



## INSTITUTIONAL POLICY: GA-08

Category: General Administration  
Subject: Drugs, Alcohol, Testing and Treatment  
Effective Date: November 30, 2016  
Updated: N/A

### GA 08-1. Authority

W. Va. Code § 18B-1-6

### GA 08-2. Purpose

- 2.1 The mental and physical health and well-being of employees and students is vital to the success of the West Virginia School of Osteopathic Medicine (“WVSOM”) and our students and graduates, and is necessary to maintain safety and high standards of education and health care. The illegal use or abuse of drugs and/or alcohol has a clear and adverse effect on the educational environment. WVSOM has the right and obligation to provide employees and students with a safe, healthy, efficient, and effective learning and work environment free from influences of illegal chemical substances and the misuse of legal substances.
- 2.2 Employees, students, preceptors, patients, and the general public must be confident that safety will not be compromised by impaired WVSOM employees or students and that WVSOM employees and students will not be involved with any Prohibited Substances or engage in any Prohibited Activity, as defined herein. Further, to promote the responsible use of alcohol in accordance with West Virginia law, WVSOM must prohibit the dispensation or consumption of alcohol on campus and at student organization functions unless expressly authorized and only if certain criteria are met.
- 2.3 WVSOM does not tolerate misuse of legal substances, or the manufacture, possession, use, sale, trade, distribution, dispensation, receipt or transportation of any illegal substances either on or off campus, as those activities are incompatible with the educational mission of WVSOM. Therefore, the purpose of this policy is to address employee and student substance abuse and provide for drug testing of employees in certain instances, as set forth below.
- 2.4 Consistent with its mission, WVSOM will utilize educational strategies as the primary approach to substance abuse. However, all members of the WVSOM community should know that any violations of local, state, or federal laws will be subject to prosecution to the fullest extent of the law and any violations of WVSOM policies and procedures will be subject to administrative action, up to and including termination of employment or dismissal from WVSOM.
- 2.5 Those persons who are currently involved in the abuse of legal substances or the use of illegal drugs and who seek assistance in overcoming these addictions through a viable and

recognized treatment program will be supported in these efforts to the extent possible under the particular circumstances.

### **GA 08-3. Definitions**

- 3.1 “Alcoholic Beverages” means those beverages defined in the West Virginia Liquor Control Act, as may be amended from time to time, including beer, nonintoxicating beer, wine, spirits, and any other alcoholic liquors (see W. Va. Code § 60-1-5).
- 3.2 “Drug Test” means a test performed on a urine, blood, hair, saliva, or breath sample of an employee or student.
- 3.3 “Educational Activity” means, but is not limited to, any lecture or other educational exercise, laboratory, research facility, clinical rotation, examination, independent study or service project taking place on the WVSOM campus or at any affiliated facility, or when the employee or student is representing WVSOM either during or outside normal work, class, or clinic hours while in the capacity as a WVSOM employee or student. The term “Educational Activity” does not mean a social event, whether or not sponsored by WVSOM.
- 3.4 “Premises” means all property, facilities, buildings, structures, installations, educational settings or vehicles owned, operated, leased, or under the custody or control of WVSOM. When students are on rotation at affiliated facilities (including but not limited to Statewide Campus sites), those affiliated facilities and any housing facilities supplied at those facilities are included.
- 3.5 “Possession” means to have on one’s person or in one’s personal effects or otherwise under one’s care, custody or control.
- 3.6 “Prohibited Activity” means the manufacture, Possession, use, sale, trading, distribution, dispensation, receipt or transportation of a Prohibited Substance at any time and whether on or off campus; or being Under the Influence of a Prohibited Substance during an Educational Activity or at any time.
- 3.7 “Prohibited Substance” means any substance that an individual may not manufacture, have Possession of, use, sell, trade, distribute, dispense, receive or transport under the laws of the federal government; the state in which he or she is employed, resides, or is engaged in an approved course of study; or the State of West Virginia. The term also means prescription drugs obtained without authorization, or prescribed drugs and over-the-counter drugs not being used for their intended purposes. The term includes, but is not limited to, cocaine; illegal inhalants; “synthetic or designer” drugs; “look-alike” drugs; amphetamines, cannabinoids (marijuana and hashish), phencyclidine (PCP), and opioids; and any other drugs or other substances referenced in Schedules I through V of 21 C.F.R. Part 1308, as they may be amended from time to time. The term also includes alcohol to the extent that it causes an employee or student to have a blood alcohol concentration of 0.04 or greater during an Educational Activity, as determined by a Drug Test, unless the employee or student is present at an Educational Activity that applies a more stringent criterion.
- 3.8 “Under the Influence” means that condition wherein any of the body’s sensory, cognitive, or motor functions or capabilities are altered, impaired, diminished, or affected due to a

