policy. This decision can only be made after the employee is personally observed by the individual making the decision to test.

(2) The supervisor will request a second opinion from another member of supervision in his/her chain of command, who will personally observe the behavior of the employee in question. This second opinion should be confidential and without provocation to the employee in question. During this time, the employee in question should be given a non-direct care assignment, and remain under the observation of the supervisor.

(3) If it is decided that a drug test is required, the supervisor requesting the test must:

- (a) Notify the CEO, ACEO, or other designated executive officer that a test is being requested. Additionally, the VMH Human Resources/Employee Relations Office must be notified as soon as possible. The CEO or their designee must provide written approval for reasonable suspicion testing (Appendix 3).
- (b) Inform the employee that observations of his/her behavior warrant the performing of a drug test. The employee must be told that if he/she refuses they will be terminated. This should be done in a private setting with another supervisor present.
- (c) The VMH Human Resources/Employee Relations Office will contact the testing company and request a test based on reasonable suspicion.
- (d) The first option is to request that the contractor/company provide an on-site test. If the contractor/company cannot provide an on-site test in a timely manner, then the VMH is responsible to ensure that the employee is transported to the testing site (e.g. family, friends, ambulance, facility, vehicle, etc.). The failure of the employee to arrive at the testing site in a reasonable amount of time will be treated as an employee refusal to test.
- (e) Transportation from the test site is the responsibility of the employee; however, assistance will be provided in making arrangements for transportation.

11. REASONABLE SUSPICION TEST RESULTS – FIRST 72 HOURS AFTER TESTING

Due to the nature of testing, results may not be available and the following will apply:

a. Pending the receipt of test results, the employee will remain off duty in pay status. The employee cannot report to work until directed by the appropriate VMH Human Resources/Employee Relations Office. If no one can pick up the employee, the local police department will be notified to transport the employee from the VMH or testing site. If the test results are anything other than negative, the testing company vendor Medical Review Officer (MRO) will contact the employee directly to obtain additional information relative to the test results.

b. Within twenty-four (24) hours after testing, the MRO will notify the VMH Human Resources/Employee Relations Office of all negative drug test results. Notification is done by telephone and a facsimile.

c. The MRO will notify the VMH Human Resources/Employee Relations Office of all **positive** drug test results.

d. The VMH Human Resources/Employee Relations Office will notify DMAVA Central Office Human Resources and Employee Relations Offices of any positive drug test results. Notification is to be done by telephone to maintain confidentiality.

e. Upon receipt of documentation which substantiates a positive drug test, the VMH Human Resources/Employee Relations Office will contact the employee to explain to the employee the procedures with regard to his/her mandated referral to the Employee Advisory Service (EAS) and a return to work screen. The employee will not be allowed to return to work until cleared by EAS and authorized for return to work by the appropriate VMH Human Resources/Employee Relations Office. The employee may request to use their leave accruals as appropriate. If the employee does not have appropriate leave time, he/she may request a leave of absence, in accordance with N.J.A.C. Title 4A.

12. RETURN TO DUTY RE-TESTING PROCEDURE

Before an employee can return to duty, they must undergo a **return-to-work drug test at the employee's expense.**

a. Employee Responsibility – Employees who are returning to duty must test a “pure” or “true” negative following any referral to EAS as a result of a positive random or reasonable suspicion drug test.

b. Supervisor Responsibility – DMAVA shall ensure that before any employee returns to duty after engaging in conduct prohibited by the drug testing policy concerning controlled dangerous substances, he/she must undergo a return to work drug test resulting in a verified negative result for controlled dangerous substances.

13. RETURN TO DUTY RE-TEST RESULTS

a. Pending the receipts of the return to duty drug test results, the employee is to remain off duty in a paid status.

b. If the test results are anything other than a “pure” or “true” negative, the testing company vendor Medical Review Officer (MRO) will contact the employee directly to obtain additional information relative to the test results.

c. Within twenty-four (24) hours after testing, the MRO will notify the VMH Human Resources/Employee Relations Office of all negative drug test results. Notification is done by telephone and facsimile.

d. The MRO will notify the VMH Human Resources/Employee Relations Office of all positive drug test results.

e. The VMH Human Resources/Employee Relations Office will notify DMAVA Central Office Human Resources and Employee Relations of any positive drug test results. Notification is to be done by telephone to maintain confidentiality.

f. Upon receipt of documentation which substantiates a positive drug test, the VMH Human Resources/Employee Relations Office will take the necessary disciplinary actions in accordance with established procedures.

