

**EMPLOYEE ASSISTANCE PROGRAM  
FOR  
EXCEPTED AND COMPETITIVE TECHNICIANS  
VERMONT NATIONAL GUARD**

<u>PARAGRAPH</u>	<u>PAGE</u>		
CHAPTER 1.	GENERAL PROVISIONS		
Purpose		1-1	1
Federal Policy		1-2	1
Policy of the Adjutant General		1-3	1-2
CHAPTER 2.	PROGRAM RESPONSIBILITIES		
Role of the Employee Assistance Program Coordinator (EAPC)		2-1	3
Role of the Supervisor/Manager		2-2	3-5
CHAPTER 3.	ADMINISTRATIVE CONSIDERATIONS		
Records and Reports		3-1	6
Confidentiality		3-2	6-7
Employment Considerations		3-3	7
Relationship to Disciplinary Actions		3-4	7-8
Administrative Considerations		3-5	8-11
APPENDIX A.	Consent for Release of Patient Information	A-1	
APPENDIX B.	Sample Letter - Release of Patient Information	B-1	
APPENDIX C.	Counseling Services	C-1 – C-2	

## CHAPTER 1

### GENERAL PROVISIONS

1-1. **PURPOSE:** This regulation provides guidance to managers and supervisors for developing and maintaining appropriate prevention, treatment, and rehabilitation programs and services for those individuals in the technician workforce who have personal problems which could or are having an adverse impact on the performance of their assigned duties. This regulation applies to Federal Technicians in the Vermont Army and Air National Guard and has been developed and disseminated in accordance with the provisions of Public Laws 91-616 and 92-255.

#### 1-2. **FEDERAL POLICY:**

a. The Office of Personnel Management and the National Guard Bureau have implemented the provision of Public Laws 91-616 and 92-255 in FPM 792-2 with a supplement by the NGB.

b. The National Guard Bureau Supplement sets forth the National Guard Bureau's Employee Assistance Program (EAP) for providing counseling, referral services, and other assistance to all National Guard Technicians employed under 32 USC 709.

#### 1-3. **POLICY OF THE ADJUTANT GENERAL OF VERMONT**

a. The Adjutant General of Vermont is concerned with accomplishment of the Vermont National Guard's mission and the need to maintain technician morale and productivity. The concern of the Adjutant General about personal behavior extends especially to those behavior traits, which affect the efficient and safe performance of assigned duties, reduce the dependability of the technician, affect other technicians, or reflect discredit on the Vermont National Guard.

b. Technicians having personal problems will receive the same consideration and assistance that is presently extended to technicians having an illness.

c. When there is a good reason to believe criminal conduct is directed toward or potentially harmful to the person or property of others, management's first obligation will be to those persons or properties, next priority will be to the technician(s) involved. If a technician's performance of assigned duties and responsibilities or conduct continues to be unacceptable, and if the technician refuses to accept assistance or seek counseling through this program, appropriate action will be initiated. Action may be training, counseling, or corrective up to disciplinary. Disciplinary action will be warranted based on unacceptable conduct on the part of the individual technician and will be initiated as required under the provisions of TPR 430 (Performance Appraisal Plan) and TPR 752 (Discipline and Adverse Action).

d. No technician will have his or her job security or promotional opportunities jeopardized by requesting counseling or referral assistance except as limited to Title II, Section 201 (c) (2)

Public Law 91-616, Section 413 (c) (2) Public Law 92-255, AR 600-300 or AFR 40-202, as they relate to sensitive positions.

## CHAPTER 2

### PROGRAM RESPONSIBILITIES

#### 2-1. **ROLE OF THE EMPLOYEE ASSISTANCE PROGRAM COORDINATOR**

**(EAPC).** An Employee Assistance Program Coordinator (EAPC) will be appointed by The Adjutant General of Vermont. This individual will be responsible to implement the provisions of this regulation within the Vermont Army and Air National Guard to include but not limited to the following:

a. Arrange for and provide educational materials that can be used to (1) prevent or discourage alcohol or drug abuse within the technician workforce, and (2) promote and maintain the physical and mental fitness of the technician workforce.

b. Arrange for and conduct training for managers and supervisors to insure that they understand the program. The EAPC will establish and disseminate the procedures for dealing with technicians with an alcoholic or drug problem. In addition, the EAPC will provide assistance in the areas of mental or emotional illness, finance, marital or family distress, legal difficulties or other personal problems. Managers and supervisors will be fully conversant with the benefits derived upon successful rehabilitation of a technician with such problems.

c. Establish liaison with community education, counseling, treatment and rehabilitation facilities.

d. Function as the source of information and guidance for technician managers and supervisors who have a technician with such problems prior to initiating any personnel actions under the provisions of this regulation.