Prohibited Substance. This term also includes a positive test presence of a Prohibited Substance within the body or bodily fluids, regardless of when or where it may have been consumed. With respect to the consumption of alcohol, being Under the Influence of alcohol means having a result of 0.04 or greater blood alcohol concentration during an Educational Activity, as determined by a Drug Test, unless the employee or student is present at an Educational Activity that applies a more stringent criterion.

- 3.9 “Valid Prescription” means a prescription that is legal under all applicable laws, issued to the person being tested by a licensed health care provider authorized to issue such prescription, used for its intended purpose, and used as prescribed.

#### **GA 08-4. Prohibited Activity**

- 4.1 WVSOM employees and students are prohibited from engaging in a Prohibited Activity at any time and at any location, whether on or off campus.
- 4.2 Any employee or student found to have participated in a Prohibited Activity is subject to administrative action, up to and including termination of employment or dismissal from WVSOM, respectively. Administrative action may include, but is not limited to, monitoring of the employee or student, requiring the employee or student to submit to additional Drug Tests, and requiring the employee or student to undergo a substance abuse treatment program approved by the Associate Vice President of Human Resources or the Vice President for Academic Affairs and Dean, respectively. The cost of any required additional Drug Tests or substance abuse treatment program shall be the responsibility of the employee or student and shall not in any way be borne by WVSOM.

#### **GA 08-5. Use of Alcoholic Beverages**

##### **5.1 Alcoholic Beverages on Campus Generally**

The distribution, consumption, or manufacturing of Alcoholic Beverages is prohibited on or in property or facilities of WVSOM, except that Alcoholic Beverages may only be distributed or consumed in campus locations as expressly authorized in advance by the President of WVSOM.

##### **5.2 Alcoholic Beverages at Student Organization Functions on Campus**

No student organization may hold a function at which Alcoholic Beverages will be distributed or consumed in campus locations unless (i) expressly authorized in advance by the President in accordance with Section 5.1 above and (ii) the student organization meets the requirements of Section 5.3 below for off campus functions, including obtaining advanced approval from the Assistant Dean of Student Affairs.

##### **5.3 Alcoholic Beverages at Student Organization Functions off Campus**

Student organizations planning functions at which Alcoholic Beverages will be distributed or consumed shall obtain advanced approval from the Assistant Dean of Student Affairs for those functions and shall comply with the following requirements which promote the responsible use of Alcoholic Beverages:

- 5.3.1 Positive actions shall be taken to ensure that no persons under age 21 are served Alcoholic Beverages.
- 5.3.2 No social event shall include any form of drinking game.
- 5.3.3 Alcoholic Beverages shall not be used as an inducement to participate in a campus event. Promotional materials for an event shall not make references to the availability of Alcoholic Beverages.
- 5.3.4 Direct access to Alcoholic Beverages shall be limited to those persons designated as servers.
- 5.3.5 Alternative, non-Alcoholic Beverages shall be available.
- 5.3.6 Early cut-off of Alcoholic Beverages shall be observed, preferably one hour prior to the end of the event.
- 5.3.7 No Alcoholic Beverages may be served to persons who are obviously intoxicated.
- 5.3.8 Designated drivers, as required by the Assistant Dean of Student Affairs, shall be in attendance to assure transportation if needed. The names of the designated drivers shall be listed on the student activities off-campus function form.