14. FOLLOW-UP RE-TESTING

When an employee is permitted to return to duty requiring the performance of direct care functions, the employee shall be subjected to unannounced follow-up controlled dangerous substances tests at least three (3) times in the first 12 months following the return to duty **at his/her own expense.**

a. Follow-up Re-Testing Procedure. For follow-up scheduling, the VMH Human Resources/Employee Relations Office will notify the appropriate supervisor and ensure the employee reports as required.

(1) Pending the receipt(s) of the follow-up drug test results, the employee will be in full pay status.

(2) If the test results are anything other than a “pure” or “true” negative, the testing company vendor Medical Review Officer (MRO) will contact the employee directly to obtain additional information relative to the test results.

(3) Within twenty-four (24) hours after testing, the MRO will notify the VMH Human Resources/Employee Relations Office of all negative drug test results. Notification is done by telephone and facsimile.

(4) The MRO will notify the VMH Human Resources/Employee Relations Office of all **positive** drug test results.

(5) The VMH Human Resources/Employee Relations Office will notify DMAVA Central Office Human Resources and Employee Relations of any **positive** drug test results. Notification is to be done by telephone to maintain confidentiality.

(6) Upon receipt of documentation which substantiates a positive drug test, the VMH Human Resources/Employee Relations Office will ensure that the employee is removed from the work site. If necessary, the local police shall be notified to remove the employee from the premises.

(7) The VMH Human Resources/Employee Relations Office will take the necessary actions to place the employee off duty with established disciplinary procedures.

b. Disciplinary Actions

(1) For all venues of drug testing, an employee who tests positive for the unlawful use of any controlled dangerous substance will be mandated to attend Employee Advisory Services (EAS), will be subject to thirty (30) days suspension for the first violation and removal for any subsequent incident, as applicable based on the employee's job title.

(2) An employee who refuses to submit to drug testing shall be terminated from employment. The employee shall retain any available right of review by the Civil Service Commission.

c. Drug Violations

Any employee who initially tests positive for drug use during screening tests will be removed from driving responsibilities/direct care functions immediately.

(1) Upon verification of a positive test result, the employee will be immediately removed permanently from any job requiring that he/she perform driving duties and/or direct care functions.

(2) All employees may be subject to disciplinary action sited above.

d. Rehabilitation and Counseling

(1) In cases of first violation, DMAVA employees may be given the opportunity to obtain rehabilitation and counseling through their respective Human Resources Office to Employee Advisory Service (EAS).

(2) This type of assistance may be prescribed in conjunction with any disciplinary action taken by DMAVA against an employee, as a condition for returning to duty and/or employment.

(3) Each individual case will be evaluated by the DMAVA administration and in conjunction with EAS after a thorough review of the employee's record.

e. Employee Monitoring and Follow-up Actions

(1) All DMAVA employees who have successfully completed a program of rehabilitation and counseling and with the recommendation of EAS, may be returned to duty.

(2) Those employees are subject to Return-to-Duty testing.

(3) If the employee is tested and test results are positive, the employee will not be permitted to return to duty and the conditions of his/her rehabilitation will be vacated.

(4) Any further drug violations discovered during Return-to-Duty testing shall result in termination for cause.

(5) Pursuant to P.L. 2009 c220, drug testing results shall not be reported to law enforcement authorities.

(6) Any individual who is the subject of a drug test shall, upon written request, have access to any records relating to his/her drug test.