#### 2-2. **ROLE OF THE SUPERVISOR/MANAGER:**

a. Supervisors have fairly explicit expectations of their employees in terms of job performance and behavior. When employees fail to fulfill these expectations, supervisors have both the right and the duty to confront them with the deficiencies, and to provide them with opportunities to correct the problems, regardless of their genesis. Dealing with poor performance is a basic supervisory responsibility. Early intervention and assistance will generally be most helpful in returning employees to full productivity. When alcohol or drug problems or other personal problems are underlying factors in poor performance, timely intervention may lead to early, lifesaving identification and treatment of the problem. In summary the supervisor should:

(1) Be alert, through continuing observation, to changes of work habits or behavior of assigned technicians.

(2) Document specific occasions when a technician's work performance, behavior, or attendance fails to meet minimum standards or where the technician's pattern of performance appears to be deteriorating.

(3) Supervisors must be able to describe behavior to a counselor but should not attempt to diagnose or draw conclusions. This is a medical or counseling responsibility.

(4) Conduct an interview with the technician, focusing on poor work performance, and inform the technician of available counseling services if it is suspected that the poor performance is caused by personal or health problems.

(5) If the technician refuses help, and performance continues to be unacceptable, provide a firm choice between accepting agency assistance through counseling or professional diagnosis of his or her problem, or accepting consequences provided for unacceptable performance.

Supervisors should not discuss the possibility of a drug or alcohol problem with an employee except:

(a) When a technician does not appear to be in full control of his or her faculties. In such a situation, the supervisor should immediately inquire about his or her physical condition but should be aware that appearance, which would indicate symptoms usually, related to alcohol or drug use, can apply to other health problems as well. When possible, the technician should be referred to a private physician or community health service.

(b) When management has good reason to believe a technician has engaged in criminal conduct directed exclusively toward himself or herself, the supervisor shall inform the employee of the known facts, and refer the technician for counseling. Supervisors should be careful not to elicit or obtain from the technician any specific details about the nature of any illegal activity or conduct.

(c) When management has good reason to believe a technician is involved in criminal conduct directed toward or is potentially harmful to the person or property of others, such as selling drugs or stealing to support a drug habit, they have an obligation first to those persons or properties, and then to the technician. Supervisors are required to report the established facts to the responsible law enforcement authorities.

(d) In summary, Public Law 92-255 requires agencies to maintain treatment and rehabilitation programs; it does not charge agencies or their personnel with any responsibility for seeking information on illegal technician activities for the purpose of reporting it to law enforcement authorities. The Statute does not justify supervisory failure, or failure of Federal technicians to report illegal activity to responsible authorities, when it is directed against or potentially harmful to the person or property of others.

(6) Supervisors and managers are required to coordinate any significant personnel actions that are anticipated under the provisions of this regulation, with the EAPC. The EAPC will provide advice on how to proceed under this program. The EAPC also has the capability to provide updated information and alternative courses of action.

(a) Advise bargaining unit member of his or her rights to union representation.

## **CHAPTER 3**

### **ADMINISTRATIVE CONSIDERATIONS**

#### **3-1. RECORDS AND REPORTS:**

a. Maintenance of Records.

(1) Supervisory documentation of technician job performance and actions taken to motivate correction of deficiencies, such as referring the technician to the EAPC, will be filed in the supervisor's work folder. Records on technicians who have been referred for counseling will be maintained in a secure room, a locked container, safe, or other similar container when not in use.

(2) Documentation of actual enrollment in the EAP will not be made in the supervisor's work folder nor maintained in the official personnel folder.

b. Sick leave may be granted for the purpose of treatment and counseling in accordance with this program.

c. Statistical reports when required will not make reference to individuals by name. In general, these reports will be submitted by the Human Resource Office (HRO) and will reflect the number of personnel who have received assistance as a result of the Employee Assistance Program.

#### **3-2. CONFIDENTIALITY:**

a. The Law requires the patient's prior written consent for the disclosure of information except as indicated in Section 122(a) and 303(a) of Public Law 93-282. All persons performing in accordance with this program are required to comply with the rules of confidentiality and are subject to penalties under the law for any violation. Any questions in this regard should be referred to the HRO.

b. Disclosure without Consent. Whether or not the patient gives his or her written consent, the content of the record may be disclosed for the following purposes:

(1) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(2) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose patient identities in any manner

(3) If authorized by an appropriate order of a court of competent jurisdiction granted after application, showing good cause. Upon granting of such order, the court will determine the extent to which any disclosure of all or any part of any record is necessary and shall impose

appropriate safeguards against unauthorized disclosure.