#### **GA 08-6. Standards for Alumni and Other Groups**

- 6.1 Alumni of WVSOM, when gathered at an event sponsored, sanctioned, organized, or affiliated by WVSOM shall be subject to the same standards of behavior as students and employees of WVSOM. WVSOM should make every effort to ensure compliance with the standards contained in this policy.
- 6.2 Affiliated groups, including visitors to campus, participants in seminars or conferences on campus, or other persons benefiting from WVSOM affairs or services will also be expected to conform to the standards contained in this policy.

#### **GA 08-7. Medical Examination or Inquiry of Employees and Students**

- 7.1 Any WVSOM employee or student who is unable to perform his or her job duties or academic/clinical responsibilities, respectively, safely and properly due to the use of any Valid Prescription and stays on the job or in the academic/clinical setting, may be subject to administrative action, such as being required to attend consultation with a WVSOM administrator concerning the employee's or student's responsibility to be on the job or in the academic/clinical setting only when the employee or student may do so safely and properly and being required to leave the workplace or academic/clinical setting until the employee or student is able to perform his or her job duties or academic/clinical responsibilities safely and properly.
- 7.2 Any WVSOM employee or student who is unable to perform as set forth in Section 7.1, or who based on reasonable suspicion is believed to be unable to perform as set forth in Section 7.1, may be required to submit to a medical examination or respond to an inquiry concerning the use of the Valid Prescription and the underlying medical condition as it relates to the

ability of the employee or student to perform his or her job-related or academic/clinical-related functions, respectively.

- 7.3 Any employee or student who fails to submit to the required medical examination or inquiry may be subject to administrative action, up to and including termination of employment or dismissal from WVSOM.

## **GA 08-8. Testing for Substances of Abuse**

### **8.1 Employee Testing**

8.1.1 An employee may be required to submit to Drug Test(s) if the employee has engaged in or based on reasonable suspicion is believed to have engaged in any Prohibited Activity. Reasonable suspicion shall be determined by the appropriate WVSOM administrator listed in Section 8.1.2 below after an investigation of the facts and circumstances leading to the belief that the employee has engaged in a Prohibited Activity.

8.1.2 The decision to require Drug Test(s) under this Section 8.1 shall be made as follows:

- (i) The decision to require an employee to submit to Drug Test(s) shall be made by the Vice President or Associate Vice President who ultimately oversees the employee;
- (ii) The decision to require a Vice President or Associate Vice President to submit to Drug Test(s) shall be made by the President of WVSOM; and
- (iii) The decision to require the President to submit to Drug Test(s) shall be made by the Chair of the WVSOM Board of Governors.

8.1.3 All Drug Tests required under this Section 8.1 may be scheduled without advanced notice. Employee submission to any such required Drug Test(s) is a condition of continued employment for that employee. Failure to submit to a required Drug Test at the date and time specified is grounds for administrative action, up to and including termination of employment.

8.1.4 The appropriate WVSOM administrator listed in Section 8.1.2 above may, as part of an investigation, contact campus security or local law enforcement to conduct a search of the Premises at any time without advanced notice if the appropriate WVSOM administrator has received information that an employee has engaged in or based on reasonable suspicion is believed to have engaged in any Prohibited Activity. If an employee does not cooperate with an investigation, including a search of the Premises, he or she shall be subject to administrative action, up to and including termination of employment.

