ATTACHMENTS:

Signs and Symptoms Checklist  
Basic on-site Coordination Examination  
Questions for Suspected Substance Abusers  
Observation Checklist  
Opinion Based on Observations  
Return to Work Agreement  
Substance Abuse Screening Test Consent

PURPOSE:

The RWJBarnabas Health (RWJBH) Drug Free Workplace policy is intended to support RWJBH’s safety programs and avoid drug/alcohol-related work performance problems by striving for a drug/alcohol-free working environment.

POLICY:

RWJBH has a vital interest in maintaining safe, healthy, and efficient working conditions for its employees. Being under the influence of drugs or alcohol while on duty may pose serious safety and health risks not only to the employee but also to our patients, visitors, and other employees.

RWJBH maintains an Employee Assistance Program (EAP) that provides help to employees who seek assistance for drug/alcohol abuse and other personal/emotional problems.

With these basic objectives in mind, RWJBH has established the following policy with regard to drug and alcohol problems. This policy is applicable to prospective employees, current employees, and students who are designated by Administration. All such personnel, including contracted personnel, will be advised in advance that they will be covered by this policy.

Any suspicion of drug/alcohol use or impairment on the job should result in a medical evaluation by Corporate Care/Employee Health Services before any other screenings take place. If Corporate Care/Employee Health Services is closed and the employee works in a hospital, the individual will be evaluated in the hospital’s Emergency Department. If Corporate Care/Employee Health Services is closed and the employee does not work in a hospital, the individual will be escorted by Security or designee to the closest RWJBH hospital to be evaluated in that hospital’s Emergency Department.
PROCEDURE:

DEFINITIONS

“Under the influence” means, for the purpose of this policy, that the employee is affected by a drug and/or alcohol or the combination of drugs and alcohol in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test, and in some cases such as alcohol, a layperson’s opinion may be utilized to determine if referral for medical evaluation is warranted.

“RWJBH Property” means, for the purpose of this policy, buildings, land, and other property owned and/or leased by RWJBH that includes without limitation, parking lots, motor vehicles, lockers, desks, or other fixed property (e.g., equipment or furniture) designated for employee’s use.

“Legal drug” includes prescribed drugs and over-the-counter drugs that have been legally obtained and are being used for the purpose for which they were prescribed or manufactured. Under New Jersey state law, cannabis is considered a legal drug, however, the possession, use, transfer, display, transportation, sale and/or growth of cannabis in the workplace or on RWJBH Property is strictly prohibited.

“Illegal drug” means any drugs that are (a) not legally obtainable, or (b) legally obtainable, but have not been legally obtained. The term includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes. It also includes synthetic look-a-like drugs.

“Search” means the right to inspect or search the property, packages or vehicle on RWJBH Property. This right includes, but is not limited to, the inspection and search of parcels, packages, briefcases, lockers, workstations and desks.

I. SCREENING

A. PRE-PLACEMENT SCREENING

RWJBH will conduct pre-employment screening practices designed to avoid hiring individuals who use illegal drugs or individuals whose use of legal drugs or alcohol indicates the possibility for impaired or unsafe job performance.

Failure or refusal of an applicant to cooperate fully, sign any required document, submit to any test, or follow any prescribed procedure will be grounds for denying employment.

If an applicant’s pre-placement screening is positive for an illegal drug, the
individual may not be hired. If an applicant’s pre-placement screening is positive for a legal drug, the individual may not be eligible for a safety-sensitive position or to perform certain safety-sensitive job duties. Safety-sensitive positions and job duties include, without limitation, clinical positions and job duties or those positions or job duties that involve patient care; the handling, processing, storing, disposing or transporting of pharmaceuticals; the operation of any motor vehicle, heavy equipment, machinery or power tools; and any positions or job duties under which impairment would interfere with the individual’s ability to take adequate care in the carrying out of his/her job duties or that would pose a risk of harm to the individual or to other people. A taxi or other transportation may be provided to return the employee to his/her residence. While awaiting transportation the employee should not be left alone.

