



CCI 211.06  
EFFECTIVE DATE: 7 August 2018

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By Order of the Assistant Secretary for Health of the U.S. Public Health Service:

ADM Brett P. Giroir, M.D.

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SUBJECT: Substance Use

1. PURPOSE: This Instruction sets forth the zero tolerance policy relating to the abuse of alcohol, use of illicit drugs, and misuse of prescription medications. Further, this Instruction sets forth the policies and procedures for officers of the Commissioned Corps (Corps) of the Public Health Service (PHS) regarding the conduct and performance of officers with substance use disorders (SUD), supportive and administrative oversight and actions pertaining to officers who have a SUD, and approval of referrals for SUD treatment, when applicable.
2. APPLICABILITY: This Instruction applies to all active duty Corps officers.
3. AUTHORITY:
  - 3-1. [5 U.S.C. §552a\(i\)](#), "Privacy Act of 1974"
  - 3-2. [42 U.S.C. §202](#), "Administration and supervision of Service"
  - 3-3. [42 U.S.C. §204a](#), "Deployment readiness"
  - 3-4. [CCD 111.02](#), "Disciplinary Action"
  - 3-5. [CCD 123.01](#), "Involuntary Separation"
  - 3-6. [CCD 129.01](#), "Board for Correction of Records"
  - 3-7. [CCI 211.01](#), "Standards of Conduct"
  - 3-8. [42 C.F.R. §21.23](#), "False statements as disqualification"
4. PROPONENT: The proponent of this Instruction is the Assistant Secretary for Health (ASH). The Surgeon General (SG) is responsible for assuring the day-to-day management of the Corps.
5. SUMMARY OF REVISIONS, AND UPDATES: This is the first issuance of this Instruction within the electronic Commissioned Corps Issuance System (eCCIS) and replaces Commissioned Corps Personnel Manual (CCPM) CC29.3.8, "Alcohol and Drug Abuse," dated 27 February 1990. This Instruction will be effective 90 days after its publication date.

- 5-1. Incorporates a “Safe Harbor” provision for an officer who fully discloses substance use, misuse, and/or abuse to Medical Affairs (MA) and agrees to seek treatment.
- 5-2. Updates terminology to align with the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and definitions.
- 5-3. Sets forth the Corps’ position on “Zero Tolerance” as it applies to substance use/misuse.
- 5-4. Added Substance Use Safe Harbor Agreement with declaration.

6. POLICY: This Instruction supports the Corps' requirement to maintain a physically fit, competent, and mission ready Corps. It considers the best interests of the Corps, the communities and individuals that Corps officers serve, and individual officers. The Corps encourages officers to engage in a healthy lifestyle and to participate in substance use prevention activities.

Officers should refer to their agencies' policies concerning drug use and Safe Harbor requirements; however, regardless of where officers are stationed, they remain subject to Commissioned Corps regulations and policy with regard to administrative and disciplinary action. This does not preclude any legal action. Officers detailed to the Armed Force may be subject to the Uniform Code of Military Justice (UCMJ).

6-1. General.

- a. In order to maintain continued quality of patient care and public health activity, officers must not abuse alcohol, use illicit drugs, or misuse prescription medications.
- b. When an officer demonstrates behavior of or if the officer develops a SUD, the officer must seek adequate care and treatment.
- c. Administrative actions. Failure to adhere to this Instruction may lead to disciplinary action, including but not limited to involuntary separation or retirement.
- d. Disabilities caused by abuse of alcohol, the use of illicit drugs, misuse of prescription medications, or SUDs are generally not compensable.

6-2. Zero Tolerance. Deliberate engagement in the following is strictly prohibited:

- a. The use, possession, promotion, manufacture or distribution of illicit drugs and/or drug use paraphernalia,
- b. The non-medical use of prescription medications, or
- c. Abusing alcohol.

6-3. Impairment due to substance use. Impairment due to substance use including abuse of alcohol, the use of illicit drugs, or misuse of prescription medications, does not excuse misconduct or poor performance. Misconduct and/or poor performance may result in disciplinary action. When a supervisor suspects that an officer is involved in illicit or inappropriate substance use or criminal activity such as possessing, selling, or transporting drugs, or stealing to support a chemical dependence, the officer's supervisor must consult with and report the facts to the agency liaison or the Adverse Disciplinary Action Officer (ADAO). After consultation, the Health and Human Services (HHS) Office of the Inspector General (OIG), or the non-HHS equivalent, and the Director, DCCPR, or his/her designee, may be contacted.

