[Insert facility name]
Policy for Drug Diversion: Prevention, Identification, Reporting, and Response

Effective: Month/Date/Year

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

Automated dispensing cabinet (ADC) – An automated dispensing device that provides administration control and a charging system for controlled substances, non-controlled medications, and floor stock.

Drug Diversion – Intentionally and without proper authorization, using or taking possession of a prescription medication or inhalation anesthetic agents from [insert facility name] through the use of prescription, ordering, or dispensing system. Examples of drug diversion include, but are not limited to:

- Medication theft
- Using or taking possession of medication without a valid order/prescription
- Forging or inappropriately modifying a prescription
- Use or taking possession of medication for a different than intended use.

Class II drug (e.g., morphine, Percocet, Dilaudid) – All subsets of controlled substances that produce a sedative or drowsy effect. Drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence.

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 are a subset of controlled substances that produce a sedative or drowsy effect.

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 appointed to [insert facility name].

Licensed or registered healthcare provider – A healthcare provider whose license or registration authorizes them to provide care and services within the scope of their practice and in accordance with applicable regulatory agencies and [insert facility name] policies.

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POLICY STATEMENT

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

2. All [insert facility name] employees and contracted staff are required to comply with state and federal laws and regulations regarding medication handling and security, as well as all policies of [insert facility name].

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 an employee is grounds for corrective action.

8. Drug diversion by an employee or contracted staff will be reported to all appropriate government licensing, regulatory, and law enforcement agencies.

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PROCEDURES

I. Pre-Employment Screening

In accordance with the Drug Enforcement Administration (DEA) Guidelines [21 CFR 1301.90, 1301.93, [insert facility name] 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, including contract staff.

A. [insert facility name] 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 potential employee 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 potential employee for a check of DEA files for records of convictions.
D. The [insert facility name] is required to obtain information from the potential employee regarding prior controlled substance handling concerns and involvement with diversion.
E. If a potential employee 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)*

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

III. Education

All new staff will be educated about drug diversion during orientation and will participate 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. The [insert facility name] is required by federal regulation to make its 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 employees will be educated on how to respond when diversion or impairment is suspected.

- *Clinical employees:* As part of orientation, all clinical employees with access to controlled substances will receive an initial training session as new employees and periodic training sessions devoted

exclusively to drug diversion and controlled-substance handling expectations. In conjunction with this training, each employee is required to sign an attestation statement that they have received the training, understand institutional and professional requirements for controlled substance handling, and agree to abide by these requirements. Access to controlled substances and to the ADC will not be permitted until the training and attestation statement have been completed.

- *Medical Employees:* All medical employees will receive initial and annual education on responsible prescribing of controlled substances and on the prevention and detection of drug diversion within [insert facility name]. Training will emphasize requirements related to prescribing and reporting laws, will address how medical staff can avoid becoming unwitting participants in a diversion scheme, and will provide information about available resources for employees who may have an addiction or substance use issue.

IV. Drug Handling

[insert facility name]'s pharmacy will have in place drug-handling policies that establish physical security controls to guard against theft and diversion of controlled substances and other drugs, and ensure accountability for all controlled substances within [insert facility name]. Refer to [insert facility name] Pharmacy Controlled Substance & High-Risk Medication Diversion Policy.

V. Auditing and Surveillance

[Insert facility name] pharmacy will maintain a drug diversion auditing and surveillance program to enable the prompt identification of any loss or diversion of controlled substances and to identify the individual(s) responsible quickly. The Drug Diversion Team/Specialist will have primary responsibility for daily surveillance activities. Refer to [insert facility name] 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 their supervisor/manager. Alternatively, an employee may call any member of the Drug Diversion Team directly or anonymously. In the absence of the Drug Diversion Team, the supervisor/manager will follow the procedures below.

2. If the supervisor/manager believes or becomes aware of an employee's apparent inability to safely and adequately perform work duties, the supervisor/manager shall take appropriate action to ensure the patient is appropriately attended to and remove any risk of harm. Determine whether any patient has been harmed or placed at risk of harm; if so, the supervisor/manager will notify the patient's primary staff physician.

