

## ***XIV. DISCLOSURE, BACKGROUND CHECKS, AND TOXICOLOGY TESTING***

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### **SELF-DISCLOSURE AND CRIMINAL BACKGROUND CHECK POLICY**

#### **Rationale**

Many hospitals, child care facilities, and nursing homes now require criminal background checks of all people working in their settings due to state legislation and accreditation requirements. These institutions also require medical students to undergo a criminal background check before participating in any educational activities at their sites.

It is in the best interest of the College of Medicine to evaluate whether our students are fit to participate in patient care activities at participating institutions. Students with impairment due to substance abuse or a record of activity unsuitable for patient contact should not be placed in a patient care environment.

Graduates of the College of Medicine must apply for a medical training certificate (a temporary license to practice medicine) until they pass USMLE Step 3 and are eligible for regular licensure. These applications require self-disclosure of arrests, convictions, court appearances; psychiatric diagnosis, treatment, or hospitalization; medical conditions including drug addiction and alcoholism; use of any chemical substance, including prescribed medications, which may impair ability to practice; and illegal use of controlled substances. **(See attached “Licensure of Chemically Impaired Resident Physicians” at end of this document.)**

Any criminal conviction or guilty plea which is related to substance use is deemed by the state medical board as indication of substance abuse. These types of convictions may appear on a criminal background check.

Any evidence of substance abuse will prevent an applicant from getting a license to practice, even a temporary one, unless it is also accompanied by evidence of rehabilitation and ongoing sobriety through monitoring in a formal aftercare program.

Based on the requirements of affiliated health care institutions and the College’s desire to facilitate the ability of our graduates to ultimately become licensed physicians, a system of self-disclosure and criminal background checks became effective August 16, 2004.

#### **Consequences to the Student or Applicant**

The primary intent of this policy is to provide assistance to students or applicants who may have a criminal record due to substance use or abuse and who will need appropriate documentation to become licensed. An affirmative response to a self-disclosure item or the existence of a criminal record will not constitute an automatic bar to admission or patient care placement.

Students and applicants will be required to provide documentation with court records, physician letters, treatment facility records, and other pertinent records. An individualized assessment will be performed and recommendations made.

Refusal to complete the self-disclosure or to sign consent to conduct a background check will prevent the student from participating in any patient care activities. Inability to participate in patient care activities does not permit the successful completion of the curriculum at any stage. As such, students will not be eligible for admission, continuation in the curriculum, or graduation.

A student or applicant may be required to participate in evaluation, treatment, and aftercare with appropriate documentation maintained. Funds are available through the Associate Dean for Student Affairs to assist in evaluation and aftercare costs for matriculated students; treatment costs will be the responsibility of the student and the corresponding insurer. No funds are available for applicants who have not yet matriculated. Leaves of absence or deferred admission may be arranged for individuals requiring extended inpatient therapy.

Refusal to participate in evaluation or complete any subsequently recommended treatment may result in dismissal from the College. Relapse while in treatment or aftercare may result in dismissal from the College. Documentation will be maintained by the College counselor in a private locked file. At the time of the student's graduation, the documentation will be given to the student to be used in his or her application for licensure. According to the Association of American Medical Colleges, incidents which affect the education of the student or the time spent in medical school after matriculation must be reported in the Medical Student Performance Evaluation in Med 4.

The second intent of this policy is to assist institutions providing an educational site for our students. Some criminal offenses make it impossible for a student or applicant to participate in patient care activities. These activities include, but are not limited to, sexual offenses, homicide or murder, abuse of at-risk populations (children, elderly, prisoners, patients), possession of child pornography, and possession of illegal substances with intent to sell. Inability to participate in patient care activities does not permit the successful completion of the curriculum at any stage. As such, students will not be eligible for admission, continuation in the curriculum, or graduation.

Students and applicants will be asked to self-disclose issues, followed by a criminal background check which may include fingerprinting. If the student does not disclose an item subsequently found on a background check, the student will be eligible for dismissal from the College. The cost of the background checks will be born by the College.

Admission to the College or receipt of an M.D. degree from the College does not guarantee that a state medical board will ultimately issue a license to an individual with a criminal record. The College will assist and counsel the individual to increase the likelihood of formal licensure but can not guarantee receipt.

## **Process for Enrolled Students**

Students will be asked to complete a self-disclosure form that is similar to the form required by the State Medical Board of Ohio and provide any needed documentation. All incoming students will be asked to complete this questionnaire upon admission to The Ohio State University College of Medicine. A criminal background check for incoming Med 1's will be conducted during Orientation.

## **Process for Applicants**

Applications will be processed and reviewed per the policies and practices of the Admissions Committee. If after an invited interview, an acceptance is granted, the applicant will receive a letter of provisional acceptance. Acceptance will be finalized after completion of the self-disclosure form, followed by its review and a subsequent background check. Each applicant will be evaluated individually and recommendations made.