6-4. Misconduct. Misconduct includes, but is not limited to, the unauthorized use or consumption of controlled substances, abusing alcohol, using illicit substances or misusing prescription or over-the-counter drugs for purposes other than those for which they are indicated, or in a manner or in quantities other than directed; any substance misuse while on duty such that the officer is under the influence of such substances while on duty; or illegally possessing, transferring, or ingesting controlled substances at any time. Misconduct constitutes grounds for administrative action.

- 6-5. Disciplinary Action. An officer who engages in misconduct or displays poor performance is subject to disciplinary action in accordance to Corps regulations and policies. An officer within the probationary period may be involuntarily separated pursuant to [CCD 123.01 §6-2.a](#), "Involuntary Separation." An officer who fails to disclose a pre-existing SUD or illicit drug use upon application to the Corps is subject to dismissal.
- 6-6. Medical Affairs Point of Contact (MA POC). An officer who has reason to believe that s/he has a SUD is encouraged to seek treatment at a Military Treatment Facility (MTF), through the OPDIV/STAFFDIV or non-HHS organization Employee Assistance Program (EAP), or through TRICARE. The officer may request the assistance of the MA POC. Requests for assistance will be handled in a manner consistent with applicable provisions of Federal statutes and regulations. The primary point of contact for an officer seeking treatment, for a supervisor seeking guidance, or for MTFs to report patient contact is the MA POC. The MA POC will, if necessary, authorize treatment for officers requesting treatment or officers referred for treatment. MA may be reached via the information provided on the Commissioned Corps Management Information System (CCMIS).
- 6-7. Safe Harbor. Safe Harbor is a protective status that applies to officers who are abusing alcohol, misusing prescription medications, and/or using illicit substances. While in Safe Harbor status, officers are protected from disciplinary action, as a result of his/her SUD, from the Corps, the Department of Health and Human Services, or the OPDIV/STAFFDIV/non-HHS organization to which s/he is assigned. Disciplinary action that is in progress will not be halted due to Safe Harbor. Further, officers can be subject to disciplinary action prior to or at the conclusion of Safe Harbor. Please note that Safe Harbor status does not protect officers from criminal prosecution or any legal proceeding.
- a. Entry Into Safe Harbor. To obtain Safe Harbor status, an officer must:
- (1) Disclose his/her condition to Medical Affairs (MA) to include any and all substance(s) being used that are prohibited by the Corps,
  - (2) Sign the Substance Use Safe Harbor Agreement (See, Appendix B),
  - (3) Continuously provide MA with permission to access medical providers and treatment documentation., and
  - (4) Seek and complete treatment.
- b. Not retroactive. Safe Harbor will not apply to an officer who is already receiving treatment or has received treatment for a SUD at any time in the past without or prior to notifying MA. If at any point it is discovered that an officer is abusing alcohol, misusing prescription medications, using an illicit substance, has an SUD, or underwent SUD treatment while on active duty without disclosure to MA, the officer will be subject to disciplinary action including possible involuntary separation or retirement.
- c. Removal. An officer can be removed from Safe Harbor, may not re-enter Safe Harbor, and subject to disciplinary action for:
- (1) Failure to enter a treatment program as recommended by MA or his/her provider,
  - (2) Failure to comply with all parts of the recommended treatment program,
  - (3) Failure to provide MA with permission to access medical providers and treatment documentation or other requested medical information