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3. The manager/supervisor will contact Human Resources to determine if a medical exam with Employee Health Services is appropriate. If the employee is safe enough to be escorted by a supervisor and deemed appropriate for evaluation in Employee Health Services, the supervisor and the Human Resources representative will escort the employee for medical evaluation.

4. If an employee admits to diverting drugs, the employee may be referred to an Employee- or Peer-Assistance Program, such as the Recovery and Monitoring Program for nurses or the Pharmacist Assistance Program for pharmacists. In New Jersey, the Professional Assistance Program for physicians, podiatrists, physician assistants, or dentists works closely with the New Jersey Board of Medical Examiners (NJBME).

5. If a supervisor/manager believes or becomes aware that an employee has either reported to work in an unfit condition, such as being under the influence of controlled substances, or has become unfit, such as intoxicated, during their shift [see 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 notify the Drug Diversion Team.
    ii. The supervisor will then inform the Emergency Department Manager at [Contact/Extension]. Both supervisors/managers shall escort the employee to a designated confidential area in the Emergency Department (ED) to arrange a toxicology screen. In the absence of the departmental supervisor, the supervisor on duty/call must also contact Security at [Contact/Extension] for assistance to the ED.
    iii. The supervisor/manager or Drug Diversion Team shall take appropriate steps to immediately preserve apparent evidence such as medications, vials, syringes, and infusion pumps.
    iv. The Drug Diversion Team or designee shall interview any other individual(s) who may have observed the employee's actions/behaviors during the time in question and note their comments and observations accordingly.
    v. The supervisor/manager, along with the Drug Diversion Team, shall document the assessments, communications, and actions taken with the employee.

B. Testing Procedures
    1. Before toxicology testing, the employee's identification must be verified with a photo ID. If unavailable, the employee's supervisor/manager, administrator, or designee can validate the employee's identification.

    2. The Drug Diversion Team shall escort the employee to a confidential designated area in the ED. The employee will be asked to provide a list of their current prescription/nonprescription medications.

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3. The employee is required to provide evidence that a physician has lawfully prescribed a prescription medication. 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 correct medication name.

4. Before administering any toxicology screen, the employee shall be advised that such refusal may subject them to disciplinary action, including 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 ED 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 internal ED Drug Screening Procedures.

3. Specimens will be made available for pick-up and testing to be performed by an independent National Institute on 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, phencyclidine or PCP, propoxyphene, cocaine, and marijuana metabolites
   - Other substances as deemed necessary by the occupational medicine physician

   At no time will the specimens drawn be used for any purpose other than to determine the presence or absence of drugs and/or alcohol.

D. Pending Test Results

1. The employee will be suspended with or without pay pending receipt of laboratory test results and completion of an overall investigation.

1. Under no circumstances is the employee permitted to drive home on their own. The supervisor/manager should either:
   - Call a family member to transport the employee home; or
   - Send the employee home through ride share/taxi; or
   - Notify the police if the employee is at risk of operating a motor vehicle and/or refusing assistance in getting home.

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E. Test Results

1. For purposes of determining the presence of drugs and/or alcohol, [insert facility name] 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 designee, who will then, if necessary, review results with a designated Medical Review Officer.

2. Negative Results – Assuming there are no other infractions or violations of policy, the employee shall be returned to work on their next regularly scheduled workday. If applicable, the employee will be reinstated with back pay for the scheduled days of absence due to the previously imposed suspension.

3. Positive 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 that the employee was impaired by a substance for which they have a legal prescription and the disclosure form notes this, the employee may be returned to work after the prescribing physician has reviewed the employee's job description and cleared the employee to return.

4. 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.

VII. Employment Action

A. If an employee is determined to have engaged in drug diversion, the employee will be subject 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 human resources file. The specific reason for dismissal will be shared with prospective employers or educators who contact the [insert facility name] with appropriate authorization.

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VIII. Internal Reporting

A. If the [insert facility name] Drug Diversion Team suspects or concludes that drug diversion has occurred or probably occurred, the following notifications will be made:
    1. If an employee is suspected of diverting drugs while on duty, notify the [insert facility name]'s Legal Department and the employee's supervisor/manager and professional leadership. If a student is suspected, the Dean or Administrator of the appropriate school should also be notified.
    2. The Drug Diversion Team will notify the New Jersey Department of Health (NJDOH) Health Facilities, Survey, and Field Operations (HFSFO) within 72 hours of the reportable event via the required method.

