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Section HR-Employee Health
Manuals Human Resources

HR-009-005 Drugfree Workplace and Drug Testing

I. Purpose

To provide a safe and healthy environment for our patients, visitors, physicians and employees.

II. General Provisions

- A. The use of controlled substances, narcotics or other physically or psychologically altering substances is documented to have serious adverse effects upon a significant proportion of the national work force. Substance abuse while at work or otherwise impairs employee judgment and limits physical activities which may result in hazards to our patients and the public, employee injuries, faulty decision making and reduced productivity. Broward Health recognizes its responsibility to maintain a drug free work force and drug free work environment. It is our obligation to provide a safe and healthy environment for our patients, visitors, physicians, clinical interns and employees. Continuing research and practical experience have proven that even limited quantities of narcotics, mind and mood altering prescription drugs or alcohol can impair judgment and motor function. For these reasons, we have adopted a policy that all employees must report to work completely free from the effects of drugs and the effects of alcohol. This policy is in compliance with the Florida Drug Free Workplace Program §440.101 and .102, Florida Statutes, and the Florida Drug Free Workplace Act, §112.0455 et seq., Florida Statutes.
- B. Further, the Florida Workers' §440.102, Florida Statutes, provides that an employee who is injured in the course and scope of employment and who either tests positive on a drug or alcohol test or who refuses to be tested, will face a rebuttable presumption that they forfeit eligibility for Workers' Compensation medical and indemnity benefits.

A physician/patient relationship is not created between BH and the prospective or current employee, or any person performing or evaluating the drug test, solely by the establishment, implementation, or administration of this drug testing program.

This policy applies to all BH and non-BH employees. Non-BH employees are required to follow the guidelines as set forth in Policy 2.14, "HR Guidelines for Regulatory

Compliance for Agency/ Contracted Personnel". HRAM Policy 2.14 applies to Agency Personnel, Contracted Services, Independent Contractors, and Student Interns, working within BH facilities, and are referred to as "Non-BH employees". (See Index for List of Definitions).

III. DRUG USE PROHIBITIONS:

- A. All employees and non-BH employees are prohibited from manufacturing, distributing, dispensing, possessing, or using illegal drugs or other unauthorized or mind-altering or intoxicating substances while on BH property (including parking areas and grounds), or while otherwise performing company duties away from BH. Included within this prohibition are lawful controlled substances which have been illegally or improperly obtained. Employees are also prohibited from having any such illegal or unauthorized controlled substances in their systems while at work, and from having excessive amounts of otherwise lawful controlled substances in their systems. Employees are required to report any conviction involving illegal substances to Human Resources within 5 days. BH will take appropriate disciplinary action against the employee involved, up to and including termination. This action may also include reporting the employee to the appropriate state professional or occupational licensing board and requiring the employee to participate in a drug and alcohol rehabilitation program. All employees are advised that marijuana, even if prescribed for a medical purpose and even if deemed lawful by some states for other purposes, remains an illegal controlled substance under federal law. As such, Broward Health strictly prohibits the use of marijuana for any purpose.
- B. For the purpose of this policy, an employee is presumed to be impaired if results of a urine or blood test or other scientifically acceptable procedure is confirmed positive for the presence of one or more of the substances for which BH will test.
- C. The proper use of medication prescribed by physicians is not prohibited; however, we do prohibit the misuse of prescribed medications. Prescription drugs may also affect the safety of our patients, the employee, fellow employees, or members of the public. Therefore, any employee who is taking any mind or mood altering substance which might impair safety, performance, or any motor functions must report to Employee Health to complete the "Form For Reporting The Use Of Prescription or Non-Prescription Medication" (Exhibit E) before reporting to work under such medication. Failure to do so may result in disciplinary action. It is the employee's responsibility to determine from his/her physician, and provide documentation when requested, as to whether a prescribed drug may impair job performance. If BH determines that such use does not pose a safety risk, the employee will be permitted to work. If such use impairs the employee's ability to safely or effectively perform his/her job, BH may, at its sole discretion, temporarily reassign the employee or grant a leave of absence during the period of treatment. Improper use of prescription drugs is prohibited and may result in disciplinary action, up to and including termination. Prescription medication must be kept in its original container if such medication is taken during working hours or on BH property. As marijuana remains an illegal controlled substance under federal law, Broward Health strictly prohibits its use, even if otherwise prescribed for a medical purpose under state law. Broward Health does not accept medical marijuana as an explanation for a positive test under this policy.
- D. It shall be the responsibility of each employee who observes or has knowledge of another employee in a condition which impairs the employee to perform his job duties, or

who presents a hazard to the safety and welfare of others, or is otherwise in violation of this policy, to promptly report that fact to his/her immediate supervisor.

- E. To this end, all prospective employees who have been offered positions with BH will be subject to drug testing as a component of BH's routinely-conducted employment fitness for duty physical examination. Further, all BH employees and Non-BH employees, may be subject to reasonable suspicion drug testing including post-accident testing while performing their duties at BH, if they fall within the factors set forth for reasonable suspicion drug testing. A negative drug test result is a condition of employment with BH.
- F. Reasonable suspicion drug testing for Non-BH employees will be conducted by the contracting agency and said agency will be responsible for all costs incurred. Drug test results will be submitted by the agency to the BH contract manager. A positive drug test will preclude the Non-BH employee from participating in any contracts or agreements with BH.

IV. ALCOHOL USE PROHIBITIONS:

- A. All employees are prohibited from possessing or using alcohol, or being impaired, intoxicated, or under the influence of alcohol during working hours which include meal times, while on duty, on call or while operating a BH vehicle. Any employee violating the above policy will be subject to disciplinary action up to and including termination.
- B. For the purpose of this policy, an employee is presumed to be impaired, intoxicated, or under the influence of alcohol if a blood test or other scientifically acceptable testing procedure shows that the employee has a level of at least .02 percent blood alcohol in his system at the time of testing.
- C. Employees arrested for an alcohol-related incident must immediately notify their supervisor if the incident occurs:
 - 1. During scheduled working hours.
 - 2. While operating a BH vehicle on company business.
 - 3. While operating a personal vehicle on BH business.
 - 4. While on call.

