

SUBJECT: [Hospital Template] Policy for Drug Diversion: Prevention, Identification, Reporting and Response (in Acute Care Settings)

Effective: [date]

Revised: [date]

PURPOSE

The Drug Diversion Prevention, Detection and Response Program provides a systematic, coordinated and continuous approach to the prevention, recognition and reporting of drug diversion to ensure safe medication practices, safe employee behavior and to prevent patient harm.

DEFINITIONS

Drug Diversion – Intentionally and without proper authorization, using or taking possession of a prescription medication or medical gas from [Hospital] through the use of prescription, ordering or dispensing system. Examples of drug diversion include, but not limited to:

- Medication theft
- Using or taking possession of a medication without valid order/prescription
- Forging or inappropriately modifying a prescription

Controlled substance – Medications classified as Schedule I through V by the Federal Drug Enforcement Agency and/or New Jersey Controlled Dangerous Substances Act [N.J.A.C 24:21-1, et seq].

Narcotics – All subsets of controlled substances that produce sedation or drowsiness effect.

ADC – Automated Dispensing Cabinet [Brand name used at Hospital] provides an administration control and charging system for controlled substances, non-controlled medications and floor stock.

Employee – Any healthcare provider, consulting staff, administrative staff, allied health staff, house staff (fellow/resident/intern), student, volunteer, contract worker or any other employee or individual who has received appointment at [Hospital].

Licensed or registered healthcare provider – Healthcare provider whose license or registration allows him/her to provide care and services within the scope of their respective practices and as authorized from respective regulatory agencies and [Hospital] departmental policies.

POLICY STATEMENT

1. [Hospital] is committed to establishing and maintaining a safe and healthy environment for employees, patients and visitors. Drug diversion by healthcare personnel creates a significant patient and staff safety risk. The prevention, detection, and reporting of drug diversion are the responsibility of all [Hospital] staff.

2. All [Hospital] staff are required to comply with state and federal laws and regulations regarding medication handling and security as well as all policies of [Hospital].
3. All suspected incidents of drug diversion will be thoroughly investigated.
4. Suspicion of drug diversion may arise from a variety of circumstances, including but not limited to the following:
 - A witnessed incident of probable drug diversion
 - Behaviors that may indicate an impaired individual [Appendix A; Indicators of Impairment]
 - Suspicious activity identified during routine monitoring and/or proactive surveillance
 - Self-disclosure of drug diversion by an individual
 - Notification of suspected drug diversion from an external source, such as local law enforcement or a family member of a suspected drug diverter
5. Any employee who reports suspected drug diversion honestly and in good faith will be protected from retaliation.
6. If a hospital has a specific Drug Diversion Team, they will manage the investigation of all reports of suspected drug diversion. Other investigators are specified in policy if a Drug Diversion Team is nonexistent.
7. Drug diversion by a [Hospital] employee is grounds for corrective action.
8. Drug diversion by a [Hospital] employee will be reported to all appropriate government licensing, regulatory and law enforcement agencies.

PROCEDURES

I. Pre-Employment Screening

In accordance with the Drug Enforcement Administration (DEA) Guidelines [21 CFR 1301.90, 1301.93], [Hospital] is required to obtain information about prior convictions of crimes and prior unauthorized use of controlled substances as part of the background check performed on all prospective employees.

- A. [Hospital] must know if an employee or potential employee has ever entered a plea of guilty, no contest, *nolo contendere*, or otherwise been convicted of any criminal offense relating to controlled substances.
- B. An authorization is obtained in writing to allow inquiries to courts and law enforcement agencies for possible pending charges or convictions of the candidate who will be allowed to work in an area where access to controlled substances exists.
- C. A written inquiry is sent to the DEA Field Division Office along with written consent from the job candidate for a check of DEA files for records of convictions.

- D. [Hospital] is required to obtain information from candidates regarding prior controlled substance handling concerns and involvement with diversion.
- E. If a candidate has criminal convictions, guilty pleas or if their drug registration has ever been revoked, surrendered or denied, the individual is not permitted to have access to any controlled substances until the employer obtains a waiver from the DEA.

II. Drug Diversion Specialist/Team**if applicable*

[Hospital] Drug Diversion Team/Specialist will direct the daily operations of the Drug Diversion Program. The team/specialist will oversee all aspects of drug diversion education, prevention, surveillance, investigation and reporting at [Hospital].