B. FOR CAUSE SCREENING

RWJBH reserves the right to perform for cause drug and alcohol screenings on employees who exhibit behaviors that suggest they are under the influence.

In addition, an employee involved with contributing to an accident or other incident involving an actual or potentially serious injury may be required to submit to a drug and alcohol screening.

C. SCREENING FOLLOWING A VEHICULAR INCIDENT

Any employee involved in a vehicular accident while performing work-related activities, either while driving an RWJBH vehicle or the employee’s own vehicle, may be subject to a drug/alcohol test. Driving privileges may be suspended pending review of the test results and completion of all incident reports. Should the test results prove negative the employee shall be paid for all wages lost because of the suspension.

II. EMPLOYEE DRUG SCREENING FOR CAUSE/WORK RELATED ACCIDENTS PROCEDURES:

A. Managers shall use the forms attached to this policy as guidelines for identification of employees under the influence of drugs and/or alcohol as part of their determination that there is reasonable cause to believe that a referral for medical evaluation is warranted, or that the employee is engaging in other conduct in violation of this policy.

B. The manager will notify Corporate Care/Employee Health Services of the possible need for an employee evaluation. If Corporate Care/Employee Health Services is closed, the employee will be evaluated in the Emergency Department.
C. For a person suspected to be under the influence of cannabis, a physical evaluation in order to determine an employee’s state of impairment shall be conducted by an individual with the necessary qualifications to opine on the employee’s state of impairment, or lack thereof, related to the usage of cannabis in accordance with New Jersey’s Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act (the “CREAMM Act”).

D. The manager will remove the employee from duty and immediately isolate that individual if there is a reasonable basis for a medical referral due to observed behavior classified as under the influence (or if an employee is involved with contributing to an accident or other incident involving an actual or potentially serious injury).

E. The manager will personally escort the employee to Corporate Care/Employee Health Services and complete the reports in the presence of a Corporate Care/Employee Health Services professional (or the Emergency Department professional).

F. If an incident occurs during hours when Corporate Care/Employee Health Services is closed, the manager will carry out the same procedure through the Emergency Department. In such cases, the hospital administrator must be contacted prior to any testing.

G. Drug and Alcohol Screening: The Corporate Care/Employee Health professional will contact the Director/VP of Human Resources or designee and provide notification that the employee is subject to a medical evaluation.

H. The employee will complete a consent form prior to drug screening. Failure to sign the consent form will result in termination of employment.

I. After the test specimens are obtained, the manager and Corporate Care/Employee Health Services professional will inform the employee that they are classified as “Suspended Pending Investigation” and subject to policies that apply with regard to this classification. A taxi or other transportation may be provided to return the employee to his/her residence. While awaiting transportation the employee should not be left alone.

J. Results of tests will be returned to Corporate Care/Employee Health Services. The Director/VP of Human Resources or designee will be notified in instances in which the employee was found non-compliant with the drug free workplace policy.

K. In certain situations, and in accordance with N.J.S.A. 26:2H-12.2b, RWJBH is required to notify the applicable State licensing board for reasons relating to a health care professional’s impairment, incompetency or professional misconduct or if a health care professional is granted a leave of absence related to drug or
alcohol use if the health care professional is under (or subsequent to) a review of
the health care professional’s patient care or professional conduct.

III. TEST RESULTS

A. A confirmation test will be obtained utilizing a chain of custody specimen as
determined by the external laboratory and in accordance with Corporate
Care/Employee Health Services policy. The external laboratory will be
NIDA/DOT approved.