Failure to notify an appropriate BH official as described above may result in disciplinary action, up to and including termination.

V. NOTICE TO EMPLOYEES AND PROSPECTIVE EMPLOYEES/JOB APPLICANTS:

- A. Prior to testing, all employees and prospective employees shall be given a written policy statement from Broward Health which contains:
 - 1. Broward Health's philosophy on employee drug use, which will identify:
 - a. The types of testing an employee or applicant/prospective employee may be required to submit to, including reasonable suspicion, post-accident testing, follow-up EAP testing or drug testing conducted on any other basis; and
 - b. The actions BH may take against an employee or applicant/prospective employee on the basis of a positive confirmed drug test result.
 - 2. A general statement concerning confidentiality.

3. A statement advising the employee or prospective employee of the existence of the Florida Drug Free Workplace Act and Florida Drug Free Work Place Program.
4. Procedure for employees and prospective employees to confidentially report the use of prescription or non-prescription medications to the BH Medical Review Officer (MRO) both before and after testing.
5. The consequences of refusing to submit to a drug test.
6. The phone number of the BH Employee Assistance Program for further information on local drug rehabilitation programs.
7. A statement that a testing subject who receives a positive confirmed drug test result may contest or explain the result to the BH MRO within five working days after written notification of the positive test result as outlined in the **Testing Procedure and Employee Protection**, Section VI, of this policy. If the subject's explanation or challenge is unsatisfactory to the BH Medical Review Officer, the Medical Review Officer shall report the test result back to BH. A person may contest the drug test result pursuant to law or to rules adopted by the Agency for Healthcare Administration.
8. A statement informing the employee or job applicant of his responsibility to notify the laboratory of any administrative or civil actions brought pursuant to Florida Statute 112.0455 or 440.102.
9. Employees and prospective employees will receive notice of the most common drugs/medications by brand name or common name as applicable, as well as by chemical name, which may alter or affect a drug test.
10. A statement notifying employees and prospective employees of their right to consult a MRO for technical information regarding prescription and non-prescription medication.
11. A statement requiring that as a BH employee, they must report any criminal conviction involving illegal drugs to Human Resources within 5 days after the conviction.

- B. A notice of BH's drug testing policy shall be maintained in appropriate and conspicuous locations on BH's premises, and a notice of testing shall be placed on position vacancy announcements, and copies of the policy will be made available for inspection during regular business hours by employees and job applicants in BH's Human Resource offices or other suitable locations.

VI. TYPES OF TESTING:

BH is required to conduct the following types of drug tests:

- A. **Job Applicant/Prospective Employee Drug Testing:** BH requires that prospective employees submit to a drug test. A refusal to submit to a drug test, or action/behavior which impedes the collection of the specimen, or a positive confirmed drug test will be used as a basis for refusing to hire a job applicant.
Drugs tested include the ten (10) panel; Amphetamines, Barbiturates, Benzodiazepines, Phencyclidine (PCP), Cocaine, Marijuana, Methadone, Methaqualone, Opiates, Propoxyphene. (See **Index of Definitions**).

- B. **Reasonable Suspicion** – BH may require an employee or agency/contract employee to submit to reasonable suspicion drug and/or alcohol testing as defined in this policy. This would include Post Accident testing as defined in the **Index of Definitions**. Drugs tested include the healthcare employee drug panel.
1. Where testing is conducted based on reasonable suspicion, BH shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion exists to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential by BH pursuant to the confidentiality portion of this policy and retained by BH for at least one year.
 2. Prior to a BH manager requiring an employee to submit to a reasonable suspicion drug test, the manager must follow the "Management Referral for Impaired Performance Examination" including "Reasonable Suspicion Drug Testing" (see Exhibit D). Refusal to submit to the reasonable suspicion drug and/or alcohol test or action/behavior which impedes the collection of the specimen will result in immediate discharge from employment.
 3. Post-Accident Testing - Prior to a post accident drug test being performed on any employee, the Employee Health Nurse Practitioner or Emergency Department Physician must complete the "Post Accident Drug Testing form" (Exhibit D-2).
- C. **Follow-Up (EAP) Testing:** If an employee, in the course of employment, is required to participate in a drug treatment program BH must require such employee to submit to random drug testing as a follow up to such program, for up to two years thereafter. Upon being cleared for duty by an approved treatment provider or rehabilitation program, the employee will also submit to a urine drug screen, and have a negative result prior to returning to work. If necessary, these drug tests may be observed by an individual of the same gender. Drugs tested are those in the healthcare employee drug panel. Advance notice of a testing date must not be given to the employee to be tested.
- D. Limited testing of applicants only if it is based on reasonable classification basis, is permissible in accordance with rules adopted by the Agency for Healthcare Administration.

VII. RECONSIDERATION FOR EMPLOYMENT FOLLOWING A POSITIVE DRUG TEST

If a job applicant wishes to be re-considered for employment following a positive confirmed drug screen, s/he must wait one year subsequent to the test result and must 1) provide BH with a written statement from a qualified treatment provider indicating successful completion of chemical dependency/substance abuse treatment and aftercare recommendations, 2) submit to a drug test and have a negative result, and 3) agree to follow-up, random drug testing for up to two years including periodic meetings with the EAP.

VIII. TESTING PROCEDURE AND EMPLOYEE PROTECTION:

Drug testing under this policy will be performed by urinalysis. Pre-screening for alcohol shall be by breathalyzer or saliva testing with initial and confirmatory testing on a blood sample in conformity with applicable Agency for Healthcare Administration regulations. All specimen collection and testing for drugs under this policy shall be performed in accordance with the procedures outlined in the Appendix and as specified in the Employee Health manual, and in accordance with the Florida

Drug Free Work Place Program and appropriate regulations.