15. MANAGEMENT RESPONSIBILITIES

a. To provide employees detailed information about DMAVA's Drug Free Workplace Policy (DD 020) and this Drug Test Departmental Directive, the testing requirements, and how and where employees can get help for drug abuse. This form will be sent out and acknowledged on an annual basis to all employees to ensure employee compliance.

b. All new hires will be provided this policy as part of their new hire orientation and will sign off on an Employee Notice and Acknowledgement of Receipt of Drug Testing Policy (Appendix 4).

c. To ensure this program is implemented correctly and in a timely manner.

d. To ensure that all employees are treated with dignity and tested in a private as possible setting.

e. To ensure the confidential handling of all test results.

f. To ensure that all affected employees retain the right of review by the Civil Service Commission.

16. EMPLOYEE RESPONSIBILITIES

- a. To become knowledgeable with the content of this Departmental Directive.
- b. To cooperate with all aspects of the drug testing process.
- c. To take responsibility for his/her own actions regarding drug use.
- d. To refrain from using controlled dangerous substances in the discharge of the duties for which you were hired.

Appendix 1: Applicant Notice and Consent Form

Appendix 2: Employee Notice for Random/Reasonable Suspicion Drug Testing

Appendix 3: Supervisor’s Report Form

Appendix 4: Employee Notice and Acknowledgement of Receipt Drug Testing Policy

This Directive updates the Standard Functional Address Symbol System for major activities of the Department. The proponent office for this Directive is the Director, Human Resources, DMAVA. Users are invited to send comments for improvements to NJDMAVA, ATTN: HRD, 101 Eggert Crossing Road, Lawrenceville, NJ 08648.

OFFICIAL:

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 Chief Information Officer
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Appendix 1

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

Drug Testing

Applicant Notice and Acknowledgment

I, _____ (*please print name*), applicant for _____ (*name of position*), understand that as part of the pre-employment process; the New Jersey Department of Military and Veterans Affairs will conduct a comprehensive background investigation to determine my suitability for the position for which I have applied.

I understand that as part of this process, I will undergo drug testing through urinalysis.

I understand that the **cost of the drug testing is at my own expense.**

I understand that I must schedule myself and be tested for drugs, at a designated drug testing site, within 72 business hours of receiving a conditional offer of employment letter/notification.

I understand that the results of my drug test will be shared with the NJ Department of Military and Veterans Affairs _____ (*name of facility*) Human Resources Office.

I understand that a “pure” or “true” negative drug test result is a condition of employment.

I understand that if I refuse to undergo the testing, I will be rejected for employment.

I understand that if I produce a positive test result for illegal drug use, I will be rejected for employment.

I understand that if I produce a positive test result for illegal drug use, that information will not be reported to law enforcement authorities.

I have read and understand the information contained on this “Applicant Notice and Acknowledgment” form. I agree to undergo drug testing through urinalysis as part of the pre-employment process.

Signature of Applicant

Date

Name of Witness (Please Print)

Signature of Witness

Date

Appendix 2

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

Employee Notice
For Random/Reasonable Suspicion Drug Testing

To Be Completed By Employee:

I, _____ (Print Name), understand that as part of the New Jersey Department of Military and Veterans Affairs (DMAVA) Drug Test Policy, I am subject to random and/or reasonable suspicion drug testing by urinalysis.

I understand that a negative result is a condition of my continued employment as a "Covered Person for the DMAVA.

I understand that a refusal to submit to a random and/or reasonable suspicion drug test shall result in my dismissal from the DMAVA.

On this Date _____, at _____ (Time), I acknowledge receipt of this notification to immediately report to _____ (Testing Location) for drug testing by urinalysis.

Signature of Employee _____ Date _____

To Be Completed By Supervisor:

On this Date _____, at _____ (Time), I provided _____ (Employee Name Printed) with notification to immediately report to _____ (Testing Location) for drug testing.