## **Process for Matriculated Students**

Students will complete a self-disclosure form annually although students are strongly encouraged to disclose reportable events within 1-5 days of their occurrence so that assistance may be offered immediately. During May and June at the conclusion of Med 2 and prior to Med 3 required clerkships, students will be fingerprinted and a criminal background check conducted.

## **TOXICOLOGY TESTING OF MEDICAL STUDENTS**

The Ohio State University College of Medicine is committed to providing high-quality education in the basic and clinical sciences. An integral part of this commitment requires that students function in a professional manner. Professional behavior dictates that an individual will not function when their judgment is altered by the use of legal/illegal substances. A drug-free and safe environment is an expectation for the delivery of both educational experiences and patient care. The College of Medicine has adopted a policy of toxicology screening and “for cause” toxicology testing for medical students. This document defines the procedures for scheduled toxicology screening of medical students and “for cause” drug and alcohol testing.

### **Policy**

1. Scheduled toxicology screening for medical students
  - a. A toxicology screen is required for all students before they enter into Med 1 and Med 3. Students must undergo the required toxicology screening through urine toxicology testing prior to being allowed to interact in the educational and clinical setting.
2. “For Cause” drug and alcohol toxicology testing for medical students
  - a. At any time, a medical student may be required to undergo drug and/or alcohol testing “for cause” through the use of urine toxicology, blood toxicology, and/or

“breathalyzer” testing at the direction of an Associate Dean for Student Affairs or his/her designee.

- b. The Associate Dean for Student Affairs or his/her designee may act to order testing “for cause” when concerns are raised regarding the performance, behavior or actions of a medical student that indicate a reasonable suspicion for impairment with drugs and/or alcohol.
- c. Any medical student who becomes subjected to a disciplinary action may be required to undergo drug and/or alcohol testing.
- d. “For cause” drug and/or alcohol testing may be ordered when concerns are raised and/or recommendation for drug and/or alcohol testing is made to the Associate Dean for Student Affairs or his/her designee by any of the following individuals and/or committees: Student Review Committees, any faculty member or attending physician, any COM staff member, any Limited Staff member, fellow medical student, hospital administrator, other healthcare professional, patient and/or family member. Once testing is ordered, it should be completed immediately and must be completed within two hours. Failure to complete testing in a timely manner may result in summary suspension or other disciplinary action.
- e. There will be no opportunity to appeal the order to be tested “for cause.”

## **Drug Testing Process**

### 1. General Issues

- a. All testing will be done at or through the OSU Reference Lab (URL) or Student Health Center (SHC). If “for cause” testing must be done when URL(SHC) staff are not available, testing must be done through the OSU Emergency Department.
- b. Prior to any screening or “for cause” testing, the individual being tested will be asked to declare any medications or other substances that they are actively using. The record of any medications being used by an individual being tested will remain confidential.
- c. Costs for scheduled drug testing are the responsibility of the medical student. Costs for “for cause” testing will be handled through the Office of the Associate Dean.
- d. The student may request to have independent testing done at a different lab. URL(SHC) staff will send a portion of the original sample to the independent lab in order to preserve the chain of custody. If independent testing is requested by the individual being tested, the individual will be responsible for any and all costs of the independent testing.

## 2. Process for Scheduled Testing

- a. Testing for entry into Med 1 and Med 3 is accomplished through an appointment with URL(SHC).
- b. Initial drug screening will be done according to URL(SHC) testing protocols.
- c. When performing scheduled screening of Med 1 and Med 3 students, the substances listed below will be tested through urine toxicology screening:
  - THC
  - Cocaine and metabolites
  - Amphetamine/Methamphetamine
  - Benzodiazepines
  - Opiates
  - Methadone
  - Barbiturates
  - Methaqualone
  - PCP
  - Propoxyphene

## 3. Process for “for cause” Drug and Alcohol Testing for Medical Students

- a. Testing “for cause” will be done under the direct supervision of URL (SHC) staff during normal working hours or through the Emergency Department (OSU Main or OSU East) at times when URL(SHC) staff is not available.
- b. When testing “for cause”, the following substances will be tested through urine toxicology, blood toxicology, or “breathalyzer” testing as appropriate for the substance/s of concern:
  - THC
  - Cocaine and metabolites
  - Amphetamine/Methamphetamine
  - Benzodiazepines
  - Opiates
  - Methadone
  - Barbiturates
  - Methaqualone
  - PCP
  - Propoxyphene
  - Alcohol
  - Any other substance suspected to be used by the individual

#### 4. Test Results

- a. Results of toxicology testing for medical students under this policy will not be posted on the clinical information system and will be handled within the College of Medicine administrative structure.
- b. Results of all toxicology testing (both screening and “for cause”) will be forwarded to the office of the Associate Dean for Student Affairs or his/her designee.
- c. If an initial positive result is obtained for any of the substances noted above, a confirmatory test will be conducted.
- d. If a person tests positive for a substance for which the student cannot show proof of an active prescription, the test will be considered a “positive” test.
- e. Final results will be stored in a confidential manner in the individual’s student file.

