



NATIONAL CAPITAL REGION MEDICAL DIRECTORATE DIRECTIVE-TYPE MEMORANDUM



JAN 07 2015

MEMORANDUM FOR: NATIONAL CAPITAL REGION MEDICAL DIRECTORATE (NCR MD) STAFF
DIRECTORS, WALTER REED NATIONAL MILITARY MEDICAL CENTER (WRNMMC) AND FORT BELVOIR COMMUNITY HOSPITAL (FBCH)
DIRECTOR, JOINT PATHOLOGY CENTER (JPC)

SUBJECT: NCR MD-Directive-Type Memorandum (DTM) 15-002, Safe Harbor

References: See Attachment

Purpose. This DTM, based on the authority of References (a) through (d) and in accordance with (IAW) the guidance and requirements of References (e) through (h), establishes procedures for enacting "Safe Harbor" IAW Reference (f) when urinalysis testing Federal civilian employees. This DTM is effective immediately; it must be converted into a new NCR MD Administrative Instruction. This DTM will expire effective 1 year from the date of signature.

Applicability. This DTM applies to employees of the NCR MD, WRNMMC to include the DiLorenzo Clinic and the Tri-Service Dental Clinic, FBCH to include the Dumfries and Fairfax Clinics, and the JPC unless prohibited by statute or regulation. Hereafter, these facilities are collectively referred to as Joint Medical Treatment Facilities (MTFs) and Centers.

Policy. In accordance with DoD policy, it is NCR MD policy to:

- Utilize the Safe Harbor procedures outlined in Reference (f) in support of the required Drug-Free Workplace Program IAW References (f) through (h). Safe Harbor may allow DoD Components to prohibit disciplinary action for an employee who voluntarily admits to illegal drug use, obtains counseling or rehabilitation under the Employee Assistance Program (EAP) (Reference (h)), and thereafter refrains from using illegal drugs.
- Not allow Safe Harbor to be available to an employee after notification of a random drug test request or drug usage being identified through other means, such as reasonable suspicion drug testing directed by a supervisor, or upper level management.

JAN 07 2015

- Invoke a Safe Harbor determination upon a voluntary disclosure, which protects the employee from discipline or further adverse actions from the voluntary disclosure.
- Not initiate disciplinary action against an employee who voluntarily admits to illegal drug use to their supervisor or a higher-level management official, successfully completes drug counseling or rehabilitation through the EAP, and thereafter refrains from illegal drug use or activities. This Safe Harbor provision only applies when the organization is otherwise unaware of the employee's illegal drug use prior to the employee seeking Safe Harbor.
- Not allow an employee who admits to illegal drug use to be eligible for Safe Harbor protections after being notified that they are scheduled for a drug test or just after a sample is collected, or who is found to use illegal drugs or be in violation of the DoD Drug Abuse Policy on the basis of other appropriate evidence (e.g., evidence obtained from a criminal conviction, reasonable suspicion, and/or accident unsafe practice).

Responsibilities

- Joint MTF and Center Directors. The Joint MTF and Center Directors will ensure that Safe Harbor is offered to any employee who voluntarily identifies themselves as a user of an illegal drug prior to being identified by other means.
- DoD Civilian Employees. The DoD civilian employee who otherwise meets the criteria are encouraged to participate in and use Safe Harbor prior to management detection of drug use or impairment and/or management directed drug testing.
- EAP Coordinator. IAW Reference (h), the EAP Coordinator will offer drug counseling and rehabilitation to civilian employees who seek such services.
- EAP. The EAP plays an important role in preventing and resolving employee drug use by:
 - Demonstrating a commitment to eliminating illegal drug use.
 - Providing employees an opportunity, with appropriate assistance, to discontinue their drug use.
 - Providing educational materials to supervisors and employees on drug use issues.


JAN 07 2015

- Assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate drug treatment and rehabilitative facilities.
- Following up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program.
- Providing follow-up via telephone with the employee while he/she is undergoing rehabilitation.
- Having the employee sign a Release of Information allowing the EAP to communicate with the employee's rehabilitation treatment providers to verify employees attendance and participation with treatment, obtain details of the employees treatment, and aftercare plan to help coordinate the employee's return to work process post treatment. Once the employee has successfully completed treatment and is cleared to return to work, the EAP will schedule an in person follow-up meeting with the employee to further assist and support the employee in the return to work process.

Procedures. The Safe Harbor procedures will be enacted when any employee meets the following criteria:

- Voluntarily identifies him/herself as a user of an illegal drug prior to being identified by other means such as random or reasonable suspicion drug testing.
- The employee obtains drug counseling or rehabilitation through the EAP.
- Agrees to be tested as part of follow-up to counseling and rehabilitation in addition to random testing. Frequency of such testing shall be at the recommendation of the Drug Testing Coordinator and the EAP Coordinator.
- Subsequently refrains from using illegal drugs or participating in any other illegal drug activities (e.g., possession or selling).

Releasability. **Cleared for public release.** This DTM is available on the Internet from the NCR MD Website at www.capmed.mil.



RADM, MC, USN
Director

Attachment:
As stated

JAN 07 2015

ATTACHMENT

REFERENCES

- (a) Deputy Secretary of Defense Action Memorandum, "Implementation of Military Health System Governance Reform," March 11, 2013
- (b) DoD Directive 5136.13, "Defense Health Agency (DHA)," September 30, 2013
- (c) National Capital Region Medical Directorate (NCR MD) Concept of Operations, September 10, 2013
- (d) Office of the Assistant Secretary of Defense Health Affairs Memorandum, "Legal Effect of Joint Task Force Guidance after October 1," October 4, 2013
- (e) Joint Task Force National Capital Region Medical (JTF CapMed) Instruction 5025.01, "Formats and Procedures for Development and Publication of Issuances," January 22, 2011
- (f) DoD Instruction 1010.09, "DoD Civilian Employee Drug-Free Workplace Program," June 22, 2012
- (g) Executive Order 12564, "Drug-Free Federal Workplace," as amended September 15, 1986
- (h) JTF CapMed Instruction 1426.01, "Civilian Employee Assistance Program (CEAP)," January 11, 2012, as amended

GLOSSARY

ABBREVIATIONS AND ACRONYMS

DTM	Directive-Type Memorandum
EAP	Employee Assistance Program
FBCH	Fort Belvoir Community Hospital
IAW	in accordance with
JPC	Joint Pathology Center
MTF(s)	Medical Treatment Facility/Facilities
NCR MD	National Capital Region Medical Directorate
WRNMMC	Walter Reed National Military Medical Center