B. The [insert facility name]'s Legal Department will also notify the appropriate billing department to determine whether modifications should be made to bills for affected medical care.

C. The Drug Diversion Team will review the specifics of the drug diversion event to determine the potential impact on patients (e.g., tampering with injectable medications, potential for bloodborne pathogen transmission). If there is a possibility of bloodborne pathogen transmission, the Drug Diversion Team should contact their local health department.

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 [insert facility name]'s Director of Pharmacy will ensure that appropriate reports are made to the following agencies:
    i. DEA Office of Diversion Control, DEA Form 106. https://apps.deadiversion.usdoj.gov/webforms/dtlLogin.jsp
    ii. 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
    iii. Health Care Professional Responsibility and Reporting Enhancement Act Reporting Form http://www.njconsumeraffairs.gov/Pages/hcreporting.aspx
    iv. NJDOH HFSFO via phone at 1-800-792-9770 or http://www.state.nj.us/health/healthfacilities/file_complaint.shtml

B. In collaboration with the [insert facility name] legal counsel, 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.

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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 [insert facility name] administration will report drug diversion by other licensed employees not otherwise mentioned above to NJDOH HFSFO https://www.nj.gov/health/healthfacilities/non_ltc_reportableevents.shtml

C. The [insert facility name]'s legal counsel may report the diversion to the local 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 [insert facility name]'s legal counsel and, if applicable, the drug diversion team/specialist will evaluate all incidents of drug diversion to determine whether additional external reports should be made, such as reports to the NJDOH Communicable Disease Service or the Food and Drug Administration.

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[INSERT FACILITY NAME] DRUG DIVERSION CONTACT INFORMATION AND STATE OF NEW JERSEY CONTROLLED SUBSTANCE RELATED DIRECTORY

Drug Diversion Team:
Administrator:
Medical Director:
Director of Nursing:
Drug Diversion Specialist:
[INSERT TITLE/ROLE]:
[INSERT TITLE/ROLE]:
[INSERT TITLE/ROLE]:

Department of Pharmacy
Name:
Address:
Telephone:
Email:

Department of Human Resources
Name:
Address:
Telephone:
Email:

Occupational/Employee Health Services
Name:
Address:
Telephone:
Email:

Security Department
Name:
Address:
Telephone:
Email:

Legal Counsel
Name:
Address:
Telephone:
Email:

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

New Jersey Board of Pharmacy
ATTN: Executive Director
P.O. Box 45013
Newark, NJ 07101 (973)504-6450
https://www.njconsumeraffairs.go v/phar

New Jersey State Board of Dentistry
ATTN: Executive Director PO Box 45005
Newark, NJ 07101 (973) 504-6405
https://www.njconsumeraffairs.gov/ den/Pages/default.aspx

New Jersey Board of Nursing
ATTN: Executive Director PO Box 45010
Newark, NJ 07101 (973) 504-6430
https://www.njconsumeraffairs.gov /nur/Pages/default.aspx

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/Pages/default.aspx

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

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APPENDIX A

INDICATORS OF IMPAIRMENT

The following is a list of 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 sweating 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.

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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 [insert facility name] 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 reason (s) for the performance of these tests. I understand that false-positive and false-negative test results can occur, and that, if this happens, subsequent tests will be conducted 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 related to these tests, the possible release of test results to other agencies will also be discussed with me.

I understand that the results of these tests will be included in 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.

Employee Signature: _____ Date: _____

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APPENDIX B (Continued)

EMPLOYEE MEDICATION VERIFICATION

Employee Name: _____ Date: _____
Employee ID/SS #: _____ Department: _____

If any prescribed medications are found in your lab results, you must produce a prescription from the prescribing physician.

Please list ALL drugs/medications that you are currently using. These should include both over-the-counter (i.e., cough suppressants, ibuprofen, allergy medicine) and prescription medications.

Prescription/Medication Name	Prescribed Dosage & Frequency

Employee Signature: _____ Date: _____
Supervisor Signature: _____ Date: _____

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