#### 5. Individuals with Positive Test Results

- a. If a positive test is reported to the Office of the Associated Dean the student will be placed on immediate Leave of Absence (LOA) and all educational and clinical activities will be discontinued. The student will be required to have an assessment by a specialist in physician addiction approved by the Associate Dean for Student Affairs or his/her designee. The specialist will make recommendations to the Associate Dean for Student Affairs or his/her designee regarding the need for further appropriate substance assessment, treatment, and aftercare on a case-by-case basis.

If this evaluation reveals no evidence of a substance use issue, the Associate Dean of Student Affairs or his/her designee will determine the appropriate course of action. If the evaluation reveals a substance use issue, the student will be required at their expense to register with the Ohio Physicians Health Program (OPHP) with reports submitted to the Associate Dean for Student Affairs and to be monitored monthly by OPHP until graduation from the College.

Prior to returning from LOA, the student will need to document abstinence and participation in an appropriate substance abuse program. If an individual is actively engaged in clinical care, a minimum of six months of continued abstinence must be documented prior to reinstatement to a clinical environment. In rare instances, the six-month requirement may be adjusted if the Associate Dean for Student Affairs or his/her designee after careful consideration and consultation with treatment providers determines that a longer or shorter time is needed for effective treatment. In addition, prior to returning, the student may be required to appear before the appropriate Academic Review Committee in order

to determine an appropriate academic plan. This plan may require a student to repeat/remediate curriculum.

- b. After six months (or adjusted time), if the individual is unable to document abstinence (without relapse episodes), participation in a rehabilitation program, and continuing participation in an aftercare program, the student will be referred for dismissal.
- c. An individual may re-apply for admission to the College of Medicine after dismissal for substance use/abuse issues but will be expected to show evidence of substance abuse assessment, treatment, and ongoing follow-up as a part of the application process.

## **LICENSURE OF CHEMICALLY IMPAIRED RESIDENT PHYSICIANS**

### **Policy of the State Medical Board of Ohio**

**Effective: February 14, 2001**

A physician licensed by the State Medical Board who suffers from impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice is in violation of Section 4731.22(B)(26), Ohio Revised Code, and subject to Board disciplinary action. Any Board licensee having knowledge of such a violation is required by Section 4731.224(B) to report that information to the Board.

In 1987, however, the Ohio General Assembly carved out a one time “one bite” exception, whereby an impaired physician may escape Board intervention, and the physician’s colleagues may be excused from reporting the physician’s impairment, so long as the physician has completed treatment with a Board approved treatment provider and maintained uninterrupted sobriety, and violated no other provisions of the Ohio Medical Practice Act. In addition, the physician must adhere to all other statutory requirements. The One Bite Rule is codified in Sections 4731.22, 4731.224 and 4731.25, Ohio Revised Code, and Rules 4731-15-01, 4731-16-04, 4731-16-07, and 4731-16-13, Ohio Administrative Code.

The State Medical Board recognizes that resident physicians practicing under training certificates are entitled to the protection of the One Bite Rule to the same extent as are fully licensed physicians. Both fully licensed physicians and residents practicing under training certificates are excused from reporting their impairment when renewing their certificates so long as they continue to adhere to the requirements of the statutes and rules. Physicians seeking new Ohio licensure, however, have never been granted “one bite,” and are expected to report their status in applying for licensure. The Board will generally require some period of probation as a contingency to licensure if an applicant has been impaired and is unable to document at least five years of uninterrupted sobriety at the time of application.

Physicians practicing under training certificates frequently decide to apply for full Ohio licensure after a year or two of residency training. Although these physicians do receive new “full” licenses, the State Medical Board does not view them as new licensure applicants for purposes of the One Bite Rule. A physician who enters treatment for chemical dependency while in residency under a training certificate need not report his or her impairment when applying for full licensure so long as the physician continues to qualify for the one bite exception by completing treatment and complying with aftercare requirements.

If the physician is required to respond in the affirmative to any of the other “Additional Information” questions on the application (e.g., the physician was placed on probation by his or her postgraduate training program), the Board will generally license the physician without restrictions or probationary terms if investigation reveals that the problem requiring the affirmative answer would not have occurred but for the physician’s impairment.