- A. BH shall use chain-of-custody procedures as established by the Agency for Health Care Administration to ensure proper record keeping, handling, labeling, and identification of all specimens to be tested. See Section titled "**Chain of Custody**" in the Appendix.
- B. Every specimen that produces a positive confirmed result shall be preserved in a frozen state by the licensed or certified laboratory that conducts the confirmation test, for a period of at least 210 days from the time the results of the positive confirmed test are mailed or otherwise delivered to the BH MRO. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 210 day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the employer shall be responsible for the transfer of the portion of the specimen to be re-tested, and for the integrity of the chain of custody during such transfer.
- C. Within five (5) working days after receipt of a written positive confirmed test result from the testing laboratory, the MRO shall inform the subject of such positive test result. The MRO shall discuss these results with the subject including the consequences of such test results, and the options available to the subject, and shall inquire whether prescriptive or over-the-counter medications could have caused the positive test result.
- D. Upon request, the employee or the prospective employee, shall receive a copy of the test result report from the MRO.
- E. Within five days after receiving notice of a positive confirmed test result, the subject may submit information to the BH MRO explaining or contesting the test results and why the results do not constitute a violation of BH's policy. If the subject does not respond to the MRO within 5 days, the positive test result will be maintained.
- F. If a subject's explanation or challenge to the positive test results is unsatisfactory to the MRO, a letter to the employee or prospective employee, along with a report of the positive results, shall be provided by BH. All such documentation shall be kept confidential by BH and shall be retained by BH for at least one year.
- G. If the urine specimen is determined to be negative and dilute (See Index of Definitions for "dilute urine"), the candidate/ employee may be required to provide a second specimen to be tested. The second test shall become the test of record.
- H. BH may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test and by a BH MRO.
- I. An employee shall be subject to discharge if:
 1. The employee has either refused to participate in the Employee Assistance Program or rehabilitation program or has failed to successfully complete such program, as evidenced by withdrawal from the program before its completion or a report from the program indicating unsatisfactory compliance, or by a positive test result on a confirmation test after completion of the program; or

2. An employee within the EAP shall be subject to discharge or discipline if they fail to comply with random/periodic testing procedures; or
 3. The employee has failed or refused to sign a written consent form allowing BH to obtain information regarding the progress and successful completion of an employee assistance program or alcohol and drug rehabilitation program.
- J. A positive reasonable suspicion or post-accident drug test will result in an investigation which will determine the appropriate course of action for the incident. The employee will be subject to disciplinary action up to and including termination. When the decision is for the employee to receive a final corrective action and a mandatory EAP referral, the employee must agree to complete rehabilitation and other recommendations as prescribed by the EAP or its designees. Furthermore the employee must agree to undergo follow up random screening for a period of 2 years and be subject to termination for any future policy violations. The employee will be required to sign a "Return to Work" agreement after being cleared for duty by the treatment provider and submit to a clearance for duty urine screen, which shall be negative.
- K. An employee in a safety-sensitive position while participating in an EAP or drug and alcohol rehabilitation program may be placed in a non-safety-sensitive position at the sole discretion of BH, or placed on leave status. If placed on leave status, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay.

Upon successful completion of an employee assistance program or alcohol and drug rehabilitation program, the employee may be reinstated to the same or equivalent position (if such a position is available) that was held prior to such rehabilitation. Reinstatement is also contingent upon their Family Medical Leave (FML) status, if eligible, see Policy 6.70 for further clarification. Efforts will be made whenever possible to accommodate licensed healthcare professionals subject to restrictions imposed by State regulatory programs, however, such accommodations are not guaranteed.

- L. BH may not discharge, discipline, or discriminate against an employee, or refuse to hire a job applicant, on the basis of any prior medical history revealed to BH pursuant to this section.
- M. BH shall not discharge, discipline, or discriminate against an employee solely upon voluntarily seeking treatment while under the employ of BH, for a drug related problem if the employee has not previously tested positive for drug use.
- N. BH shall pay the cost of all drug tests, initial and confirmation, which it requires of employees or job applicants.
- O. An employee or job applicant shall pay the costs of any additional drug tests not required by BH.
- P. BH Employee Health will notify Human Resources when prospective employees have successfully passed their employment placement medical history and physical. If the ACHA licensed laboratory confirms a positive test result, they will notify the MRO who will in turn notify the BH Employee Health Department. Employee Health will in turn notify Human Resources that the employment placement history and physical was not successfully completed.
- Q. BH reserves the right to notify the appropriate professional or occupational licensing board of the results of any drug test. New and current employees are notified of this fact

in the Substance Abuse Testing Consent to Perform form. Prospective employee substance abuse test results will be maintained as part of their confidential medical history file. Reasonable suspicion and EAP substance abuse test results will be kept in a confidential file in the EAP and/or EH Department.

- R. All authorized remedial treatment, care, and attendance provided by a health care provider to an injured employee before medical and indemnity benefits are denied under this section must be paid for by the carrier or self-insurer. However, the carrier or self-insurer must have given reasonable notice to all affected health care providers that payment for treatment, care, and attendance provided to the employee after a future date certain will be denied. A health care provider, as defined in §440.13(I), that refuses, without good cause, to continue treatment, care, and attendance before the provider receives notice of benefit denial commits a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

IX. CONFIRMATION TESTING:

- A. If an initial drug test is negative, BH may, in its sole discretion and at BH's expense, seek a confirmation test.
- B. Only licensed and/or certified laboratories as described in the Appendix, **Drug Testing Standards-Laboratories** shall conduct confirmation drug tests.
- C. All positive initial urine tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS). All blood alcohol tests shall be confirmed by gas chromatography.
- D. If an initial drug test of an employee or job applicant is confirmed as positive, the employer's Medical Review Officer (MRO) shall provide technical assistance to the employer and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or non-prescription medication taken by the employee or job applicant.