III. Education

All new staff will be educated about drug diversion at the time of orientation including participation in annual drug diversion training.

- A. Diversion training will be tailored to the employment role of staff members and include discussion of the risks of drug diversion by healthcare personnel, warning signs of diversion/impairment, reporting requirements and avenues, and assistance options for staff that are struggling with an addiction or substance use issue.
- B. [Hospital] is required by federal regulation to make their employees aware that they are expected to be mandatory reporters of drug diversion if there is knowledge of illegal drug activity [DEA 21 CFR 1301.91]. Therefore, all staff will be educated on how to respond when diversion or impairment is suspected.
 - *Clinical Staff:* As a part of orientation, all clinical staff with related access to controlled substances will receive an initial training session as a new staff member and periodic training session devoted exclusively to drug diversion and controlled substance handling expectations. In conjunction with this training, each staff member is required to sign an attestation that he or she has received the training, that he or she understands institutional and professional requirements for controlled substance handling, and that he or she agrees to abide by these requirements. Access to controlled substances and to the ADC will not be permitted until the training and attestation have been completed.
 - *Medical Staff:* All medical staff will receive initial and annual education on responsible controlled substance prescribing and on diversion prevention and detection within [Hospital]. Training will emphasize requirements related to prescribing and reporting, will address how medical staff can avoid becoming unwitting participants in a diversion scheme by a staff member, and will provide information about resources for staff who may have an addiction or substance use issue.

IV. Drug Handling

[Hospital] pharmacy will have in place drug handling policies that ensure physical security controls to guard against theft and diversion of controlled substances and other drugs, and that ensure accountability for all controlled substances within [Hospital]. Refer to [Hospital Pharmacy Controlled Substance & High Risk Medication Diversion Policy](#).

V. Auditing and Surveillance

[Hospital] pharmacy will maintain a drug diversion auditing and surveillance program to enable the prompt identification of loss or diversion of controlled substances, and to identify quickly the individual(s) responsible for the diversion. The Diversion Specialist will have primary responsibility for daily surveillance activities. Refer to [Hospital Pharmacy Controlled Substance & High Risk Medication Diversion Policy](#).

VI. Initial Report and Investigation

A. Determination of Fitness for Duty

1. Any employee who suspects that drug diversion has occurred should notify his or her supervisor. Alternatively, an employee may call the [\[Hospital Drug Diversion Team\]](#) at [\[Contact/Extension#\]](#) directly or anonymously. In the absence of a Drug Diversion Team, the supervisor will follow procedures below.
2. If manager/supervisor believes or becomes aware of an employee's apparent inability to safely and adequately perform work duties, the manager/supervisor shall determine whether any patient has been harmed or placed at risk of harm and take appropriate action to ensure the patient is appropriately attended to or remove the risk of harm. If a patient has been harmed or placed at risk of harm, the supervisor will notify the patient's primary staff physician.
3. The manager/supervisor will contact the [\[Hospital Human Resources\]](#) Consultant to determine if a medical exam with Employee Health Services is appropriate. If the employee is safe enough to be escorted by supervisor and is deemed appropriate to be evaluated in the Employee Health Services, the supervisor and the Human Resources' Consultant will take the employee together for medical evaluation.
4. If an employee admits to diverting drugs, depending on other factors, the person may be referred to an Employee Assistance Program (EAP) or a peer assistance program such as Recovery and Monitoring Program for Nurses (RAMP) or Pharmacist Assistance Program for pharmacists. In New Jersey, the Professional Assistance Program (PAPNJ) for physicians, podiatrists, physician assistants or dentists works closely with the New Jersey Board of Medical Examiners (NJBME).
5. If a manager/supervisor believes or becomes aware that an employee has either reported to work in an unfit condition/under the influence of controlled substances or has become unfit/intoxicated during the course of the shift [\[Appendix A; Indicators of Impairment\]](#) the following procedures

shall be followed;

- i. Immediately remove the employee from the work area to a private area and contact supervisor/physician in charge.
- ii. The supervisor will then inform the [Emergency Room Nurse Manager] at [Contact/Extension#]. Both supervisors/managers shall escort employee to a confidential designated area in the ER for alcohol/drug testing. In the absence of the departmental supervisor, the supervisor on duty/call must also contact [Hospital Security] at [Contact/Extension#] for assistance to the ER.
- iii. The supervisor shall take steps that are immediately necessary to preserve any readily apparent evidence such as medications, vials, syringes and infusion pumps.
- iv. The supervisor shall also interview any other individual who may have observed the employee's actions/behaviors during the time in question and note their comments and observations accordingly.
- v. The supervisor shall document the assessments, communications and actions taken upon the employee.

