

Policy Title	Fitness for Duty Policy - Employees, Covered Individuals	Policy ID	511
Keywords	ffd, impairment, impaired, intoxicated, diversion, nh rsa 151:41, fitness for duty, fit for duty, alcohol, impaired, under the influence, drug test, alcohol test		

I. Purpose of Policy

In an effort to provide a safe, healthy, and secure environment for all employees, patients, and visitors of Dartmouth Hitchcock (comprised of Mary Hitchcock Memorial Hospital and Dartmouth Hitchcock Clinic, together, “DH”), this policy establishes every employee’s obligation to report to work fit for duty, and DH’s right to take reasonable measures to ensure every employee is fit for duty.

II. Policy Scope

This policy applies to all DH employees, including residents, fellows, professional staff members, regular employees, temporary and/or term-limited employees, and per diem employees.

III. Definitions

Consent – An employee’s written consent for DH to conduct a fitness for duty evaluation.

Drug and/or Alcohol Testing – Any and all testing for drugs and/or alcohol by Occupational Medicine Department or its designee.

Employee Assistance Program (EAP) – Employee Assistance Program.

Fitness (or Fit) For Duty – An employee’s ability to perform safely and appropriately all essential job functions of their position from the time the employee reports to work and throughout the entirety of the employee’s work shift with or without accommodation, as determined by DH in its sole discretion.

Fitness For Duty Evaluation – An evaluation of an employee’s physical, emotional, or mental capacities, that is conducted by Occupational Medicine or its designee (e.g., EAP) to determine an employee’s fitness for duty. Such evaluation may include, but is not limited to, a comprehensive physical and/or psychiatric medical examination, drug and/or alcohol testing, interviews with the employee and others, internal DH record reviews and audits, public record reviews, and consultations with the employee’s provider(s). DH reserves sole discretion to determine the method and means of evaluation.

House Supervisor – D-H’s administrator in charge during after-hours (after 4:30 p.m. and before 7:30 a.m.) and during non-business days (weekends and holidays).

Occupational Medicine – Occupational & Environmental Medicine or designated representative.

Reasonable Concern – Information and/or observations that call into question, in DH’s sole discretion, an employee’s fitness for duty. Such information and/or observations may include, but are not limited to:

1. Observations or an employee’s self-report relating to an employee’s difficulty with manual dexterity, memory, coordination, alertness, speech, vision acuity, concentration, response to feedback or constructive criticism, interactions with co-workers and supervisors, outbursts, hostility, and/or other violent behavior.
2. Observations of an employee’s appearance, behavior, speech, body odors, or failure and/or inability to perform job functions safely or appropriately.
3. An employee’s possession of alcohol, illegal drugs (including marijuana or medical marijuana), or drug paraphernalia on DH property.
4. An employee’s diversion or suspected diversion of any drugs.
5. An employee’s handling or apparent handling of drugs or drug paperwork (whether hardcopy or electronic) that departs from DH or departmental policy or procedure, whether written or unwritten.
6. An employee’s failure to comply with any applicable licensing board’s requirements, regardless of whether the licensing board has taken or threatened to take action against the employee.
7. An employee’s arrest, charge, or conviction for a drug and/or alcohol-related offense, regardless of whether it has taken place during work hours or while at work.
8. An employee’s identification as a substance abuser through public reporting and/or by state and/or federal authorities.
9. An employee’s identification by a healthcare provider as being at-risk of committing imminent harm to self and/or a patient.
10. Reports of or an employee’s self-disclosure (e.g., telling a supervisor, co-worker, and/or HR, or via e-mail, Facebook, Twitter, or other social media) regarding alcohol and/or drug diversion, consumption, use, impairment, or possession.
11. Reports of or an employee’s self-disclosure (e.g., telling a supervisor, co-worker, and/or HR, or via e-mail, Facebook, Twitter, or other social media) regarding a conviction or charge of an alcohol or drug-related offense.
12. An employee’s violation of DH policy, including, but not limited to, DH’s Substance Abuse and Drug-Free Workplace Policy.

IV. Policy Statement

- All DH employees must report to work fit for duty and be able to perform the essential functions of their job in a safe, secure, productive, and effective manner during the entire time working. When an employee is planning to return to work from an absence related to an underlying medical condition, the employee is responsible for managing their health in a manner that allows them to safely and appropriately perform the essential functions of their job.
- Every employee must notify his/her supervisor, Human Resources, or Occupational Medicine if they are not fit for duty and/or are in violation of DH’s Substance Abuse and Drug-Free Workplace Policy. When an employee voluntarily self-reports a fitness for duty issue prior to DH beginning an investigation into the employee’s fitness for duty, DH will take into consideration the fact that the employee voluntarily self-reported when determining whether any disciplinary action is appropriate.
- Any employee who has reasonable concern regarding a co-worker’s fitness for duty must report that concern to the employee’s supervisor, the co-worker’s supervisor, or Human Resources (or the House Supervisor during after-hours). DH will maintain the confidentiality of the reporting employee’s identity to the fullest extent possible consistent with DH policy and applicable law.