X. EMPLOYER PROTECTION:

- A. No physician/patient relationship is created between an employee or job applicant and BH or any person performing or evaluating the drug test, by the establishment, implementation or administration of this drug testing policy.
- B. Nothing in this policy shall be construed to prevent BH from taking disciplinary action up to and including discharge related to employee possession, use, diversion, sale or solicitation of drugs, including convictions for drug related offenses.
- C. Refusal of an employee or job applicant to submit to a drug test shall result in the discharge of the employee or the refusal to hire the job applicant.

Refusal of an employee or job applicant to allow the laboratory to disclose the result of the drug test will be considered a refusal to test and shall result in the discharge of the employee or refusal to hire the applicant.

- D. An adulterated specimen or any attempt to tamper with the specimen shall constitute grounds for termination and permanent ineligibility for employment.
- E. If BH refuses to hire a job applicant based on a positive confirmed drug test result, they shall not be required to hold the employment position vacant while the job applicant pursues administrative action.

- F. BH may refer an employee with a first-time positive confirmed drug test result to an employee assistance program or alcohol and drug rehabilitation program. If the results of a subsequent confirmed test are positive, BH shall discharge that employee. If an employee does not comply with the requirements of the employee assistance program or alcohol and drug rehabilitation program, and/or fails to complete the program, the employee will be discharged.
- G. BH may conduct random drug testing of employees occupying safety- sensitive or special-risk positions if the testing is performed in accordance with drug testing rules adopted by the Agency for Health Care Administration and the Department of Labor and Employment Security.
- H. No employee or job applicant whose drug test result is confirmed as positive in accordance with the provisions of this policy shall, by virtue of the result alone, be deemed to have a "handicap" or "disability" as defined under federal, state or local handicap and disability discrimination laws.
- I. If BH discharges or disciplines an employee or refuses to hire a job applicant in compliance with this policy, its actions shall be considered to have discharged, disciplined, or refused to hire for cause.

XI. CONFIDENTIALITY:

- A. Except as otherwise provided in this subsection, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received by BH as a result of this drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the Florida Drug Free Work Place Program and Act or by court order, or to an authorized interested licensing agency. Test results are confidential communications and exempt from the provisions of 119.07(1) and 24(a), Article 1 of the State Constitution.
- B. BH, laboratories, MRO's, employee assistance programs, drug and alcohol rehabilitation programs and their agents who receive or have access to information concerning drug test results shall keep all information confidential. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed voluntarily by the person tested, except where such release is compelled by a hearing officer or a court of competent jurisdiction, or where appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:
 - 1. The name of the person who is authorized to obtain the information.
 - 2. The purpose of the disclosure.
 - 3. The precise information to be disclosed.
 - 4. The duration of the consent.
 - 5. The signature of the person authorizing the release of information.
- C. Information on drug test results shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section is inadmissible as evidence in any such criminal proceeding.
- D. An employee who participates in an employee assistance or alcohol and drug treatment program and has a 2nd positive drug test will be immediately discharged. Results may be

released as agreed upon by the employee to the Bureau of Unemployment Compensation and appropriate professional or occupational licensing board as specified in the BH Back To Work Agreement.

- E. Nothing herein shall be construed to prohibit BH, its agents, or the laboratory conducting the test from having access to employee's drug test information when consulting with legal counsel in connection with actions brought under or related to this section or where the information is relevant to its defense in a civil or administrative matter.

XII. CONSENT POLICY FOR MINORS:

- A. All candidates for employment who are minors will have a consent form signed by their parent or legal guardian prior to the employment placement and physical. Their verbal approval will not be accepted by phone.
- B. The purpose of the aforementioned paragraph is to protect the minor by obtaining consent from the parent or legal guardian.

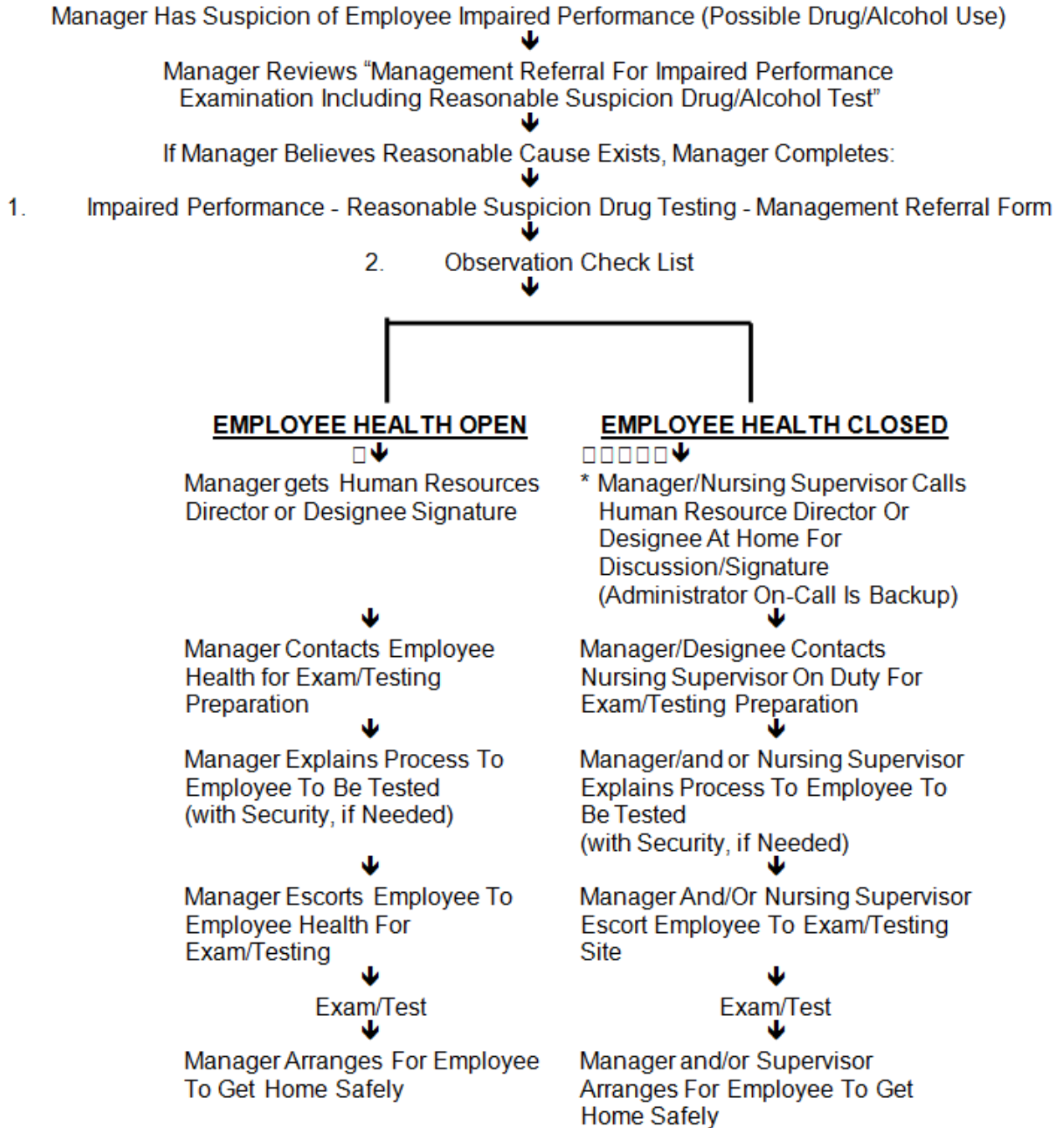
XIII. REMEDIES:

