I. Title

*Fitness for Duty*

II. Policy

UTMB is committed to providing a safe environment for all employees, students, and patients. In order to provide a safe work environment, employees must be able to perform their job duties in a safe, secure, productive, and effective manner, and remain able to do so through the entire time they are working. Employees who are not fit for duty may present a safety hazard to themselves, to other employees, to UTMB, or to the public.

The purpose of this policy is to establish procedures by which UTMB will evaluate an employee’s *fitness for duty* when an employee is:

A. Having observable difficulty performing work duties in a manner that is safe for the employee, for other employees, for the University, or for the public, as determined by the supervisor; or

B. Posing an imminent safety threat to self or others.

Violation of this policy may result in disciplinary action up to and including termination for employees; a termination of employment relationship in the case of contractors or consultants; or suspension or expulsion in the case of a student. Additionally, individuals may be subject to loss of access privileges and civil and/or criminal prosecution.

All physicians and residents employed, appointed, affiliated, or in a training capacity with UTMB are subject to the process outlined in UTMB IHOP Policy 8.1.7, *Evaluation and Treatment of Impaired Physicians*.

III. Responsibilities

A. Employee Responsibilities:

1. Employees are responsible for managing their health in a manner that allows safe performance of job responsibilities.
2. Employees must come to work fit for duty and must perform their job responsibilities in a safe, secure, productive, and effective manner during the entire time they are working.
3. Employees are responsible for notifying their supervisors when they are not fit for duty.
4. Employees are responsible for notifying their supervisors when they observe a coworker acting in a manner that indicates the coworker may be unfit for duty. If the supervisor’s behavior is the focus of concern, an employee may inform their upper level manager or may call Human Resources – Employee Relations for further guidance.
B. **Supervisor** Responsibilities:
   1. Supervisors are responsible for observing the attendance, performance, and behavior of the employees they supervise.
   2. Supervisors are responsible for promptly following the procedures in this policy when presented with circumstances or knowledge that indicate that an employee may be unfit for duty.

IV. Procedures
   A. In situations where there is a basis to think that a crime may have been committed and/or the employee is making threats to harm himself or herself or others, or is acting in a manner that is immediately dangerous to himself or herself or others, the **supervisor** will contact the UTMB Police Department. The Director of Employee Health and Wellness will be consulted regarding the **fitness for duty** procedure after the immediate safety issue has been addressed.

   B. When the **supervisor** personally observes or receives reliable information that an employee may be unfit for duty, the supervisor will validate and document the information or observations as soon as is practicable using the Supervisor’s Observation Report. If possible, the supervisor should have another observer complete a separate observation report. Each observer should completely and accurately outline how the employee’s behavior jeopardizes safety or the employee’s ability to perform his or her job.

   **Note:** Actions that may trigger the need to evaluate an employee’s **fitness for duty** include, but are not limited to: problems with dexterity, coordination, concentration, memory, alertness, vision, speech, inappropriate interactions with coworkers or supervisors, inappropriate reactions to criticism, or suicidal or threatening statements.

   C. The supervisor forwards the reports to Employee Relations, and the Employee Relations representative reviews the documents to determine if it is appropriate to move forward with a **fitness for duty evaluation**.

   D. The Employee Relations representative will submit the observation reports and other supporting documentation to the Director of Employee Health and Wellness or designee to schedule the **evaluation**. The employee’s home department will pay the cost of a **fitness for duty evaluation**.

   E. In situations where there is reason to believe that the employee is working under the influence of drugs or alcohol, the supervisor and other observers must complete the Supervisor’s Observation Report and ask the employee to agree to a voluntary substance testing.

   1. If the employee agrees, the Employee Health Clinic will conduct substance abuse testing, which may include breath alcohol testing or a 25-panel drug screen. Test results will be reported to the Director of Employee Health and Wellness or designee through the usual business practice. When testing is needed after normal business hours, the employee may be taken to the Emergency Department.

   2. If the employee does not agree, the **supervisor** will arrange safe transport home for the employee and notify him or her of the fitness for duty evaluation appointment.

   F. Employees being referred for a **fitness for duty evaluation** will be relieved of duties and placed on paid administrative leave pending completion of the evaluation and receipt of the results by
IHOP Policy 3.7.1 Fitness for Duty

UTMB. In most cases, the evaluation results will be available within five (5) business days of the appointment.

G. Following notification from the Director of Employee Health and Wellness or designee of the fitness for duty evaluation results, the Employee Relations representative will work with the supervisor to assist with the employee’s return to work. If the employee is not cleared to return to work, his or her employment and pay status will be determined on a case-by-case basis in accordance with University policies and procedures. Applicable employee leave accruals will be used to cover continued approved leaves of absence from work.

H. The Director of Employee Health and Wellness or designee will assist Correctional Managed Care (CMC) supervisors in locating an appropriate health care provider for CMC employees requiring a fitness for duty evaluation upon receipt of documentation from the supervisor. In situations of suspected impairment, CMC employees will be offered the option of a voluntary drug and alcohol screen only if testing facilities are within a reasonable distance from the worksite and safe transport can be provided to the testing facility. In the absence of the drug and alcohol test, the employee will still be referred for a fitness for duty evaluation.

I. The employee may be referred to the Employee Assistance Program for support during the fitness for duty evaluation process and subsequent treatment.

J. Any documentation generated during the fitness for duty evaluation process that contains medical information about an employee is considered a medical record and is regarded as confidential. The Employee Health Clinic will maintain medical records in a file separate from all other employee records. These records will be maintained in a manner consistent with the Health Insurance Portability and Accountability Act (HIPPA).

V. Definitions
Fitness for Duty: Ability to perform the duties of the job in a safe, secure, productive, and effective manner.

Fitness for Duty Evaluation: Evaluation by a healthcare professional with appropriate expertise in one or more of the following: medical conditions, psychological conditions, and/or conditions related to the use or abuse of alcohol or other substances.

Supervisor: For staff, the person to whom the employee reports; and for faculty, their Chair or Dean.

VI. Related UTMB Policies and Procedures
IHOP Policy 3.7.3 Employee Assistance Program (EAP)
IHOP Policy 3.9.3 Emergency Leave
IHOP Policy 3.1.9 Discipline, Dismissal and Appeal for Classified Employees
IHOP Policy 8.1.7 Evaluation and Treatment of Impaired Physicians
IHOP Policy 8.1.9 Manufacture, Sale, Possession, Distribution, or Use of Alcohol, Controlled Substances or Drugs
VII. Dates Approved or Amended

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VIII. Contact Information

Human Resources – Employee Relations
(409) 772-8696
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