

Policy Title: Drug-Free Workplace	Policy Number: NATL.HR.030
Owner Department: Human Resources	Effective Date: 8/1/17
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1.0 Policy Statement

Kaiser Permanente (KP) is committed to protecting the safety, health and well-being of employees and other individuals in KP’s workplace and provides an environment that is free from the abuse of alcohol and drugs. KP recognizes that alcohol abuse and drug use pose a significant threat to KP’s goals. KP also acknowledges that alcohol abuse and chemical dependency may be chronic diseases that require rehabilitative treatment, counseling, and/or access to employee assistance programs.

2.0 Purpose

This policy is consistent with requirements of the federal Drug-Free Workplace Act of 1988, applicable state drug-free workplace requirements, and with KP’s obligation to provide a safe work environment.

3.0 Scope/Coverage

- 3.1** This policy applies to all employees working in any of the following entities (collectively referred to as “Kaiser Permanente”):
- 3.1.1** Kaiser Foundation Hospitals and Kaiser Foundation Health Plan, Inc. (together, KFH/HP);
 - 3.1.2** KFH/HP’s subsidiaries;
 - 3.1.3** The Permanente Medical Group, Inc. (TPMG) [NOTE: This policy does not apply to physicians, podiatrists or Vice Presidents of TPMG, who are covered by separate TPMG policies]; and
 - 3.1.4** Southern California Permanente Medical Group (SCPMG) [NOTE: This policy does not apply to physicians of SCPMG].
- 3.2** All organizations who supply temporary or registry personnel, students or trainees to KP will be held accountable for providing personnel who meet the same drug-free standard imposed by KP on its own employees. Volunteers are also required to meet this drug-free standard. Violation of applicable provisions or refusal to cooperate in the implementation of this Policy can result in contract personnel or volunteers being barred from company premises or from working in its operations.
- 3.3** Employees whose jobs require them to drive KP fleet vehicles are subject to the drug and alcohol testing requirements in the applicable Fleet Management policies. In addition, employees whose jobs require commercial driver’s licenses are subject to a drug and alcohol testing program that fulfills the requirements of the U.S. Department of Transportation (DOT) Regulations. (See the Addendum to REGL.HR.02a and REGL.HR.02b, *Drug and Alcohol Testing*.)

4.0 Definitions

- 4.1 Alcohol** – means ethanol alcohol in any consumable form (e.g., beer, wine, liquor).

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- 4.2 Being under the influence** – means an individual is impaired by alcohol or a drug, or the combination of alcohol and drugs, regardless of the level detected. A determination of “under the influence” can be established by a professional opinion, a medically accepted drug or alcohol screening test, and/or based on lay observations by supervisors, co-workers, or others.
 - 4.3 Company premises** -- includes parking lots, vehicles and other facilities and property owned, leased or operated by KP, as well as off-site premises used for company-sponsored events.
 - 4.4 Drug** -- means:
 - 4.4.1** any drug which is not legally obtainable: any “illicit” drug or “controlled substance” the possession or use of which could result in arrest or other legal sanction according to state or federal statute. Examples include but are not limited to, marijuana, cocaine, crystal methamphetamines (ice), and hallucinogens. [NOTE: Although "medical marijuana" or marijuana use laws may exist in some states, because marijuana is a Schedule I drug and possession or use of it is unlawful under federal law, marijuana is an illicit drug for all purposes under this policy.];
 - 4.4.2** any drug which is legally obtainable but has not been legally obtained;
 - 4.4.3** prescribed drugs not being used for prescribed purposes or at prescribed dosages; and/or
 - 4.4.4** any non-prescription substances that are used contrary to manufacturer’s recommendations.
 - 4.5 Work Time** -- time during which an employee is representing or conducting business for KP, or is required or scheduled to be on duty.
- 5.0 Provisions**
- 5.1 Pre-Employment Drug Testing**

In accordance with NATL.HR.029, *Pre-Employment Drug Testing*, KP requires that all individuals external to KP who have been offered employment complete pre-employment drug testing demonstrating the absence of illegal drugs or prohibited use of legal drugs.
 - 5.2 Employees with Drug and Alcohol Problems**
 - 5.2.1** KP supports the use of treatment and programs to address alcohol or drug abuse and will provide them when warranted by conditions and circumstances. However, KP must balance respect and concern for individuals experiencing these problems with KP’s commitment to maintain an alcohol and drug-free environment. KP encourages employees to voluntarily seek help with drug and alcohol problems. (See Addendum for California employees.)
 - 5.2.2** KP encourages any employee covered by this policy who is experiencing alcohol or drug dependency to seek professional assistance, including the

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use of KP’s confidential Employee Assistance Program. Whenever practical, KP will assist employees in overcoming drug, alcohol, and other problems which may affect employee job performance, provided that such assistance is requested prior to violation of this policy.