B. Testing Procedures

1. Prior to drug testing being performed, the identification of the employee must be validated with a photo ID. If unavailable, the employee's Supervisor/Department Chair/Program Director/Coordinator should be contacted directly for verification purposes.
2. The supervisor and ER nurse manager shall escort the employee to a confidential designated area in the ER. An ER physician is notified and the employee is provided consent to authorize specimens to be collected and its results released to Human Resources [Appendix B; Employee Informed Consent for Fitness for Duty Evaluation]. This form will also include a section of employee's current prescription/nonprescription medications. The employee is required to provide evidence that a prescription medication has been lawfully prescribed by a physician. If at the time of the evaluation the prescription medication is unknown, the employee is required to contact Human Resources once home (or in contact with their prescribing physician) with the proper name of the medication.
3. Prior to administering any drug/alcohol screen, the employee shall be advised that such refusal may subject him/her to disciplinary action, to include possible termination of employment [Appendix B; Employee Informed Consent for Fitness for Duty Evaluation].

C. Collection of Specimen

1. If the employee is unable to go to the Employee Health Services for evaluation and testing, as outlined above, for reasons of timing and safety of all employees, the ER physician shall conduct a fitness for duty examination in a private room and discuss the diagnostic tests that will be performed.
2. During this testing, at NO time will the employee be left alone. The employee will then be required to provide blood and urine specimens for laboratory

testing. Refer to the [Hospital Emergency Department Drug Screening Procedures].

3. Specimens will be made available for pick-up and testing to be performed by an independent National Institute on a Drug Abuse (NIDA) certified laboratory. The lab will test the specimen for, including but not limited to the following,
 - Blood; blood alcohol levels
 - Urine; Amphetamines, barbiturates, benzodiazepines, methadone, opiates, PCP, propoxyphene, cocaine and marijuana metabolites
 - Other substances as deemed necessary by ER physician
 - At NO time will the specimens drawn be used for any purpose other than to determine the presence or absence of drugs or alcohol.

D. Pending Test Results

1. The employee will be suspended +/- pay pending receipt of laboratory test results and completion of an overall investigation.
2. Under NO circumstances is the employee permitted to drive home on their own. The supervisor should either:
 - Call a family member to transport employee home; or
 - Send the employee home in a cab; or
 - Notify the police if the employee is a high risk for operating a motor vehicle and/or refusing assistance in getting home.

E. Test Results

1. For purposes of determining the presence of drugs and/or alcohol, the [Hospital] shall enforce a "zero tolerance" policy. As such, a positive test result, regardless of test levels, shall establish a finding of drug diversion. All test results shall be reported to the [Vice President of Human Resources or his/her designee], who will then, if necessary, review results with a designated [Medical Review Officer].
2. If it is found that drug diversion has occurred or probably occurred, the Drug Diversion team will review the evidence and determine the next steps, which may include further investigation, additional surveillance, witness interviews or suspect interviews.
3. Negative Results – Assuming there are no other infractions or violations of policy, the employee shall be returned to work on his/her next regularly scheduled work day. If applicable, the employee will be reinstated with back pay for the scheduled days absent due to the suspension previously imposed.
4. Positive Test Results
 - Alcohol: if the medical exam determines the employee was impaired by alcohol while at work, the employee will be disciplined, up to and

- including termination.
- Illegal Substance or Illegally Obtained Substance: if the medical exam determines the employee was impaired by an illegal substance or illegally obtained substance while at work, the employee will be disciplined, up to and including termination.
- Prescription Substance: if the medical exam determines the employee was impaired by a substance for which he/she has a legal prescription and was noted on the disclosure form, the employee may be returned to work after the prescribing physician has reviewed the employee's job description and clears the employee to return to work.