Fitness for Duty Process

- When DH has reasonable concern about an employee's fitness for duty, DH will investigate the matter and may require the employee to consent to a fitness for duty evaluation as a condition of employment. Any employee who refuses to consent for a fitness for duty evaluation or who does not timely and fully cooperate with a fitness for duty evaluation may be subject to discipline, including, but not limited to, immediate termination of employment.
- Occupational Medicine shall conduct each fitness for duty evaluation, which may include drug and/or alcohol testing. When conducting a fitness for duty evaluation, Occupational Medicine is acting on behalf of D-H as the employer and not as the employee's provider. During the period of time that Occupational Medicine is evaluating an employee's fitness for duty, including, but not limited to, waiting for test results or medical documentation from the employee's provider(s), DH may place the employee on paid or unpaid administrative leave.
- A positive test for marijuana will generally not, by itself, automatically deem an employee unfit for duty. However, D-H may consider the positive test while taking into account all other relevant factors in assessing the employee's fitness for duty, which may include, without limitation, the level of marijuana detected, evidence of impairment while at work, the frequency of the employee's drug use, and the employee's job duties and responsibilities. Notwithstanding the foregoing, each positive test for marijuana will be assessed on a case-by-case basis and may be determined to be a violation of this policy.
- If an employee is deemed unfit for duty, the employee will not be returned to his/her/their job. DH, in its sole discretion, may allow the employee with a reasonable opportunity to seek and complete treatment. In this circumstance, DH will place the employee on unpaid leave until the employee has satisfied the conditions to return to work or is terminated from employment. To the extent that the employee is eligible for leave under the Family and Medical Leave Act (FMLA), the employee's leave of absence shall run concurrently with the FMLA leave.
- Occupational Medicine and Human Resources shall oversee and direct the employee regarding the conditions the employee must fulfill for the employee to be eligible to return to work. Such conditions may include, for example, a follow-up evaluation by Occupational Medicine, timely submission of monitoring forms or other medical documentation from the employee's provider(s), the employee's ongoing compliance with any treatment plan, or additional drug and/or alcohol testing. Any employee who refuses to engage in this follow-up evaluation process, fails to timely provide requested medical documentation or comply with any treatment plan, or requests more than a reasonable amount of time to complete treatment as determined by DH, may be subject to immediate termination of employment.
- If an employee is deemed fit for duty, DH may return that employee to work subject to any applicable restrictions, which may include, without limitation, requiring the employee to enter into a return to work agreement with follow-up drug and/or alcohol testing. Any employee who refuses to execute the return to work agreement, or breaches any of the conditions of the return to work agreement, may be subject to immediate termination of employment.
- This policy is not intended as a substitute for DH policies or procedures related to performance or misconduct or as a substitute for disciplinary action. In circumstances where an employee has engaged in misconduct, failed to adequately perform job duties, or violated any DH policy, DH may impose appropriate remedial and/or disciplinary action, up to and including termination, notwithstanding the employee's referral for a fitness for duty evaluation under this policy.

- Upon the completion of a fitness for duty investigation, DH will report the resolution of the investigation to all applicable authorities, including, but not limited to, applicable licensing boards, consistent with DH policy and applicable law.

Other Information

Nothing in this policy provides any contractual rights regarding terms and conditions of employment, nor does anything in this policy alter or modify the employment-at-will relationship between DH and its employees.

V. References N/A

Responsible Owner:	Employee Relations	Contact(s):	Tanja Cloutier
Approved By:	Chief Officer - Human Resources; Office of Policy Support - Organizational Policies Only; Adamo, Philip; Aframe, Karen	Version #	3
Current Approval Date:	06/07/2022	Old Document ID:	
Date Policy to go into Effect:	06/07/2022		
Related Policies & Procedures:	Code of Ethical Conduct-D-H Disability and Accommodation Policy - Employees, Covered Individuals Ill and Infected Worker Policy - Employees, Covered Individuals Substance Abuse and Drug-Free Workplace Policy - Employees, Covered Individuals		
Related Job Aids:	Fitness for Duty - Managing Daytime Fitness for Duty Evaluations Procedure Fitness for Duty - Supervisor's Visual Observation Checklist for Fitness for Duty Concerns - Job Aid Workers' Compensation - Supervisor Guidelines - Job Aid		