- A. An employee or job applicant may challenge the drug test result as specified under Section VII, B. of this policy. However, nothing in this subsection shall affect the right of an employee or job applicant to seek relief in a court of competent jurisdiction.
- B. Any employer who complies with the provisions of Florida Statute §112.0455 shall be without liability from all civil actions arising from any drug testing program or procedure employed in compliance with the aforementioned statute.
- C. Pursuant to any claim alleging a violation of Florida Statute §112.0455, including a claim under this policy where it is alleged that BH's action with respect to a person was based on an incorrect test result, there shall be a rebuttable presumption that the test was valid, if BH complied with the provisions of this policy and Florida Statute.
- D. Every employee and prospective employee has a right to consult the Broward Health Medical Review Officer (MRO) for technical information regarding drug testing.
- E. Employees wishing to discuss any aspect of this policy should contact their appropriate Regional Human Resource Department.

XIV. References

The Florida Drug-free workplace program requirements: State of Florida Statutes, Chapter 440.101 and .102, and the Florida Drug Free Work Place Act, Section 12.0445, 1998

IMPAIRED PERFORMANCE EXAMINATION INCLUDING REASONABLE SUSPICION DRUG TESTING - PROGRAM FLOW



***If an employee suspects a co-worker of impaired performance, they must contact the Nursing Supervisor who will initiate the process.**

EXHIBIT D

MANAGEMENT REFERRAL FOR IMPAIRED PERFORMANCE EXAMINATION INCLUDING REASONABLE SUSPICION AND POST ACCIDENT DRUG AND/OR ALCOHOL TESTING

As a manager/supervisor, you may suspect that one of your employees is not fit for duty for any of several reasons including being under the influence of alcohol or drugs while working. This suspicion may be

brought upon by a number of reasons, including but not limited to:

1. alcohol on the breath
2. presence of drug paraphernalia
3. slurred or incoherent speech
4. drowsiness or sleepiness
5. unusually aggressive behavior
6. erratic or unusual behavior, i.e., paranoia, mood swings, irritability
7. lack of manual dexterity
8. lack of coordination
9. involvement in a work place or vehicular accident while on duty
10. discrepancies in the administration of patient medication, and/or possible drug diversion

Procedures:

If your employee's condition or behavior causes you to question his/her ability to perform normal work duties, you may have identified reasonable cause or suspicion for a impaired performance examination including drug testing. It should be noted that THE PRESENCE OF ONE SYMPTOM BY ITSELF IS USUALLY NOT ADEQUATE TO WARRANT A TEST, USUALLY A PATTERN MUST BE DISCERNIBLE.

1. If you wish to have the employee submit to an impaired performance examination including a alcohol and/or drug test, a "Impaired Performance - Reasonable Suspicion Drug Testing - Management Referral" form must be completed (Exhibit D-1). It is important to document any observed deficiencies in employee performance or behavior. Your documentation must be directly related to the employee's inability to satisfactorily perform his/her job. Please note that both the Management Referral form and the first half of the Observation Check List (Exhibit D-3) must be completed and then reviewed by your Human Resource Director or designee prior to any exam/ testing.
2. These forms must then be taken to the Employee Health Department or if closed, to the Nursing Supervisor on duty for discussion and exam preparation. Following this discussion and preparation, the employee must be counseled in private to explain the reasons for the testing and the procedure to be followed. The employee will then be escorted to the collection site for the impaired performance examination and drug testing.
3. If the employee refuses the reasonable suspicion drug and/or alcohol test, or impedes the collection of the specimen the employee will be subject to termination. Refusal to test must be documented on the bottom of Exhibit D-1.
4. The manager will also complete the corrective action report for violation of the BH Drug Free Workplace policy (Exhibit D- 4) which will become effective only upon obtaining a confirmed positive test result.
5. Once an employee has undergone the impaired performance examination and drug testing, the employee must be sent home (important note: the employee should be driven home by cab or family member) for the remainder of the shift and may not return to work until the test result has been reviewed. The employee will be suspended without pay pending the results of the drug test.
6. The impaired performance examination and drug test result (positive or negative) will be communicated to the appropriate manager by the Employee Health Department.