Employee: [] Signed [] Refused to Sign [] Not Available (explain)

Supervisor's Name: _____ Supervisor's Signature: _____

Supervisor's Title: _____

Appendix 3 (Front)

New Jersey Department of Military and Veterans Affairs Drug Testing Policy for Direct Care Employees Supervisor's Report Form			
Employee's Name		Supervisor's Name	
Employee's Job Title	Work Unit	Second Supervisor's Name	
Place/Location of Observation		Date & Time	
If there was an accident or incident give brief description			
Attempt to conceal an object? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Explain: _____			
JOB PERFORMANCE: Was employee performing his/her job at the time? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A How were duties impacted? : _____			
Employee's Observed Behavior: Nervous () Poor memory () Sleepy () Exaggerated () Confused () Combative () Excited () Quarrelsome () Fatigued () Uncooperative () Insulting () Overly Talkative () Unable to perform usual work tasks ()		Other Information or Comments: _____ _____ _____	
Unusual Employee Actions / Reactions: Sweating () Slowed reactions () Crying () Tremors () Fighting () Quick moving ()			
Employee's Speech: Slurred () Slow () Confused () Thick () Rambling () Pressured () Insulting/Vulgar ()			
Employee's Balance: Falling () Staggering () Unsure gait () Needs support () Stumbling () Normal ()			
Eye-witnesses / other employees involved: _____			
Did you observe the employee: <input type="checkbox"/> Interacting with a Client? <input type="checkbox"/> Operating Equipment or a Vehicle? <input type="checkbox"/> N/A			
Was the Client Interaction: <input type="checkbox"/> Badgering <input type="checkbox"/> Too Loud <input type="checkbox"/> Inappropriate <input type="checkbox"/> N/A <input type="checkbox"/> Explain: _____			
Was the vehicle: <input type="checkbox"/> Zig Zagging <input type="checkbox"/> On wrong side of the roadway <input type="checkbox"/> Lights not on <input type="checkbox"/> Excessive Speed <input type="checkbox"/> Too Slow <input type="checkbox"/> Left unattended while operating <input type="checkbox"/> Operator disobeying traffic rules <input type="checkbox"/> N/A <input type="checkbox"/> Other/ Explain: _____			
Was Equipment: <input type="checkbox"/> Being improperly used <input type="checkbox"/> Not operated safely <input type="checkbox"/> Caused to be broken <input type="checkbox"/> Mishandled, not stored properly <input type="checkbox"/> Left unattended while operating <input type="checkbox"/> N/A <input type="checkbox"/> Other/ Explain: _____			
Other observations: _____ _____ _____			
Please complete the reverse side of this form			
DMAVA Form 20.1, Dated 30 NOV 2010 (Ref: DD 20.1)			

Appendix 3 (Back)

Supervisor's Report Form – Side 2

Union Representative Notified: Yes No Union Telephone #: _____

Date/ Time / Name of Union Person Notified & Union Response: _____

Supervisory Action Taken: _____

Consequences to Employee: _____

Follow-Up: _____

Supervisor's Signature _____ Date _____ Employee's Signature _____ Date _____

SUPERVISOR PRINT NAME

EMPLOYEE PRINT NAME

Witness' Signature _____ Date _____ 2nd Witness' Signature _____ Date _____

CEO's or Designee's Approval for Employee to Undergo Drug Testing (Print Name): _____

CEO's or Designee's Signature _____ Date _____

CEO's Verbal Approval Obtained On (Date/Time): _____ By (Print Name): _____

Appendix 4

New Jersey Department of Military and Veterans Affairs
Drug Testing Policy for Direct Care Employees

Employee Acknowledgement of Receipt of the Drug Test Policy

I acknowledge that I have received a copy of Departmental Directive No. 20.1, the:

NEW JERSEY DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
DRUG TESTING POLICY FOR EMPLOYEES

I understand this policy is required by P.L. 2009, Chapter 220, as amended, and has been duly adopted by the State of New Jersey.

I further understand that receipt of this policy constitutes a legal notification of the contents, and that it is my responsibility to become familiar with and adhere to all provisions contained therein. I will seek and get clarifications for any questions from the employer contact person listed in the policy. I also understand that compliance with all provisions contained in the policy is a condition of my employment.

Any noncompliance with the requirements outlined in Departmental Directive 20.1 will constitute a violation of this policy, and may result in disciplinary action up to and including termination of employment.

I have read and understand this Drug Testing Policy for Direct Care Employees and agree to abide by it. A signed copy of this form shall be placed in my DMAVA personnel file.

PRINT NAME: _____

SIGNATURE: _____

DATE: _____ JOB TITLE: _____

WORK STATION: _____ PHONE #: _____

WITNESS' SIGNATURE: _____