3-3. **EMPLOYMENT CONSIDERATIONS:** Confidentiality allows for the release of information to a prospective employer with the patient's written consent. Such information may be requested only when the applicant is otherwise known to the employer as having a history of alcohol or drug abuse or other personal problems. It may not be requested for the purpose of ascertaining whether the applicant has ever had such problems.

3-4. **RELATIONSHIP TO DISCIPLINARY ACTIONS:**

a. The Employee Assistance Program supplements, but does not replace, existing procedures for dealing with problem technicians. Its premise is that a technician with these particular types of problems should be handled as a special situation. These problems are a manifestation of an illness; it must be the agency's policy to try to assist the person to recover his or her usefulness as a technician.

b. In practice, the troubled technician should be dealt with a little differently. The supervisor must identify those aspects of job performance that are not satisfactory and consult with the EAPC or medical staff personnel when the individual appears to be developing unacceptable performance trends. After consultation with the EAPC, the supervisor should discuss the aspects of below-standard performance with the technician and advise him or her of the availability of counseling assistance (if the cause of poor performance stems from personal problems). If the employee refuses to seek counseling, or if there is no improvement, or there is inadequate improvement in performance, disciplinary action should be taken, as warranted, solely on the basis of unsatisfactory job performance, or if warranted, under the provisions of TPR 752, which deals with discipline and adverse action.

c. In relating the Employee Assistance Program to disciplinary policies and practices, it is most important that the program be carried out as a non-disciplinary procedure aimed at rehabilitation of persons who suffer from an identified problem. There needs to be a clear understanding, those shielding problem employees by tolerating poor performance clearly contributes to the progression of the illness by delaying entry into a rehabilitation program. However, failure on the part of the technician to accept assistance under this program or to correct substandard performance must be dealt with through the application of the provisions of TPM 430 and TPR 752.

3-5. **ADMINISTRATIVE CONSIDERATIONS:**

a. **Statistical Reports** Agency administrators should compile sufficient statistical data to provide the basis for evaluating the effectiveness of the Employee Assistance Program. Reports will be prepared and submitted to the HRO on an "as required" basis. These reports, when required, are purely statistical and do not identify individual technicians.

b. **Use of Sick Leave** Employees who decide to undergo a prescribed program of treatment that will require absence from work may be granted sick leave.

- c. Disclosure with Consent. (See Appendices A and B)
  - (1) Disclosure may be made with the patient's consent when required:
    - (a) To continue diagnosis, treatment and rehabilitation.
    - (b) For prevention of multiple enrollments.
    - (c) To provide legal counsel for patient.
    - (d) By patient's family and others.
    - (e) By third party payers and funding sources.
    - (f) By employers and employment agency.
    - (g) By the criminal justice system.
    - (h) To satisfy other situation not otherwise prescribed.
    - (i) By the exclusive representative of the bargaining units, ACT (Association of Civilian Technicians) and AATU (Army/Air Technician Union).
  - (2) Form of Consent for disclosure must be in writing and must contain the following:
    - (a) The name of the agency which is to make the disclosure.
    - (b) The name or title of the person or organization to which disclosure is to be made.
    - (c) The name of the patient.
    - (d) The purpose or need for the disclosure.
    - (e) The extent or nature of information to be disclosed.
    - (f) A statement that the consent is subject to revocation at any time.
    - (g) The date on which the consent is granted.
    - (h) The signature of the patient.

d. Role of the Supervisor. Supervisors notes are not subject to the requirements of the confidentiality regulations since supervisors, as such, are not performing a counseling function. Discussion of technician problems by supervisors with persons not having a need to know is not authorized on grounds of ethics and good supervisory practice. The confidentiality regulations prohibit persons performing a counseling function (i.e., medical staff, alcoholism/drug abuse or technician counseling program administrators, coordinators, counselors, and their staffs) from disclosing information obtained as a result of the performance of that function without the written consent of the technician. In other words, a supervisor, after referring an employee to a program coordinator or counselor, cannot expect feedback on an employee's progress without his or her written consent. If consent is given, the supervisor may not pass on the information received as a result of that consent to any unauthorized person (which includes his or her supervisor) without the signing of a separate consent agreement. More than one consent, however, may be contained in a single consent form as long as the requirements for consent are met. For the most part supervisors should be concerned only with the technician's satisfactory performance in the counseling program and not to the actual course of treatment. As such, unless specifically required, the disclosure of information from the counseling agency should deal primarily with attendance.