### **8.2 Student Testing**

8.2.1 As a condition of continuing enrollment, all WVSOM students shall submit to certain Drug Tests at various times, including the following:

- (i) After students enroll at WVSOM,
- (ii) Before students enter clinical rotations,

- (iii) As required at health care facilities in which clinical education takes place, and
  - (iv) As set forth in Section 8.2.2 of this policy.
- 8.2.2 In addition to the Drug Tests required in Section 8.2.1, a student may be required to submit to Drug Test(s) if the student has engaged in or based on reasonable suspicion is believed to have engaged in any Prohibited Activity. Reasonable suspicion shall be determined by the appropriate Associate Dean listed in Section 8.2.3 below after an investigation of the facts and circumstances leading to the belief that the student has engaged in a Prohibited Activity.
- 8.2.3 The decision to require Drug Test(s) under this Section 8.2 shall be made by the Associate Dean for Preclinical Education for students in Years 1 and 2 or the Associate Dean for Predoctoral Clinical Education for students in Years 3 and 4.
- 8.2.4 All required Drug Tests may be scheduled without advanced notice. Failure to submit to a required Drug Test at the date and time specified is grounds for administrative action, up to and including dismissal.
- 8.2.5 The appropriate Associate Dean listed in Section 8.2.3 above may, as part of his or her investigation, contact campus security or local law enforcement to conduct a search of the Premises at any time without advanced notice if the appropriate Associate Dean has received information that a student has engaged in or based on reasonable suspicion is believed to have engaged in any Prohibited Activity. If a student does not cooperate with an investigation, including a search of the Premises, he or she shall be subject to administrative action, up to and including dismissal.
- 8.2.6 Results of Drug Tests may be made available to the appropriate WVSOM personnel, such as WVSOM administrators, Statewide Campus employees, Judicial Hearing Board members, and Student Promotions Committee members, and, upon demand therefore, to affiliated hospitals and clinics which require such Drug Tests for acceptance of the students at these affiliated hospitals and clinics. No students will be accepted into a Statewide Campus site without completion of all Drug Tests required by this policy.

#### **GA 08-9. Self-Referral**

WVSOM strongly encourages employees and students that have problems with any Prohibited Substance to seek help through a private physician, mental health specialist, or WVSOM's Learning Specialists/Licensed Professional Counselors, as applicable. Any employee or student who voluntarily seeks treatment will receive help on a completely confidential basis, as long as he or she does not pose a risk of harm to self or others.

#### **GA 08-10. Maintaining a Drug-Free Workplace**

10.1 Because WVSOM is a recipient of federal grant monies, this policy of maintaining a drug-free workplace is necessary to conform to the requirements of the Drug-Free Workplace Act of 1988 (see 41 U.S.C. § 8101, *et seq.*).

10.2 WVSOM certifies that it will provide a drug-free workplace by:



- 10.2.1 Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in WVSOM's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 10.2.2 Establishing a drug-free awareness program to inform employees about:
  - (i) The dangers of drug abuse in the workplace;
  - (ii) WVSOM's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees for drug abuse violations.
- 10.2.3 Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by Section 10.2.1.
- 10.2.4 Notifying the employee in the statement required by Section 10.2.1 that, as a condition of employment under the grant, the employee will:
  - (i) Abide by the terms of the statement; and
  - (ii) Notify WVSOM of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- 10.2.5 Notifying the granting agency within ten (10) days after receiving notice of a conviction under Section 10.2.4(ii) from an employee or otherwise receiving actual notice of such conviction.
- 10.2.6 Taking one of the following actions, within thirty (30) days after receiving notice under Section 10.2.4, with respect to any employee who is convicted:
  - (i) Taking appropriate personnel action against such employee, up to and including termination of employment; or
  - (ii) Requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
- 10.2.7 Making a good faith effort to continue to maintain a drug-free workplace through implementation of Sections 10.2.1 through 10.2.6.

### **GA 08-11. Implementation of Policy**

This policy will be implemented using applicable West Virginia Higher Education Policy Commission rules and procedures, WVSOM policies and procedures, and WVSOM faculty, staff, and student handbooks.

### **GA 08-12. References**

12.1 Liquor Control Act, Chapter 60, W. Va. Code.

12.2 West Virginia Uniform Controlled Substances Act, Chapter 60A, W. Va. Code.

12.3 Schedules of Controlled Substances, 21 C.F.R. § 1308 (Schedules I through V).

12.4 Drug-Free Workplace Act of 1988, 41 U.S.C. § 8101, *et seq.*