7. A confirmed positive drug/alcohol test will result in an investigation which will determine the appropriate course of action for the incident. When the decision is for the employee to receive a final corrective action and a mandatory EAP referral the employee will be required, as a condition of continued employment, to seek appropriate counseling and treatment through Broward Health's Employee Assistance Program. The employee must successfully complete the prescribed treatment in order to maintain employment with the BH. Any further occurrences of on-the-job impairment will result in immediate termination. If the employee is recommended for inpatient treatment, the employee will be eligible for using accrued SP/PL.
8. The employee must contact and be evaluated by the internal EAP within 3 business days of receiving notification of a positive test result. The employee will be eligible for PL upon meeting with the EAP. If the employee acknowledges the need for rehabilitation prior to receipt of the drug test result, they can meet with the EAP prior to receiving a confirmed drug test result.
9. The employee must follow up with EAP treatment recommendations within 5 business days. The employee will be eligible for using accrued sick and personal leave upon initiating treatment by an approved treatment provider within the allowed time frames.
10. Failure to comply with 8 and 9, will be grounds for termination.
11. If the confirmed test results are negative (no alcohol or illegal drug detected), the employee will be reimbursed regular pay for any scheduled work days suspended.
12. **Post Accident Drug Testing** - If an employee is involved in a work place accident or injury where any of the following criteria are met, a post accident drug test may be performed: 1. The accident includes property damage of over \$200. 2. The treating Emergency Department Physician or Employee Health Nurse Practitioner determines that the test should be done. Prior to a post accident drug test being performed on any employee, the Employee Health Practitioner or Emergency Department Physician must complete the Post Accident Drug Testing Form (Exhibit D-2). Complete Steps 2 – 11 on preceding page.

APPENDIX 1

INDEX OF DEFINITIONS

Agency Personnel	Defined as non- Broward Health employed workers who are furnished on a per diem or irregular basis by an external agency to perform a specific function at one of the Broward Health facilities. These workers are directly employed by the agency and receive their pay and benefits directly from the agency.
Basic Five Drug Panel	Five Drugs tested in the urine specimen include opiates, phencyclidine (PCP), marijuana, cocaine and amphetamines.
Chain of Custody	The methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, storing specimens, and reporting of test results.
Confirmatory Test	A second, more sensitive analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy. For drugs, gas chromatography/mass spectrometry, for alcohol, gas chromatography.

Contracted Services	Non-employee personnel who perform regular services on-site at a BH facility and who are provided by and managed directly by an on-site contracted services.
Dilute Urine	Urine specimen with a creatinine level of less than 20 g/dl and a specific gravity of 1.001 or less.
Drug	Alcohol (ethyl alcohol), including a distilled spirit, wine, a malt beverage or an intoxicating liquor, an amphetamine, cannabinoid, cocaine, phencyclidine (PCP), a hallucinogen, methaqualone, an opiate, a barbiturate, a benzodiazepine, a synthetic narcotic, a designer drug, or a metabolite or any of the substances listed herein.
Drug Rehabilitation Program	A service provider established pursuant to 397.311(28), that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.
Drug Test	Any chemical, biological or physical instrumental analysis administered by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration for the purpose of determining the presence or absence of a drug or its metabolites.
Employee	Any person who works for salary, wages or other remuneration for an employer.
Employee Assistance Program	An established program for employee assessment, counseling, and possible referral to an alcohol and drug rehabilitation program or other appropriate treatment.
Employer	North Broward Hospital District /DBA/ Broward Health
Healthcare Employee Drug Panel (HPP Comp 1)	Thirty drugs tested include: alcohol (ethanol), amphetamines (amphetamine and methamphetamine) barbiturates (amobarbital, butabarbital, butalbital, pentobarbital, phenobarbital, secobarbital) benzodiazepines (chlorazepate, chloriazepoxide, prazepam, diazepam, oxazepam, temazepam, flurazepam, alprazolam and triazolam), cocaine, narcotics (codeine, morphine, hydrocodone, hydromorphone, oxycodone, oxymorphone, pentazocine, propoxyphene, and meperidine), marijuana, and PCP.
Independent Contractors	Individual(s) with a direct contractual relationship with BH for a "defined contractual period of time" and one who is not obtained through an agency or outside contracted services.
Initial Drug Test	A sensitive, rapid, and reliable immunoassay procedure (enzyme oxidation for alcohol) to identify negative and presumptively positive specimens.
Job Applicant/ Prospective Employee	A person who has applied for a position with Broward Health and has been offered employment conditioned upon successfully passing the routine employment placement history and physical, which includes a drug test. For a public employer, job applicant means only a person who has applied for a special risk or safety sensitive position.
Medical Review Officer (MRO)	A licensed physician employed with or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical

	training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.
Post Accident Drug Testing	<p>If an employee is involved in a work place accident or injury where any of the following criteria are met, a post accident drug test shall be performed:</p> <ol style="list-style-type: none"> 1. The accident includes property damage of over \$200. 2. The treating Emergency Department Physician or Employee Health Nurse Practitioner determines that the test should be done.
Prescription or Non-Prescription Medication	A drug or medication obtained pursuant to a prescription as defined by Section 893.02 Florida Statutes, or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.
Public Employer	Any agency within state, county, or municipal government that employs individuals for a salary, wages, or remuneration.
Reasonable Suspicion Drug Testing	<p>Drug testing based on a belief that an employee or non BH employee working at a BH facility is using or has used drugs in violation of Broward Health's policy drawn from specific objective and articulate facts and reasonable inferences drawn from those facts in light of experience. Reasonable-suspicion drug testing shall not be required except upon the recommendation of a Manager who is at least the subject's second-level supervisor and a representative of the Human Resources Department. Among other things, such facts and inferences may be based upon:</p> <ol style="list-style-type: none"> 1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug. 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance. 3. A report of drug use, provided by a reliable and credible source, which has been independently corroborated. 4. Evidence that an individual has tampered with a drug test during his employment with Broward Health. 5. Evidence that an employee has used, possessed, solicited, or transferred drugs while working at Broward Health premises, or while operating a Broward Health vehicle, machinery or equipment. 6. Information that an employee has caused, contributed to, or been involved in an accident while at work.
Safety-Sensitive Position	Any position, including a supervisory or management position, in which a drug impairment would constitute an immediate and direct threat to public health or safety. This also includes any health or patient care provider who is involved in patient care, and who makes decisions and judgments regarding patient care.

