

PROCEDURE: SFHS HR Policy Manual SFHS.PPM.10.20.00.00
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SUBJECT: DRUG AND ALCOHOL POLICY

JC STANDARD OR OTHER REGULATORY AGENCY:

PURPOSE:

Saint Francis Health System and all of its subsidiaries and affiliated organizations (collectively and individually referred to herein as the "Health System") seek to establish and maintain a workforce and workplace free from the unauthorized use of alcohol and prohibited, illegal or controlled substances, including drugs and other chemicals. This will be in compliance with Title 40 of the Oklahoma Statutes, Chapter 15; Standards For Workplace Drug and Alcohol Testing Act.

Employees who are impaired or under the influence of **illegal or prescribed** drugs or alcohol present safety and health risks to themselves, patients and co-workers and persons with whom they come into contact. Health System policy prohibits an employee from being impaired by drugs or alcohol at work, on Health System premises, or while engaged in performance of duties for the Health System.

SCOPE:

This policy applies to Saint Francis Health System and all its subsidiaries and affiliated organizations. The policy is applicable to all Health System job applicants, (including rehires), and employees, except those employees assigned to jobs otherwise covered by applicable federal laws or regulations governing the drug and alcohol testing of workers performing safety sensitive functions.

All contractors, vendors, students, volunteers, consultants, or other individuals working on Health System premises or on a Health System assignment must comply with the obligations of employees under this policy and violations are subject to expulsion from premises. Any contractor, vendor or consultant found or suspected to be in violation of this policy will be addressed through the appropriate contractor management and be denied access to the job site or continued involvement in the work assignment by the Health System.

1. POLICY STATEMENT:

It is the policy of the Health System to:

- 1.1 Maintain a safe working environment, free from the impairment or influence of drugs and alcohol.
- 1.2 Provide employees a resource to assist them in addressing substance abuse problems through our Employee Assistance Program "EAP", and by utilizing effective chemical dependency treatment providers.
- 1.3 Utilize disciplinary measures to address policy violations.

1.4 Comply with governing laws concerning substance control and testing standards, including the Oklahoma Statute and other applicable testing regulations, standards and laws.

2. PROHIBITIONS:

As a term and condition of entering into or remaining on Health System premises or performing Health System work, the following is a non-exclusive list of conduct prohibited by this policy:

2.1 Employees, applicants, contractors, vendors, students, volunteers, consultants or other individuals working on Health System premises shall not be impaired or under the influence of drugs on Health System premises, work sites, worked time or while utilizing Health System property. Employees shall not engage in the use, purchase, theft, possession, solicitation, manufacture, distribution, dispensation or sale of any illegal substances (drugs) during working or non-working hours.

2.2 Employees, applicants, contractors, vendors, students, volunteers, consultants or other individuals working on Health System premises shall not be impaired by, or under the influence of alcohol on Health System premises, work sites, worked time, or while utilizing Health System property at any time. Nor shall any employee engage in the use (except during authorized events), sale, purchase, possession, solicitation, manufacture, or distribution of alcohol on Health System premises during working hours, or while using Health System property at any time. **For employees or applicants under the age of 21, any level is illegal.**

2.3 Employees shall not work while impaired if safety is, **or is thought to be**, compromised or if job performance is affected.

2.4 An employee involved with unauthorized, prohibited, or illegal substances will be considered to be in violation of this Health System policy.

3. GENERAL INFORMATION/DEFINITIONS:

3.1 **Alcohol** means ethyl alcohol or ethanol.

3.2 **Illegal Drugs** are substances which can affect or hamper the senses, emotions, reflexes, judgment or other physical or mental activities, and controlled medication not prescribed for current personal treatment by a licensed practitioner to address a specific physical, emotional or mental condition. For the purpose of this policy, illegal drugs include but are not limited to, such things as narcotics, hallucinogens, depressants, cannabis, cocaine, stimulants, look-alike drugs or other substances.

3.3 **Legal Drugs** are those which are specifically prescribed by a licensed medical practitioner and used by the individual for whom the drugs are prescribed consistent with a current prescription, also included are over-the-counter drugs not requiring prescriptions which are used according to the package instructions. **Ultimately, the decision to allow an employee to**

work or return to work while actively taking any class of these medications is made by the Employee Health Services Medical Director.