- (e.g., providers, lab work, prescriptions, and treatment plan) when requested,
- (4) Failure to follow aftercare plans or treatment, or
  - (5) Entering Safe Harbor under false pretense (e.g., requesting Safe Harbor after being arrested by law enforcement for a substance use related incident, but prior to OPDIV/STAFFDIV of non-HHS organization being notified).
- d. Re-treatment. Officers in Safe Harbor will be allowed one additional course of treatment and aftercare should relapse occur. An officer must notify MA at the time of initial relapse in order to be granted additional treatment. Failure to report a relapse within two (2) weeks of the start of relapse and/or within three (3) business days of contacting the treatment program will result in removal from Safe Harbor, and may result in referral to an appropriate review board and/or potential disciplinary action to include separation from the service. Discovery of relapse by the MA point of contact (MA POC), or his/her designee, during monthly review of treatment records will result in removal from Safe Harbor if the officer did not previously report the relapse.
- (1) If an officer relapses during treatment, s/he must report this relapse to the treatment program to evaluate whether the officer needs additional services or referral to a more intensive treatment program. The officer and the treatment program must contact the MA POC regarding any changes to the officer's treatment program.
  - (2) If an officer relapses while in aftercare, s/he must report the relapse to the treatment program and the MA POC. The treatment program will determine if re-entry into treatment is necessary or if additional supports (e.g., increased attendance at self-help or counseling) would reinforce recovery.
  - (3) If an officer suffers a relapse after treatment and aftercare are completed, s/he must report the relapse to the treatment program and the MA POC. The treatment program will determine if re-entry into treatment or additional community support are necessary to support recovery.
- e. Conclusion of Safe Harbor. Safe Harbor ends when:
- (1) An officer has completed aftercare as documented by provider signature, or
  - (2) The conditions of Section 6-7.c are met.
- f. Same substances. Safe Harbor does not apply to an officer who relapses following a second course of treatment for the same substance(s) (e.g., any substances within a drug class or its derivatives/metabolites), fails to follow treatment recommendations after reporting a relapse, or fails to complete required treatment. An officer who relapses a second time may be subject to the provisions in Section 6-5.
- g. Federal or Civilian Investigation. Safe Harbor does not apply to an officer under investigation (federal or civilian) for illicit drug or substance use, or possession, promotion, manufacture, distribution of drugs and/or drug use paraphernalia; misuse of prescription drugs; or abuse of alcohol.

- h. Drug test. Safe Harbor will not be granted to an officer who has been notified of selection to complete a random drug test.
- 6-8. Leave.
- a. Sick Leave. An officer in the Safe Harbor program, who is undergoing treatment as prescribed by his/her provider may be placed in sick leave status in accordance with [CCI 363.01](#), "Sick Leave." If an officer requires additional leave, a request must be made and treatment records and/or recommendations provided to the MA POC or his/her designee 15 days prior to the end of the 120-day period, to determine if an extension is permissible. While an officer is accepted and complying with the Safe Harbor program, MA may waive the Medical Review Board (MRB) requirement in [CCI 363.01 §6-4](#).
  - b. Absent Without Leave (AWOL). At any time, an officer who is scheduled to be at his/her duty station but fails to report to duty shall be considered to be AWOL regardless of their participation in the Safe Harbor program. Absences due to substance use or an SUD may not be excused as unavoidable.
- 6-9. Drug testing. An officer may be required to submit to drug testing in accordance with the programmatic needs or mission requirements of the OPDIV/STAFFDIV/non-HHS organization to which s/he is assigned. Officers will comply with all substance use/misuse screening program testing requirements. Reporting of positive results will be handled in accordance with policies set forth by organizations to which an officer is assigned.
- a. MA shall be notified of all confirmed positive drug test results and provided with supporting documentation.
  - b. Officers who test positive for legal substances (e.g., alcohol) will be referred for evaluation that may result in disciplinary action or treatment through Safe Harbor.
  - c. Officers who test positive for illegal substances will be referred to the Administrative and Disciplinary Actions Officer (ADAO), Division of Commissioned Corps Personnel and Readiness (DCCPR).
7. RESPONSIBILITIES:
- 7-1. The ASH is responsible for establishing policies related to substance use disorders.
  - 7-2. The Surgeon General (SG) is responsible for the day to day operations of the Corps and may issue Personnel Operations Memorandums (POM), as necessary, to clarify this Instruction.
  - 7-3. All officers are responsible for adhering to the Corps' substance use policies and procedures. Officers who engage in abuse of alcohol, use of illicit drugs, and misuse of prescription medications bring discredit to themselves, to the Department, to the Corps, and are subject to disciplinary action, including involuntary separation.
  - 7-4. Medical Affairs (MA) is responsible for carrying out duties as assigned in this substance use policy and that are further delineated in any subsequent POM.
8. PROCEDURES:
- 8-1. Programs, Records, and Reports. An officer is required to sign and submit a specific confidential consent for release of information document to the treatment program which