Special-risk Position	With respect to a public employer, a position that is required to be filled by a person who is certified under Ch. 633 or Ch. 943, Fla. Stat.
Specimen	Tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration or the Agency for Health Care Administration.
Ten Panel Drug Screen	Amphetamines (Amphetamine, Methamphetamine); Barbiturates; Benzodiazepines; Cocaine Metabolite, Marijuana Metabolite; Methadone; Methaqualone; Opiates (Morphine, Codeine); Phencyclidine; Propoxyphene

APPENDIX 2

DRUG TESTING PROCESS

Drug testing under this policy will be performed by urinalysis. Pre-screening for alcohol shall be by breathalyzer or saliva testing with initial and confirmatory testing on a blood sample, in conformity with applicable Agency for Healthcare Administration regulations. All specimen collection and testing for drugs under this policy shall be performed in accordance with the following procedures and as specified in the Employee Health Manual, and in accordance with the Florida Drug Free Work Place Program and appropriate regulations:

- A. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual intends to alter or has altered or substitute the specimen to be provided. Any necessary observation shall be done by a testing official of the same gender as the employee or applicant being tested.
- B. Specimen collection shall be documented and the documentation procedures shall include:
 1. Labeling of the specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.
 2. An opportunity for the applicant or employee to provide any information that he or she considers relevant to the test, including identification of currently or recently used prescription or non prescription drugs, or other relevant medical information. The provision of this information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed results. The form must provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test
- C. Specimen collection, storage and transportation to the testing site shall be performed in a manner which will reasonably preclude specimen contamination or adulteration. BH shall use chain of custody procedures as established by the Agency for Healthcare Administration to ensure proper record keeping, handling, labeling and identification of all specimens to be tested.
- D. Each confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed or certified laboratory as described in the section titled **Drug Test Standards Laboratories**.
- E. A specimen for a drug test may be taken or collected by any of the following persons:
 1. A physician, physician's assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner, or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.

2. A qualified person who has the necessary training and skills for the assigned task who is either on the BH Employee Health or EAP staff, BH Management Team or is employed by a licensed or certified laboratory.

F. A person who collects or takes a specimen for a drug test conducted pursuant to this section shall collect an amount sufficient for two drug tests as determined by the Agency for Health Care Administration.

G. Initial Test - The initial screen for all drugs shall be an immunoassay, or GC/MS for narcotics except that, the pre-screening test for alcohol shall be a breathalyzer or saliva test, followed up as appropriate, by a blood test analyzed by enzyme oxidization, and then gas chromatography for confirmation. Levels on initial screened specimens which are equal to or exceed the following shall be positive and reported for confirmation testing:

Alcohol	0.02	g/dL
Amphetamines (amphetamine, methamphetamine)	1,000	ng/ml
Marijuana Metabolites	50	ng/ml
Cocaine Metabolite	300	ng/ml
Phencyclidine	25	ng/ml
Opiate Metabolites	2,000	.ng/ml
Barbiturates	300	ng/ml
Benzodiazepines	300	ng/ml
Methadone	300	ng/ml
Propoxyphene	300	ng/ml
Methaqualone	300	ng/ml

H. Confirmation Test - All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS), except that alcohol will be confirmed using gas chromatography. All confirmations shall be done by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value". Levels on confirmation specimens which are equal to or exceed the following shall be reported as positive:

Alcohol	0.02	g/dL
Amphetamines (amphetamine, methamphetamine)	500	ng/ml
Marijuana Metabolites	15	ng/ml
Cocaine Metabolites	150	ng/ml
Phencyclidine	25	ng/ml
Opiate Metabolites	2,000	ng/ml
Barbiturates	150	ng/ml
Benzodiazepines	150	ng/ml
Methadone	150	ng/ml
Propoxyphene	150	ng/ml
Methaqualone	150	ng/ml

- I. Every specimen that produces a positive confirmed result shall be preserved in a frozen state by the licensed or certified laboratory that conducts the confirmation test, for a period of at least 210 days from the time the results of the positive confirmed test are mailed or otherwise delivered to a BH MRO. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the employer shall be responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.
- J. Within five (5) working days after receipt of a written positive confirmed test result from the testing laboratory, the MRO shall inform the subject of such positive test result. The MRO shall discuss these results with the subject including the consequences of such test results, and the options available to the subject, and shall inquire whether prescriptive or over-the-counter medications could have caused the positive test result.
- K. Upon request, an applicant shall receive from the MRO a copy of the test result report.
- L. Within five days after receiving notice of a positive confirmed test result, the subject may submit information to the MRO explaining or contesting the test results and why the results do not constitute a violation of BH's policy. If the subject does not respond to the MRO within 5 days, the applicant will be considered ineligible for the position and not hired.
- M. If a subject's explanation or challenge to the positive test results is unsatisfactory to the MRO, a written explanation as to why the employee or job applicant's explanation is unsatisfactory, along with a report of the positive results, shall be provided by BH to the employee or job applicant and all such documentation shall be kept confidential by BH and is exempt from the provisions of 49.07 (i), Florida Statutes and shall be retained by BH for at least one year.

APPENDIX 3

CHAIN OF CUSTODY

- A. Each North Broward Hospital District medical center has its own policy for obtaining the drug testing specimen. Each policy will consist of, at a minimum, the following procedures including compliance with the Florida Drug Free Work Place rules:
 - 1. All applicants will receive a "Broward Health Substance Abuse Testing Consent to Perform" form and will be asked to complete it accurately and completely.
 - 2. A controlled collection site bathroom.
 - 3. The collection site person shall ask the individual to remove any unnecessary outer garments and personal belongings (e.g., coat, jacket, vest, sweater, purses, books, briefcases, etc.) that might conceal items or substances that could be used to tamper or adulterate the test specimen. The subject may keep their wallet; the collection site person may inspect it to ensure there are no items therein that could alter the result of the tests.
 - 4. The individual will be asked to provide the test specimen in the prepared collection site

bathroom. The collection site person shall remain outside the door of the collection site, if requested, until the specimen is obtained.