- 3.4 **Current Prescription** is one which is prescribed to the subject applicant or employee by a licensed medical practitioner, is filled within the time frame determined by the type of medication prescribed, is taken by the applicant or employee in the method prescribed by the licensed medical practitioner, and is taken to address an existing physical, emotional or mental condition.
- 3.5 **Possession** means and shall include, but not be limited to, having illegal drugs or alcohol on one's person, in one's personal effects, in one's vehicle or under one's control.
- 3.6 **Use and/or being under the influence of a drug/alcohol** include a confirmed positive test result at or above the standardized levels.
- 3.7 **Employee** means regular full-time, part-time, or emergency call back "ECB" employee who provides a service to the Health System and is compensated through Health System payroll.
- 3.8 **Applicant** means a person who has made application for employment at the Health System and has received a conditional offer of employment.
- 3.9 **Health System premises** are defined as all areas in which the Health System operates including, but not limited to, its property, buildings, parking lots, parking garages, grounds, Health System owned or leased equipment, privately owned vehicles entering or leaving or parked on Health System property, or in use on its property, (e.g., lockers, desks, equipment, work space, storage facilities, etc.).
- 3.10 **Sample** means tissue, fluid or product of the human body, chemically capable of revealing the presence of drugs or alcohol in the human body.
- 3.11 **Confirmed Urine Drug Test positive test result** is a term used when samples that have been identified as positive on the initial test are confirmed by a second "confirmation". This confirmation test will utilize accepted methods of testing which provide equal or greater accuracy than the initial test. If the result of a confirmation test is positive, the result will be forwarded to the Health System Medical Review Officer for final confirmation. All testing will be in accordance with the regulations and guidelines of the Oklahoma Board of Health.
- 3.12 **Refusal to submit** means that an employee:
- 3.12.1 Fails to provide adequate urine and/or blood for controlled substance/alcohol testing without a reasonable medical explanation or,
 - 3.12.2 Engages in conduct that obstructs or frustrates timely completion of the testing process. Failure to report to testing facility and provide sample within specified time would be considered as a failure to submit.

- 3.13 **Medical Review Officer “MRO”** is the professionally trained individual designated by the Health System who is responsible for receiving and reviewing test results from a testing facility.

PROCEDURES AND OTHER MATTERS:

4. SUSPICION OF DIVERSION OF CONTROLLED SUBSTANCES:

- 4.1 Any suspected diversion or tampering with Health System controlled substances and/or other illicit or illegal activities shall be reported immediately by the discovering person to his/her immediate supervisor. The reporting employee shall thoroughly document and present his/her observations and reasonable suspicions to his/her supervisor and the Health System investigating personnel.
- 4.2 A preliminary investigation shall be conducted by Health System management and the appropriate departmental supervisory personnel.
- 4.3 Departmental Management and Human Resources, Executive Director or designee will meet with the employee to discuss factual information and behavioral observations as part of the investigation.
- 4.4 The suspected employee may be required to submit a specimen for cause testing and will be removed from duty until the results of the testing are received and reviewed by Health System personnel with a conclusion that the results are acceptable.
- 4.5 Upon evaluation of the specimen test results (see testing procedures below) and completion of the investigation, a decision will be made regarding the suspected employee's continued employment and the issuance of a report to any applicable professional licensing board and/or databank.

5. ALCOHOL/DRUG TESTING:

As part of its policy enforcement, the Health System may require an individual to undergo drug and/or alcohol testing under the following circumstances:

- 5.1 **Applicant testing:** The Health System will require an applicant, upon a conditional offer of employment, to undergo testing for drugs. Refusal to undergo testing, or if a confirmed positive test is obtained, will result in the withdrawal of the conditional offer.
- 5.2 **For cause testing:** The Health System may request or require an employee to undergo drug and/or alcohol testing at any time the Health System reasonably believes that the employee may be under the influence of drugs or alcohol, including but not limited to the following circumstances:
- 5.2.1 Drugs or alcohol on or about the employee's person or in the employee's vicinity,
- 5.2.2 Conduct on the employee's part that suggests impairment or influence of drugs or alcohol,

- 5.2.3 A report of drug or alcohol use while at work or on duty,
- 5.2.4 The employee's behavior or conduct, that may result from the employee's use of drugs or alcohol,
- 5.2.5 Information that an employee has tampered with drug or alcohol testing at any time,
- 5.2.6 Negative performance patterns,
- 5.2.7 Excessive or unexplained absenteeism or tardiness, or
- 5.2.8 evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs or alcohol while on duty, while on Health System premises, and/or operating Health System vehicles, machinery or equipment.

5.3 **Post-accident testing:** The Health System may require an employee to undergo drug and/or alcohol testing if the employee or another person has sustained an injury while at work or Health System property and/or equipment has been damaged.