VII. Employment Action

- A. If an employee is determined to have committed drug diversion, the employee will be subjected to corrective action. In most cases the expected outcome will be termination of employment or dismissal from the applicable school or training program. Such action may be taken regardless of whether the diversion occurred within the scope of employment or training, or while the employee was off-duty as a patient or visitor.
- B. Termination or dismissal due to drug diversion will be recorded in the employee's employment file or educational file. The specific reason for dismissal will be shared with prospective employers or educators who contact [Hospital] with appropriate authorization.

VIII. Internal Reporting

- A. If the [Vice President of Human Resources or his/her designee] or the [Hospital Drug Diversion Team] suspects or concludes that drug diversion has occurred or probably occurred, the following notifications will be made:
 - 1. If a [hospital] employee or licensed healthcare provider is suspected of diverting drugs while on duty, notify the [Hospital Legal Department] AND the employee's supervisor/department chair/program director.
 - 2. If a [hospital] house staff or student is suspected of diverting drugs within the scope of their training, notify the [Hospital Legal Department] AND the Dean or Administrator of the appropriate school.
- B. The [Hospital Legal Department] will also notify the appropriate billing department to determine whether modifications should be made to bills related to affected medical care.

IX. Reporting to Law Enforcement, Licensing Boards and Government Agencies

- A. If a controlled substance is determined to have been diverted by ANY individual, the [Hospital Director of Pharmacy] will ensure that appropriate reports are made to the following agencies:
 - 1. DEA Office of Diversion Control, DEA Form 106.
<https://apps.deadiversion.usdoj.gov/webforms/dtlLogin.jsp>
 - 2. New Jersey Division of Consumer Affairs, Department of Law and Public Safety, Drug Control Unit. Form DDC-52.

<https://www.njconsumeraffairs.gov/dcu/Applications/Report-of-Theft-or-Loss-of-Controlled-Substances.pdf>

3. Health Care Professional Responsibility and Reporting Enhancement Act Reporting Form (*ONLY if diversion is done by a licensed healthcare provider, BELOW*) <http://www.njconsumeraffairs.gov/Pages/hcreporting.aspx>
- B. In collaboration with the [Hospital Legal Department], the following individuals will report drug diversion by licensed or registered healthcare providers to the appropriate state licensing board:
- i. The Department Chair of Nursing will report drug diversion by nurses to the New Jersey Board of Nursing.
 - ii. The Department Chair of the healthcare provider's specialty will report drug diversion by staff physicians, podiatrists, physician assistants or midwives to the New Jersey Division of Consumer Affairs, Board of Medical Examiners (NJBME).
 - iii. The Department Chair of Dentistry will report drug diversion by dentists to the New Jersey Board of Dentistry.
 - iv. The Department Chair of Pharmacy will report drug diversion by pharmacists to the New Jersey Board of Pharmacy.
 - v. The Program Director of the fellow, resident or intern will report drug diversion by the said house staff employee to NJBME.
 - vi. The [Hospital] administration will report drug diversion by other licensed employees otherwise not mentioned above, to the New Jersey Department of Health via the Hippocrates program.
<https://hippocrates.nj.gov/common/processLoginAuthentication.action>
- C. [Hospital Security] in collaboration with the [Hospital Legal Department] may report the diversion to the local [NJ Police Department]. This report may be made regardless of whether the diversion occurred within the scope of the employee's employment or training, or while the employee was a patient or visitor.
- D. The [Hospital Legal Department] and, if applicable, the hospital drug diversion team will evaluate all incidents of drug diversion whether additional external reports should be made, such as reports to the Department of Public Health or Food and Drug Administration.

APPENDIX A

INDICATORS OF IMPAIRMENT

The following is a list of some of the more common indicators of impairment. This list is not all inclusive but serves as a guide. The supervisor must exercise judgment based upon the employee's observable behavior as it relates to job performance. Supervisors/employees should be particularly alert to behaviors which are abnormal, uncharacteristic or inappropriate in the work environment.