5. Upon receipt of the test specimen, the site person will perform a temperature evaluation of the specimen. The specimen will then be sealed with tamper-proof tape, labeled and the job applicant or employee will be asked to sign the chain-of-custody form.
- B. Once the specimen has been collected, the employee or job applicant will verify the specimen and the chain of custody will be initialed. The chain-of-custody form will accompany the specimens and will be maintained at all times. All specimens will be handled and analyzed by a lab that is licensed by the Agency for Health Care Administration.
- C. Specimen collection for reasonable suspicion alcohol testing will be performed by a blood alcohol test as follows:
1. The specimen will be taken by a qualified individual in either the Employee Health, EAP, Nursing, Lab, or Emergency Departments.
 2. The chain of custody form will accompany the specimens and will be maintained at all times in accordance with the Florida Drug Free Work Place Program and Act.
 3. After the initial testing, the specimens will be resecured and the chain of custody will be maintained in the event that a confirmation test must be performed. The laboratory will maintain the confirmed positive specimens for a period of at least 210 days.

APPENDIX 4

DRUG TESTING STANDARDS--LABORATORIES:

- A. No laboratory may conduct an initial or confirmation drug test unless:
1. The laboratory is licensed by the State of Florida Agency for Health Care Administration Services.
 2. The laboratory has written procedures to insure chain of custody.
 3. The laboratory follows proper quality control procedures including, but not limited to:
 - a. The use of internal quality controls, including the use of samples of known concentration, which are used to check the performance in calibration of testing equipment and periodical use of blind samples for overall accuracy.
 - b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory.
 - c. Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results.
 - d. Other necessary and proper actions taken to ensure reliable and accurate drug test results.
- B. Release and Reporting of Results
1. Reporting Results:
 - a. The laboratory shall report test results to the MRO within seven working days after receipt of the specimen by the laboratory. All laboratory reports of a drug test result must at minimum/state:
 1. The name and address of the laboratory that performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.
 3. A list of the drugs for which the drug analyses were conducted.
 4. The type of tests conducted for both initial tests and confirmation tests and the minimum cutoff levels of the test.
 5. Any correlation between medication reported by the employee or job applicant and a positive confirmed drug test result.
- b. The laboratory shall report as negative to the MRO all specimens which are negative on the initial test or negative on the confirmation test. Only specimens which are confirmed as positive on the confirmation test shall be reported positive to an MRO for a specific drug.
 - c. The laboratory shall transmit results to the MRO in a manner designed to ensure confidentiality of the information. The laboratory and MRO must ensure the security of the data transmission and restrict access to any data transmission, storage and retrieval system. Access to test result data shall be restricted to only those individuals authorized by law to obtain such data.
 - d. The MRO may request from the laboratory, and the laboratory shall provide, detailed quantitation of initial and confirmation test results.
 - e. A report must not disclose the presence or absence of any drug other than a specific drug and its metabolites pursuant to this section.
2. Unless otherwise instructed by the employer in writing, or otherwise provided pursuant to applicable law/regulations, all records pertaining to a given specimen shall be retained by the drug testing laboratory for a minimum of two years.
 3. Within five (5) days of receipt of a positive confirmed test result from the laboratory, the BH MRO shall inform the subject in writing of such positive result, and inquire as to whether prescription or over-the-counter medication could have caused the positive test result. The MRO shall further, within five days of notification to the subject of the positive test result, provide an opportunity for the subject to discuss the positive test result and to submit documentation of any prescription relevant to the positive test result.

Within five days after receipt of a positive confirmed test result from the MRO, the BH Employee Health Department shall inform an employee in writing of such positive test results, the consequences of such results, and the options available to the employee, including the right to file an administrative or legal challenge.

4. BH shall provide to the employee, upon request, a copy of the test results.
- C. The laboratory shall submit to the Agency for Health Care Administration a monthly report with statistical information regarding the testing employees and job applicants. The reports shall include information on the methods of analysis conducted, the drugs tested for, the number of positive and negative results for both initial and confirmation tests, and any other information deemed appropriate by the Department of Health and Rehabilitative Services. No monthly report shall identify specific employees or job applicants.

Attachments

[A: Notice/Policy Statement to Employee and Job Applicats](#)

[B-1\(a\): Letter to Job Candidate from Broward Health \(Non-Licensed\)](#)

[B-2: Sample Letter to Prospective Employee/ Nurse from Browardhealth](#)

[B-3\(a\): Sample Letter to EAP Participant from Browardhealth \(for Non-Licensed Participant\)](#)

[B-3\(b\): Sample Letter to EAP Participant from Broward Health \(Licensed Participant\)](#)

[B-3\(c\): Sample Letter to EAP Participant from Browardhealth \(Nurse\)](#)

[C: Substance Abuse Testing Consent to Preform for Prospective and Current](#)

[D-1: Management Referral Impaired Performance - Reasonable Suspicion Drug Testing](#)

[D-2 Post Accident Drug Test](#)

[D-3: Observation Check List](#)

[D-4: Reasonable Suspicion Drug Testing Employee Information](#)

[D: Management Referral for Impaired Performnce Examination Including Reasonable Suspicion and Post Accident Drug and/or Alcohol Testing](#)

[E: Form for Reporting the Use of Prescription or Non-Prescription Medication](#)

[F: BH Drug Testing List](#)

[Impaired Performance Examination Including Reasonable Suspicion Drug Testing - Program Flow](#)

Approval Signatures

Step Description	Approver	Date
	Mark Sprada: SVP, CHIEF HR OFFICER [LW]	06/2022
	Letitia Woods: VP, HUMAN RESOURCES OPERATIONS	06/2022
	Lisa Brown V: CORP DIR, EMPLOYEE HEALTH	06/2022