5.2.3 Employees' voluntary participation in chemical dependency recovery programs or other rehabilitation services will be kept confidential and will not affect their employment as long as they are meeting the terms and conditions of the program. Both KP policy and existing laws protect the confidentiality of persons who seek treatment for chemical dependency.

5.2.4 Depending on the circumstances, an employee’s return to work, reinstatement, and/or continued employment may be conditioned on the employee's successful participation in and/or completion of any and all evaluations, counseling, treatment, rehabilitation programs, or other appropriate conditions as determined by KP.

5.3 Employees Taking Prescribed Medication

The use of prescribed medication at prescribed dosages and for prescribed purposes under the direction of a physician or other appropriate licensed person on either a long-term or short-term basis may affect the safety of the employee, co-workers or members, the employee's job performance, or the safe or efficient delivery of services. Therefore, any employee who experiences an impairment of performance that could impact his/her work duties due to the use of such medication (e.g., vision impairment, lack of balance, loss of reflexes, impaired judgment) must report this to his or her supervisor. If the use of such medication affects the safety of the employee, co-workers or members, the employee's job performance, or the safe or efficient delivery of services, the employee may be required to be away from work temporarily using sick leave, PTO, ETO, medical leave, personal leave, or other time off benefits.

5.4 Prohibited Conduct and Penalties

5.4.1 It is a violation of this policy to use, possess, sell, purchase, trade, and/or offer for sale or to purchase drugs (as defined in this policy) during work time or at any time on KP premises. Being under the influence of a drug by any employee on KP premises or during work time is prohibited.

5.4.2 Being under the influence of alcohol by any employee while on KP premises or during work time is prohibited. The consumption, sale, purchase, or offer for sale or to purchase of alcohol on KP premises is prohibited. Possession or transfer of an open container of alcohol on KP premises is a violation of this policy, except in circumstances in which consumption of alcohol is specifically authorized at a KP sponsored or sanctioned function.

5.4.3 Being at work and failing to report to the supervisor that prescribed medication is impairing the employee’s motor functions is a violation of this policy.

5.4.4 Theft, diversion or unauthorized removal of drugs maintained or dispensed on KP premises is a violation of this policy.

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5.4.5 It is a violation of this policy for employees to unlawfully manufacture, distribute, dispense, possess, sell, purchase, or use an illegal drug while off duty or off premises, where the conduct adversely affects the employment relationship or KP's business interests.

5.4.6 Violation of this policy will subject employees to corrective/disciplinary action, up to and including termination of employment, and may result in a referral to law enforcement agencies for possible criminal prosecution.

5.5 Notification of Convictions

5.5.1 Any employee who is convicted of a criminal offense for a drug violation must, as a condition of employment, notify Human Resources within five days of that conviction. Failure to provide timely notification will result in corrective/disciplinary action, up to and including termination of employment.

5.5.2 Federal contracting agencies will be notified of employee convictions when appropriate.

5.6 Reasonable Suspicion of Prohibited Alcohol or Drug Use

5.6.1 A supervisor may have a "reasonable suspicion" that an employee is under the influence based upon observation of conduct and/or events. Factors which may establish reasonable suspicion include, but are not limited to:

5.6.1.1 Sudden unexplained changes in behavior which adversely impact work performance.

5.6.1.2 Discovery or presence of alcohol or illegal drugs in an employee's possession or near the employee's work space.

5.6.1.3 Odor of alcohol and/or residual odor peculiar to alcohol or controlled substances.

5.6.1.4 Personality changes or disorientation.

5.6.1.5 Violation of safety policies, or involvement in an on the job accident or near accident.

5.6.2 When reasonable suspicion has been established to indicate an employee is under the influence of alcohol or drugs, the employee will be asked, at the sole discretion of management, to provide breath, blood and/or urine specimens for laboratory testing. Employees are required to follow regional policies/procedures regarding drug and alcohol testing. (See REGL.HR.02a and REGL.HR.02b, *Drug and Alcohol Testing*.)