B. Should the confirmation test prove negative, the employee shall be paid all wages
lost as result of the suspension.

C. If the test is positive, RWJBH may offer the employee the opportunity to seek,
rehabilitation. However, in certain circumstances, termination may be warranted.
If the employee elects to seek rehabilitation, they shall be required to attend and
follow the stated course of treatment and shall be granted leave in accordance
with FMLA. After completion of the rehabilitation program, employees shall be
permitted to return to work and thereafter may be required to submit to random
drug and/or alcohol testing for life of employment with RWJBH. An employee
may be immediately terminated if they refuse to cooperate in such testing, refuses
or fails to follow the recommended treatment program or follow-up care, or tests
positive in any subsequent test. RWJBH may request documentation from time to
time to verify completion or compliance with any recommended rehabilitation or
after-care program. Employees will be asked to sign a Return to Work
Agreement.

D. If an employee or job applicant tests positive for cannabis, RWJBH shall offer the
employee or job applicant an opportunity to present a legitimate medical
explanation for the positive test result, and shall provide written notice of the right
to explain to the employee or job applicant. Within three (3) working days after
receiving such notice, the employee or job applicant may submit information to
RWJBH to explain the positive test result, or may request a confirmatory retest of
the original sample at the employee’s or job applicant’s own expense. As part of
an employee’s or job applicant’s explanation for the positive test result, the
employee or job applicant may present an authorization for medical cannabis
issued by a health care practitioner, proof of registration with the New Jersey
Cannabis Regulatory Commission, or both. Notwithstanding the foregoing,
nothing herein shall be deemed to: (a) restrict RWJBH’s ability to prohibit, or
take adverse employment action against, an employee from possessing, using, or
being under the influence of intoxicating substances, including cannabis, during
work hours or on RWJBH Property outside of work hours; or (b) require RWJBH
to commit any act that would cause RWJBH to be in violation of federal law, that
would result in a loss of a licensing-related benefit pursuant to federal law, or that
would result in the loss of a federal contract or federal funding.
IV. CONFIDENTIALITY OF DRUG SCREENING TEST RESULTS

Test results should be kept as confidential as possible and will be disclosed only to the extent necessary to implement this policy.

V. PROHIBITIONS

A. ALCOHOL

Being under the influence of alcohol by any employee while on RWJBH related business or while on RWJBH Property is prohibited to the extent that such use or influence may affect the safety of patients, visitors, and co-workers, the employee’s job performance, or the safety or efficient operations of RWJBH. Possession and consumption of alcohol on RWJBH Property or on RWJBH related business is prohibited except as permitted by RWJBH Administration. Unauthorized possession and consumption shall be subject to disciplinary action up to and including termination.

B. LEGAL DRUGS

Except as provided below, the use of or being under the influence of any legally obtained drug by any employee while on RWJBH Property or RWJBH related business is prohibited, to the extent such use or influence may affect the safety of patients, visitors or co-workers, the employees job performance, or the safe or efficient operation of RWJBH. An employee may continue to work, even though they are taking a prescribed, potentially mind altering drug, if it has been medically determined, after consulting with the Corporate Care/Employee Health Services that the employee does not pose a threat to his or her own safety or the safety of patients, visitors, or co-workers and that the employee’s job performance is not noticeably affected by the legal drug. Employees who are noticeably affected by taking legal drugs may be required to take time off or comply with other appropriate action in accordance with Administrative Policy.

C. ILLEGAL DRUGS

The use, sale, purchase, transfer or possession of an illegal drug by any employee while on RWJBH Property or while performing RWJBH business is prohibited. Furthermore, the presence in any detectable amount of any illegal drug in an employee while on RWJBH business is prohibited.

D. CONVICTION UNDER CRIMINAL STATUE

Any employee convicted of violating a criminal drug statute must inform RWJBH of such conviction (including pleas of guilty or no contest) within five (5) days of the conviction. Conviction of drug related charges, and the failure of an employee to inform RWJBH thereof, may result in severe disciplinary action, up to and including termination.
VI. DISCIPLINARY ACTION

Violation of this policy may result in disciplinary action, up to and including termination, as may be covered in the Employee Handbook. Regarding cannabis, RWJBH may not take an adverse action against an employee solely due to the presence of cannabinoid metabolites in the employee’s bodily fluid if the person is engaging in conduct permitted under the CREAMM Act; provided, however, this exception does not apply to any employee under the influence of cannabis, legal drugs, illegal drugs, or alcohol during working hours or on RWJBH Property at any time.