5.4 **Post-rehabilitation testing:** For a period of up to 2 years commencing with an employee's return to work, the Health System may require an employee to undergo drug and/or alcohol testing following:

- 5.4.1 A confirmed positive test, or
- 5.4.2 The employee's participation in a drug or alcohol dependency treatment program.

6. **SAMPLE COLLECTION AND TESTING PROCEDURES:**

- 6.1 The Health System will use only laboratories and collection procedures which meet the standards and requirements of the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, and any federal or municipal laws or regulations, as they may change from time to time, to perform substance testing.
- 6.2 Initial and confirmation testing will be conducted at a facility which has been licensed to perform drug or alcohol testing by the Oklahoma State Board of Health. If the analysis of an initial test result is a positive finding, a confirmation test will be conducted.
- 6.3 A written "chain of custody" will be maintained for each sample from the time of collection until the sample is no longer required.
- 6.4 If a confirmatory test is positive, the MRO will contact the employee and give the individual an opportunity to explain the positive result in confidence.

- 6.5 No employee or applicant shall attempt to adulterate or adulterate any sample provided for testing purposes. Likewise, no employee or applicant shall attempt to substitute any sample. Evidence of prohibited activity will subject the employee to immediate discharge.
- 6.6 Testing for applicants will occur after a conditional offer of employment has been extended. An applicant, who has received a conditional offer of employment, will not be permitted to report to work until individual's test results have been received, reviewed and determined acceptable to the MRO and the Health System.
- 6.7 Time used for testing by the Health System shall be deemed work time for the purposes of compensation and benefits for current employees.
- 6.8 The Health System will be responsible for paying all costs of testing.
- 6.9 Appeal Right: Except for alcohol testing of breath samples, if an employee or applicant requests a test of the sample within twenty-four (24) hours of receiving notice of a positive confirmation test in order to challenge the results of a confirmed positive test, then the employee or applicant shall pay all costs of the requested test, unless the requested test reverses the findings of the confirmation test. In the case of a reversal of the confirmation test, the Health System will reimburse the individual for the direct costs of the requested test. Written requests for retesting should be made by the applicant or employee to the MRO within 24 hours of notification of a positive result. There is no other appeal procedure. Employees do not have the right to request a retest in cases of a positive confirmation test for alcohol on a breath sample. There is no right to appeal a positive confirmation test of a breath sample for alcohol.
- 6.10 If there is evidence that an employee has tampered with a drug or alcohol test during employment with the Health System, that employee will be subject to immediate discharge for misconduct. Evidence that the applicant has tampered with a drug or alcohol test will result in revocation of offer of employment.

7. SPECIMEN AND COLLECTION PROCEDURES:

Samples for testing will be collected under reasonable and sanitary conditions and with due regard to the privacy of the individual being tested. Samples will be collected in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples. Samples for testing will be collected on or off Health System premises by individuals deemed qualified by the Oklahoma State Board of Health. Where there is reason to believe that an individual may have altered or substituted the specimen provided, a second specimen may be obtained under direct observation of same-gender collection site personnel.

8. CONSEQUENCES OF TESTING:

- 8.1 Applicant: Upon receipt of a confirmed positive test, the Health System will discontinue the employment process and the application will be

rejected. An applicant with a confirmed positive test is not prohibited from subsequently submitting an application for employment. **The applicant may reapply to the Health System six months after the confirmed positive test and** after providing the Health System with documentary evidence of successful completion of an appropriate treatment program (if applicable). **Post offer, as an employee, they would be required to sign a Post Rehabilitation Return to Work Agreement, agreeing to its terms. This agreement will include unannounced post-rehabilitation testing for up to two (2) years following the positive test result should the applicant be employed by the Health System.**

8.2 Current Employee: In the case of for cause testing or post-accident testing, employees will be suspended without pay and required to submit an initial specimen for testing. If the final test result is negative and all other factors indicate no substance use or abuse and there is no other policy or procedure violation on the part of the tested individual, the employee will be returned to work and paid for all regularly scheduled time not worked while on suspension without charge to a leave.

8.2.1 The employee will not be allowed to perform duties unless the alcohol test indicates an alcohol concentration of less than 0.02, and/or the controlled substance test result indicates a negative test result.

8.3 An employee with a confirmed positive test result will be subject to disciplinary action which may include termination. An employee who refuses to undergo a drug or alcohol test will be discharged for misconduct. Pursuant to applicable state law, an employee discharged on the basis of a refusal to undergo drug or alcohol testing, or who has a confirmed positive drug or alcohol test, will be considered to have been discharged for misconduct for purposes of unemployment compensation benefits and may be disqualified from receiving such benefits.

8.3.1 In the event of a negative drug test but the employee is working while impaired; the employee may be subject to disciplinary action up to and including termination.