Physical Appearance

- Progressive deterioration in personal appearance and hygiene
- Wearing long sleeves when inappropriate
- Impaired coordination, poor balance tremors, shakiness
- Impaired muscular control, poor performance of motor skills
- Bloodshot eyes, constricted pupils
- Excessive sweat or fatigue, abnormal drowsiness
- Apparent odor of alcohol on breath

Unusual/Abnormal Behavior

- Work absenteeism without notification, excessive number of sick days used
- Frequent disappearances from the work site, having long unexplained breaks
- Excessive amounts of time spent near a drug supply, volunteering for overtime
- Unreliability in keeping appointments and meeting deadlines
- Work performance alternates between periods of high and low productivity
- Poor interpersonal relations with colleagues, staff and patients
- Patient/staff reports about healthcare provider's changing attitude/behavior
- Heavy "wastage" of drugs
- Sloppy recordkeeping, uncharacteristic deterioration of handwriting and charting
- Inappropriate prescriptions for large narcotic doses
- Insistence on personal administration of injected narcotics to patients

Cognitive (Mental) Factors

- Distracted, inattentive causing erroneous mistakes
- Poor judgment and bad decisions
- Confusion, forgetfulness and difficulty concentrating or recalling details
- Ordinary tasks require greater effort and consume more time;
- Personality changes, mood swings, anxiety, depression, lack of impulse control
- Increasing personal and professional isolation.

APPENDIX B

EMPLOYEE INFORMED CONSENT FOR FITNESS FOR DUTY EVALUATION

Employee Name: _____ Date: _____
Employee ID/SS #: _____ Department: _____
Details of Observed Behavior: _____

I hereby authorize the Emergency Department physician at [Hospital] to order and perform appropriate tests, including but not limited to blood and urine collection, to determine my fitness-for-duty.

The physician has discussed with me the reasons(s) for the performance of these tests. I understand that false-positive and false-negative test results can occur and that if this occurs, subsequent tests will be done to determine accuracy.

I understand that the results of these tests will be shared with the physician, my immediate supervisor and Human Resources Management, and will be reviewed and discussed with me. Depending on the results and other factors surrounding the reasons for these tests, possible release of test results with other agencies will also be discussed with me.

I understand that the results of these tests will become a part of my Fitness-For-Duty-Evaluation.

I certify that I have read and fully understand the above informed consent statement which has been preceded by an explanation by the physician or nurse and is understood by me. By my signature below, I acknowledge and understand the above information and give my informed consent:

Employee Name (PRINT): _____

Employee Signature: _____

Supervisor Signature: _____

Emergency Room Physician Signature: _____

Employee Refusal of Evaluation and Drug Testing

**SIGN BELOW if employee DOES NOT agree with above statement*

I have read and understand the request for a Fitness-for-Duty Evaluation and REFUSE any evaluation, test or treatment.

By refusing to sign this consent, I understand that I shall be subject to disciplinary action, up to and including termination of employment.

HOSPITAL DRUG DIVERSION CONTACT INFORMATION AND STATE OF NEW JERSEY CONTROLLED SUBSTANCE RELATED DIRECTORY

[Hospital] Drug Diversion Team

Drug Diversion Specialist Name
Address:
Telephone / Extension:
Email:

Drug Enforcement Administration

Newark Field Division
80 Mulberry Street, 2nd Floor
Newark, NJ 07102
(973) 973-1100

[Hospital] Department of Pharmacy

Director of Pharmacy Name
Address:
Telephone / Extension:
Email:

New Jersey Board of Pharmacy

ATTN: Executive Director
P.O. Box 45013
Newark, NJ 07101
(973)504-6450
<https://www.njconsumeraffairs.gov/phar>

[Hospital] Dept. of Human Resources & Employee Health Services

HR Consultant / Medical Director Name
Address:
Telephone / Extension:
Email:

New Jersey State Board of Dentistry

ATTN: Executive Director
PO Box 45005
Newark, NJ 07101
(973) 504-6405
<https://www.njconsumeraffairs.gov/den>

[Hospital] Security

Security Supervisor Name
Address:
Telephone / Extension:
Email:

New Jersey Board of Nursing

ATTN: Executive Director
PO Box 45010
Newark, NJ 07101
(973) 504-6430
<https://www.njconsumeraffairs.gov/nur>

[Hospital] Legal Department

Consulting Attorney Name
Address:
Telephone / Extension:
Email:

New Jersey State Board of Medical Examiners

ATTN: Executive Director
P.O. Box 183
Trenton, NJ 08625
(609) 826-7100
<https://www.njconsumeraffairs.gov/bme>

Drug Control Unit

Division of Consumer Affairs
P.O. Box 45045
Newark NJ 07101.
(973) 796-4220 and (973) 504-6411
<https://www.njconsumeraffairs.gov/dcu>