allows the release of specific records, including diagnosis, treatment recommendations, progress and participation in treatment, and recommendations for treatment and monitoring upon completion of formal treatment, to MA. Failure of the treatment program to provide MA with a confidential release of information will result in removal from Safe Harbor. An officer has the right to revoke his/her confidential consent for release of information between the treatment program and MA at any time; however, if an officer revokes this confidential consent for release of information, s/he will be removed from Safe Harbor and referred for administrative action, including termination. Additionally, failure to provide treatment records necessary to make a determination regarding the officer's fitness-for-duty may result in administrative action, including termination.

9. HISTORICAL NOTES: This is the first issuance of this Instruction within the eCCIS and replaces CCCPM CC29.3.8, "Alcohol and Drug Abuse," dated 27 February 1990, and creates a standalone Instruction within the eCCIS.

## Appendix A

Definitions: The terms defined below are for the purposes of this document.

1. **Addiction.** A chronic, relapsing brain disease that is characterized by compulsive drug seeking and use, despite harmful consequences.
2. **Abusing Alcohol.** Use of alcohol that interferes with the readiness or the performance of duties by any active duty Corps officer. Drinking that causes distress and/or harm either to oneself or others.
3. **Aftercare.** A type of continued treatment, which immediately follows a relatively shorter period of addiction treatment care, such as inpatient rehab or intensive outpatient treatment. It is also known as continuing care.
4. **Controlled Substance.** A controlled substance is designated by the Controlled Substances Act which evaluates drugs based on their potential for abuse, accepted medical use in the United States, and potential for addiction ([Title 21 U.S.C. Chapter 13](#)).
5. **Employee Assistance Program (EAP).** Agency-based counselling program(s) that offer assessment, short-term counselling, and referral services to employees for a wide range of drug, alcohol, and mental health programs that affect employee job performance. An Agency/OPDIV/STAFFDIV/non-HHS organization counseling referral service.
6. **Illicit Drugs or Substances.** Drugs that are illegal or forbidden to use, sell or make. Examples include, but are not limited to: marijuana/hashish, lysergic acid diethylamide (LSD), cocaine, heroin, methamphetamine, ecstasy, aerosol propellants (e.g., inhalants) and other synthetic substances such as spice and K2.
7. **Illicit Drug or Substance Use.** Use of illegal drugs and/or the misuse of prescription medications or household substances.
8. **Prescription Medication Misuse.** Use of a medication in a manner or dose other than prescribed; taking someone else's prescription, even if for a legitimate medical complaint such as pain; or taking a medication to feel euphoria (i.e., to get high), <https://www.drugabuse.gov/publications/research-reports/misuse-prescription-drugs/summary>. It also refers to nonmedical use of prescription medications.
9. **Non-duty with pay (NDWP).** When an officer is receiving payment from his/her respective agency while not reporting to an assigned duty station due, but not limited to, undergoing investigation, pending formal involuntary separation action, disciplinary action, or medical fitness for duty evaluation.
10. **On Duty.** Performing the work of, or operating in the role of, the job assigned for a current duty station or deployment.
11. **Pre-existing SUD Condition.** A diagnosis of substance use disorder one had before the initial date of commission in the Corps.
12. **Prescription Medications.** A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease that is regulated by the Food and Drug Administration, prescribed by a doctor for use by one person, and compounded, administered, or dispensed within a healthcare setting.
13. **Relapse.** When an individual abandons his/her recovery plan and returns to routine use or abuse of a substance.



14. Safe Harbor. (Refer to Section 6-7)
15. Sensitive Position.
  - a. An employee in a position that an agency head designates Special Sensitive, Critical-Sensitive, or Noncritical-Sensitive under Chapter 731 of the Federal Personnel Manual or an employee in a position that an agency head designates as sensitive in accordance with [Executive Order No. 10450](#), as amended;
  - b. An employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of [Executive Order No. 12356](#);
  - c. Individuals serving under Presidential appointments;
  - d. Law enforcement officers as defined in [5 U.S.C. 8331\(20\)](#); and
  - e. Other positions that the agency head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.
16. Substance/drug. Alcohol or other legal or illegal chemical(s) that are mood altering and can potentially impact the ability to perform one's duty.
17. Substance Use Disorder (SUD). Mild, moderate, or severe disorder that occurs when the recurrent use of alcohol and/or drugs causes clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.
18. Zero Tolerance. The Commissioned Corps does not allow officers who knowingly use a prohibited substance to remain active. Such officers will be processed for separation from service. (Refer to Section 6-2)

## Appendix B

## Substance Use Safe Harbor Agreement

This form must be completed, signed and returned to the Medical Affairs point of contact (MA POC) within three (3) business days of the date sent from the MA POC.