e. Expenses of Rehabilitation. There is no provision in Public Law 91-616 or 92-255 for payment of Federal technician rehabilitation costs. A technician is responsible for the costs of treating his or her drinking or drug problem the same way as any other health condition. The

technician may receive some financial help, as with other illnesses, from his or her Federal Employees Health Benefit Plan.

f. Various kinds of rehabilitation programs require different financial capabilities. Alcoholics Anonymous, for example, solicit only voluntary contributions, hence is freely available. Technicians who are veterans may be eligible for some assistance from the facilities of the Veterans Administration. Eligibility requirements and costs of rehabilitation agencies in the community should be explored by the program coordinator in order to have available complete information for counseling and employee referral purposes.

g. Eligibility for Disability Retirement. This program does not jeopardize the employee's right to disability retirement if his or her condition warrants. Eligibility requirements and filing procedures are contained in FPM Supplement 831-1. Either the technician or the agency may submit an application for disability retirement.

OFFICIAL:

ANN M. VARNEY, JFHQ  
VTJ1/HRO

APPENDIX A

CONSENT FOR RELEASE OF CLIENT INFORMATION

TO: \_\_\_\_\_  
(NAME OF THE TREATMENT CENTER MAKING DISCLOSURE)

1. CLIENT'S NAME: \_\_\_\_\_

2. NAME OR TITLE OF THE PERSON OR ORGANIZATION TO WHICH  
DISCLOSURE IS TO BE MADE: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. PURPOSE OR NEED FOR THE DISCLOSURE: \_\_\_\_\_

\_\_\_\_\_

4. I UNDERSTAND THAT THIS CONSENT IS SUBJECT TO REVOCATION AT ANY  
TIME.

\_\_\_\_\_

(SIGNATURE OF CLIENT)

\_\_\_\_\_

(DATE ON WHICH CONSENT IS  
SIGNED)

**APPENDIX B**

RELEASE OF CLIENT INFORMATION

FROM: \_\_\_\_\_

TO: \_\_\_\_\_  
(NAME AND TITLE OF THE PERSON OR ORGANIZATION WHICH THE  
DISCLOSURE IS TO BE MADE)

In accordance with the attached "Consent for the Release of Patient Information", we have released information to you on \_\_\_\_\_.

This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

## **APPENDIX C**

### **ALCOHOL AND DRUG ASSISTANCE**

Alcoholics Anonymous/Maple Leaf Farm Associates  
Phone: Burlington, 658-4221/Phone: 899-2911  
Middlebury, 388-9284/Underhill, VT

Brattleboro Retreat/CHP Behavioral Health Phone: 800-345-5550/Phone: 864-0693  
75 Linden Street/789 Pine Street  
Brattleboro, VT/Burlington, VT

Champlain Drug & Alcohol Services/Fletcher Allen DayOne  
Phone: 862-6292/Phone: 865-3333  
595 Dorset Street/200 Twin Oaks Terrace  
South Burlington, VT/South Burlington, VT  
(also at)  
Phone: 862-5243  
45 Clarke Street  
Burlington, VT

### **CREDIT AND DEBT COUNSELING SERVICES**

Consumer Credit Counseling/Dantzschler and Associates  
Service of NH and VT Credit and Debt Management  
Phone: 800-327-6778/Phone: 865-8322  
Burlington, Barre, Brattleboro, South Burlington, VT  
Bennington, Rutland, and NH

### **PSYCHOLOGICAL COUNSELING CENTERS**

Washington County Mental Health/Family Therapy Associates  
Phone: 229-0591/Phone: 878-4399  
P.O. Box 647/15 Pinecrest Drive  
Montpelier, VT/Essex Junction, VT

Fletcher Allen Health Care/Networks  
Phone: 656-0400/Phone: 863-2495  
1 South Prospect Street/150 Cherry Street  
Burlington, VT/Burlington, VT

Howard Center for Human Services/CHP Behavioral Health  
Phone: 658-0400/Phone: 864-0693  
300 Flynn Avenue/789 Pine Street  
Burlington, VT/Burlington, VT

**MARRIAGE AND FAMILY COUNSELING**

Langelier Psychological Services

Phone: 862-0020; 863-2750

1 Kennedy Drive

South Burlington, VT