8.4 Evidence that an employee is involved in the use, theft, possession, sale, solicitation or transfer of drugs or alcohol while on duty or while on Health System premises and/or operating Health System vehicles, machinery or equipment will subject the employee to immediate discharge for misconduct.

8.5 All test results will be handled as confidential records and will be maintained in Employee Health Services within the employee's medical file. Employee/applicant has the right to request a copy of their test results.

8.6 The results of confirmed positive tests relating to licensed physicians, nurses and other licensed health professionals will be submitted, as required under Oklahoma law, to the applicable licensure or supervision oversight agency in order to protect the safety of the public and in

compliance with the duty to report unprofessional conduct by the physician, nurse, or other licensed health professional.

8.7 Test results and related information may be produced in accordance with Section 12, "Reporting Requirements" of this policy.

9. APPLICANT/EMPLOYEE RIGHTS:

9.1 The applicant or employee may explain to the MRO, in confidence, the test results.

9.2 Upon written request of the applicant or employee, Employee Health Services may release to the individual the results of the drug or alcohol test and any analysis and information related thereto.

9.3 Following the receipt of the test results, an applicant or employee may in writing grant express permission to the Health System to release the records of their test results and related information to a third party.

10. EMPLOYEE ASSISTANCE PROGRAM (EAP):

10.1 The Health System offers an EAP which assists employees and family members who have personal, behavioral, or emotional problems. Employees who have a substance abuse problem are encouraged to seek immediate assistance through the EAP.

10.2 The employee's decision to utilize EAP will not be used as the basis for disciplinary action. On the other hand, using EAP does not immunize the employee from disciplinary action. There are limited circumstances in which the EAP personnel are authorized by the participant as part of participation in the EAP, to report information to the participant's employer.

10.3 If an employee reports to the EAP or the Health System that he/she has a drug or alcohol abuse problem prior to being requested by the Health System to submit to a test under this policy and prior to being charged with violating any provision of this policy, the employee will be given the opportunity to complete an EAP approved treatment program together with the employee's agreement to comply with the post-rehabilitation testing as described in the policy. However, employees are accountable for performance. If an employee is experiencing performance problems or disciplinary action is pending, a request for help will be treated as a separate issue. Disciplinary amnesty will not be granted to employees asking for assistance and referral. However, disciplinary action may be deferred, at the Health System's discretion, pending successful completion of a treatment process.

10.4 Employees who enroll in an approved treatment program may use their accrued leave if eligible. Employees in an approved treatment program are required to report their treatment participation and process on a weekly

basis to EAP. As conditions to returning to work (among any others outside of this policy that may be applicable), an EAP program participant shall present to the EHS documentation that they have successfully completed the program and submit to a Post Rehabilitation test and produce a negative drug and alcohol specimen, a written release and fitness for duty report from their treating physician, in form and content acceptable to EHS, and the employee shall enter into a Post Rehabilitation Return to Work Agreement with EHS. Because patient care and safety are important concerns of the Health System, the Health System reserves all of its rights and privileges to reassign any employee returning to work from substance use or abuse treatment to the extent necessary or appropriate under the relevant circumstances. If an employee is reassigned, compensation terms and job evaluation guidelines will be adjusted accordingly.

11. ALCOHOL USE AT THE HEALTH SYSTEM FUNCTIONS:

The use of alcohol at functions approved by the Health System (i.e., celebration events) does not relieve employees from exercising moderation and judgment so as not to represent a hazard or danger to themselves, other employees, the general public, or Health System's reputation. Whenever or wherever alcohol is served in connection with a Health System approved function, employees are under a continuing duty to maintain sobriety and proper and professional control over their actions and behavior. Violation of this policy is grounds for disciplinary action and shall constitute misconduct.

12. REPORTING REQUIREMENTS

The Health System will report information developed as a result of its enforcement of this policy to the extent necessary or appropriate to comply with a legal duty. The Health System may be required to report, and will do so, to the appropriate agency or licensing board violation of this policy by an employee whose job is regulated or requires licensure. In addition, the Health System may notify appropriate law enforcement officials if unauthorized, prohibited, illegal or controlled substance-related paraphernalia are found on Health System premises or in connection with Health System work. The Health System retains the right to search any area of its premises and including, not by way of limitation, any Health System owned vehicle at any time without notice.

Employees should not have expectation of privacy when bringing any prohibited substance, alcohol beverage or dangerous device onto any Health System premises.

Reviewed by:
Director of Legal Services
Executive Director of Human Resources
Executive Vice President, CAO, CFO
Medical Director, EHS, WC