On \_\_\_\_\_ the terms of Safe Harbor for substance use disorder were explained to me  
 (Date)  
 \_\_\_\_\_ by the MA POC or his/her designee.  
 (Print Your Name)

By signing this agreement, I understand:

Initial

- \_\_\_ Safe Harbor is a protective status that applies to officers who are experiencing problems with abusing alcohol, misusing prescription medications, and/or using illicit substances.
- \_\_\_ Safe Harbor applies to officers who disclose their condition to MA to include any and all substance(s) being used that are prohibited by the Corps, sign this SUD Safe Harbor Agreement, continuously provide MA access to medical information, and seek and complete treatment.
- \_\_\_ Safe Harbor is not retroactive and will not apply to me if I am already receiving treatment or have received treatment for SUD, without notifying MA.
- \_\_\_ While in Safe Harbor status, I am protected from disciplinary action from the Corps, the Department of Health and Human Services, or the OPDIV/STAFFDIV/non-HHS organization to which I am assigned.
- \_\_\_ I am not protected from criminal prosecution or any legal proceedings while in Safe Harbor status.
- \_\_\_ I may be allowed one additional course of treatment should relapse occur.
- \_\_\_ I agree to notify MA at the time of initial relapse in order to be granted additional treatment.
- \_\_\_ I agree to report the relapse to the treatment program and to the MA Point of Contact (MA POC) at any point during treatment, aftercare or thereafter.
- \_\_\_ I agree to sign and submit a 'Confidential Release of Information' document to the treatment program which allows the release of related medical documents to MA.
- \_\_\_ Safe Harbor does not apply to:
- An officer who relapses following a second course of treatment for the same substance(s) (e.g., any substances within a drug class or its derivatives/metabolites), fails to follow treatment recommendations after reporting a relapse, or fails to complete required treatment
  - An officer under legal investigation for illicit use, possession, promotion, manufacture, distribution of drugs and/or drug use paraphernalia, or misuse of prescription medications or alcohol abuse
  - An officer who has been notified of selection to complete a random drug test
- \_\_\_ Removal from Safe Harbor can occur for:
- Failure to enter a treatment program as recommended by MA or his/her provider
  - Failure to comply with all parts of the recommended treatment program
  - Failure to provide a confidential release of information between the treatment program and MA to MA
  - Failure to provide medical information when requested

- Revoking the confidential consent for release of information between the treatment program and MA at any time
- Failure to follow aftercare plans
- Failure to report a relapse within three (3) business days of contacting the treatment program
- Discovery of an unreported relapse by the MA POC or his/her designee, during monthly review of treatment records

\_\_\_\_ If removed from Safe Harbor, I may be subject to referral to a "review board" and potential disciplinary action up to and including separation from the service.

\_\_\_\_ I have the right to revoke my confidential consent for release of information between the treatment program and MA at any time; however, if I revoke this confidential consent for release of information, I will be removed from Safe Harbor and referred for administrative action, including termination.

**By signing this document I agree to be entered into Safe Harbor, follow the policy to remain in Safe Harbor, and fully understand the requirements of Safe Harbor and removal from Safe Harbor.**

**Further, I declare under penalty of perjury that I have not been arrested, charged, or under investigation of using legal or illegal substances at the time of entry into Safe Harbor. If at any time that it is found that I have been found to enter the program under false pretenses I may be subject to disciplinary action.**

\_\_\_\_\_  
Officer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Medical Affairs Personnel Signature

\_\_\_\_\_  
Date

**OFFICIAL USE:**

**Date Sent:** \_\_\_\_\_

**Date Returned:** \_\_\_\_\_

**Relapse:** Yes No

**Date Notified:** \_\_\_\_\_