5.6.3 Where there is reasonable suspicion that employees possess or their personal effects (including vehicles, purses, briefcases, clothing, personal containers) contain an illegal drug or an open container of alcohol, KP may, with consent, search such individuals or their personal effects. Refusal to consent to such searches may be considered insubordination (see NATL.HR.014, *Corrective/Disciplinary Action*). Illegal drugs which are confiscated will be turned over to local law enforcement agencies.

5.7 Confidentiality

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KP recognizes the importance of maintaining confidentiality in any situation where current and former employees covered by this policy are suspected of alcohol or drug related infractions. Every effort will be made to assure the privacy of suspected employees throughout investigatory and corrective/disciplinary action proceedings.

5.8 Policy Attestation

At a minimum, this policy is communicated and reviewed at New Employee Orientation. New employees are required to sign an attestation that they acknowledge, understand, accept, and agree to comply with this policy, and that they understand that failure to comply with this policy may result in corrective/disciplinary action up to and including termination.

5.9 State Requirements

In addition to the federal requirements regarding a drug-free workplace some states have related laws or statutes that KP must comply with in applicable regions (e.g., see Addendum).

5.10 Additional Employee Obligations and Responsibilities

Employees who abuse drugs and/or alcohol often affect the performance of other employees. KP cannot provide quality health care without the cooperation and assistance of all employees. As discussed in the "Principles of Responsibility", employees who observe activities prohibited by this policy are responsible for alerting their supervisors or whatever management is necessary to resolve the issues. Failure to report violations may result in corrective/disciplinary action.

6.0 References/Appendices

- 6.1** Addendum – Alcohol & Drug Rehabilitation for California employees
- 6.2** Drug-Free Workplace--Employee Acknowledgement
- 6.3** REGL.HR.02a and REGL.HR.02b, Drug and Alcohol Testing
- 6.4** NATL.HR.011, Employment Screening
- 6.5** NATL.HR.014, Corrective/Disciplinary Action
- 6.6** NATL.HR.029, Pre-Employment Drug Testing
- 6.7** Employee Assistance Program: <http://xnet.kp.org/hr/ca/eap/index.htm>
- 6.8** Federal Drug-Free Workplace Act of 1988
- 6.9** California Drug-Free Workplace Act of 1990
- 6.10** Cal Govt Code § 8355 et seq.
- 6.11** Virginia Drug-free Workplace Act
- 6.12** Virginia Code § 2.2-4312

7.0 Approval

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Update approval 7/21/17

In accordance with the charter of the National HR Policy Roundtable, this policy update was approved by the National HR Policy Roundtable members, as chaired by Derek Reimer.

Policy Revision History

Original Approvals	Update Approvals	Revision Approvals
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Addendum

Alcohol & Drug Rehabilitation
For employees working in California

Time Off

Employees may take time off work to voluntarily enter and participate in an alcohol or drug rehabilitation program. The amount of time off must be reasonable and not create an undue hardship on KP operations.

Nothing in this policy prohibits KP from refusing to hire or discharging an employee due to current use of drugs or alcohol, inability to perform his or her duties due to drug or alcohol use, or inability to perform his or her duties without endangering the health or safety of the employee or others.

Eligibility

Any employee who voluntarily enters and participates in an alcohol or drug rehabilitation program.

Notice & Documentation Requirements

Time off for this purpose will be granted if an employee provides reasonable notice of the request and a doctor's note to his/her manager. In the alternative, the employee may provide notice to his/her local Human Resources Representative.

Paid or Unpaid Time Off

Employees are required to use available paid time off for this purpose (sick leave, vacation, Paid Time Off or Earned Time Off) before taking leave without pay.

Confidentiality

Any records and information regarding an employee's absence for participation in an alcohol or drug rehabilitation program will be maintained as confidential. Managers and supervisors will take all reasonable steps to safeguard the privacy of an employee regarding participation in an alcohol or drug rehabilitation program.

Law/statute

California Labor Code, Sections 1025-1028