VII. SEARCHES

Searches and inspections of personal property may be conducted by an authorized agent as determined by the RWJBH Security Department on the authority of Administration when there is reason to believe that an employee is in violation of this policy or when RWJBH determines that circumstances or conditions justify searches.

RWJBH may conduct unannounced searches for drug paraphernalia, legal drugs, illegal drugs or alcohol on or in RWJBH Property (e.g., lockers or desks). Employees are expected to cooperate in the conducting of such searches.

An employee’s consent to a reasonable search is required as a condition of employment, and the employee’s refusal to consent may result in disciplinary action, including termination. Searches of RWJBH Property can be conducted at any time and do not have to be based on reasonable suspicion.

VIII. DRUG AND ALCOHOL SCREENING

RWJBH may require a blood test, urinalysis, or other drug/alcohol screening of those persons suspected of using or being under the influence of a drug or alcohol or where circumstances or conditions justify it. An employee’s consent to submit to such a test is required as a condition of employment and the employee’s refusal to consent will result in a presumption that the employee is under the influence of alcohol or drugs to the extent of not being able to do his/her job. A positive result from an employee drug screen may result in termination of employment. The period during which test results are pending will be defined as “Suspension Pending Investigation.” The employee will receive full pay reinstatement upon receipt of negative results. Positive results will result in no pay for the waiting period.

IX. LEGAL DRUG USE REPORTING REQUIREMENT

An employee’s use of a legal drug may pose a risk to the safety of the employee or others. The use of narcotics is not permitted under any circumstances. Employees, who feel or have been informed that the use of a legal drug may present a safety risk, are to report such drug related consequences. Supervisors who are aware of such a situation are to instruct the employee to report to Corporate Care/Employee Health Services. If
Corporate Care/Employee Health Services is closed, the employee will be evaluated in the Emergency Department.

X. CONTRACT PERSONNEL

These policy provisions apply to contract personnel. Violation of these provisions or refusal to cooperate with implementation of the policy can result in RWJBH barring contract personnel from RWJBH Property and/or participating in RWJBH operations.

XI. FITNESS FOR DUTY POLICY: RELATIONSHIP TO EMPLOYEE ASSISTANCE PROGRAM

RWJBH maintains an Employee Assistance Program (EAP) that provides help to employees who suffer from alcohol or drug abuse and other personal/emotional problems. However, it is the responsibility of each employee to seek assistance from EAP before alcohol and drug problems lead to disciplinary action that can include termination.

Any employee with an alcohol or substance abuse problem is encouraged to seek counseling, treatment or rehabilitation. The purpose of this provision is to encourage employees to seek treatment before their conduct gives rise to discipline.

Existing health care insurance benefits, to the extent to which employees are eligible, will be available for employees who accept medically approved treatment for alcohol or drug abuse problem.

Employees participating in a rehabilitation program must continue to meet existing job performance standards. Nothing in this policy will constitute a waiver of RWJBH’s right to take disciplinary action in the case of poor performance, poor attendance, or misconduct.

The employee’s decision to seek assistance from EAP will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. On the other hand, using the EAP will not be a defense to the imposition of disciplinary action where facts are obtained proving a violation of this policy or other RWJBH policies, therefore, any employee may be disciplined, even though having sought assistance from the EAP.

XII. RESERVATION OF RIGHTS

RWJBH reserves the right to interpret, change, rescind or depart from this Policy in whole or in part without notice. Nothing in this policy alters an employee’s status with RWJBH. Furthermore, employees remain free to resign their employment at any time for any or no reason without notice. Similarly, RWJBH retains the right to terminate any employee at any time, for any or no reason without notice.