**The Ohio State University College of Medicine  
Student Self-Disclosure**

Name: \_\_\_\_\_

Date Completed: \_\_\_\_\_

Applicant       Med 2       Med 3       Med 4

If you answer “YES” to any of the following questions,\* you are required to furnish complete details, including date, place, reason and disposition of the matter. All affirmative answers must be thoroughly explained on a separate sheet of paper. Please note that some questions require very specific and detailed information. Make sure all responses are complete.

\*These questions have been modified from the application for training certificate in medicine or osteopathic medicine from the State Medical Board of Ohio.

(Please place a √ in the YES or NO box)

- |   | <b>YES</b>               | <b>NO</b>                |
|---|--------------------------|--------------------------|
| 1. Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation? [Note: DUI is not considered a minor traffic violation.]<br><b>Please be advised that you are required to submit copies of all relevant documentation, such as police reports, <u>certified</u> court records and any institutional correspondence and orders.</b>  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than for a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)? [Note: DUI is not considered a minor traffic violation.]<br><b>Please be advised that you are required to submit copies of all relevant documentation, such as police reports, <u>certified</u> court records and any institutional correspondence and orders.</b> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Have you ever been diagnosed as having, or have you been treated for, pedophilia, exhibitionism, or voyeurism? If yes, please explain.   | <input type="checkbox"/> | <input type="checkbox"/> |

**If you answer “YES” to either question 4 or 5, please provide details on a separate sheet, including date(s) of diagnosis or treatment, and a description of your present condition. Include the name, current mailing address, and telephone number of each person who treated you, as well as each facility where you received treatment and the reason for treatment. Have each treating physician submit a letter detailing the dates of treatment, diagnosis and prognosis.**

4. Within the last ten years, have you been diagnosed with or have you been treated for, bipolar disorder, schizophrenia, paranoia, or any other psychotic disorder?
5. Have you, since attaining the age of eighteen or within the last ten years, whichever period is shorter, been admitted to a hospital or other facility for the treatment of bipolar disorder, schizophrenia, paranoia, or any other psychotic disorder?

For purposes of questions 6 and 7 the “ability to practice medicine” is to be construed to include all of the following:

- The cognitive capacity to make appropriate clinical diagnoses and exercise reasoned medical judgments and to learn and keep abreast of medical developments;
- The ability to communicate those judgments and medical information to patients and other health care providers, with or without the use of aids or devices, such as voice amplifiers; and
- The physical capability to perform medical tasks such as physical examination and surgical procedures, with or without the use of aids or devices, such as corrective lenses or hearing aids.

- |   | <b>YES</b>               | <b>NO</b>                |
|---|--------------------------|--------------------------|
| 6. Do you have, or have you been diagnosed as having, a medical condition which in any way impairs or limits your ability to practice medicine with reasonable skill and safety? If yes, please explain.                        | <input type="checkbox"/> | <input type="checkbox"/> |
| a. Are the limitations or impairment caused by your medical condition reduced or ameliorated because you receive ongoing treatment (with or without medication) or participate in a monitoring program? If yes, please explain. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Do you use chemical substance(s) which in any way impair or limit your ability to practice medicine with reasonable skill and safety? If yes, please explain.  | <input type="checkbox"/> | <input type="checkbox"/> |

“Chemical substances” is to be construed to include alcohol, drugs, or medications including those taken pursuant to a valid prescription for legitimate medical purposes and in accordance with the prescriber’s direction, as well as those used illegally.

- |  |                          |                          |
|--|--------------------------|--------------------------|
| a. Are the limitations or impairment caused by your use of chemical substances reduced or ameliorated because you receive ongoing treatment (with or without medication) or participate in a monitoring program? If yes, please explain. | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|

For purposes of question 8, the following phrases or words have the following meaning:

“Currently” does not mean on the day of, or even in the weeks or months preceding the completion of this application. Rather it means recently enough so that the use of drugs may have an ongoing impact on one’s functioning as a health care provider, or within the past two years.

“Illegal use of controlled substances” means the use of controlled substances obtained illegally (e.g. heroin or cocaine) as well as the use of controlled substances which are not obtained pursuant to a valid prescription or not taken in accordance with the direction of a licensed healthcare practitioner.

8. Are you currently engaged in the illegal use of controlled substances?
- a. If “YES,” are you currently participating in a supervised rehabilitation program or professional assistance program which monitors you in order to assure that you are not using illegal controlled substances. If yes, please explain.

<p>I warrant that all of the information that I have Provided and the responses that I have given are correct and complete to the best of my knowledge and belief. I understand that willful falsification or willful omission of this information will be grounds for rejection or dismissal.</p>	<p>Office Use: Date Received _____</p>
<p>Signature</p>	<p>Additional Review Required Yes <input type="checkbox"/> No <input type="checkbox"/></p>