

# ***MEDICAL STAFF BYLAWS***

## ***APPENDIX "C"***

### **HOSPITAL POLICY REGARDING**

### **BEHAVIOR THAT UNDERMINES A CULTURE OF SAFETY**

*For purposes of this policy, "behavior that undermines a culture of safety" is any conduct that intimidates others, affects morale or staff turnover, disrupts the smooth operation of the Hospital, poses a threat to patient care or exposes the Hospital and/or Medical Staff to liability. Such conduct may include, but is not limited to, behavior such as:*

1. Attacks, verbal or physical, leveled at other appointees to the medical staff, hospital personnel, patients or visitors, that are personal, irrelevant, or beyond the bounds of fair professional conduct.
2. Impertinent and inappropriate comments (or illustrations) made in patient medical records or other official documents, or inappropriate written or verbal statements to patients and/or members of the community impugning the quality of care in the hospital, or attacking particular physicians, nurses, other employees, or hospital policies.
3. Nonconstructive criticism that is addressed to its recipient in such a way as to intimidate, undermine confidence, belittle, or imply stupidity or incompetence.
4. Refusal to accept or causing a disturbance of medical staff assignments or participation in committee or departmental affairs in a disruptive or non-constructive manner.
5. Discrimination, harassment and/or retaliation.
6. Passive activities such as quietly exhibiting uncooperative attitudes during routine activities, reluctance or refusal to answer questions, return phone calls or pages, condescending language or voice intonation and impatience with questions.

#### **Objective**

The objective of this policy is to provide a mechanism for timely reporting and addressing of behavior that undermines a culture of safety, and to ensure quality patient care by promoting a safe, cooperative, and professional health care environment, and to prevent or eliminate, to the extent possible, conduct that:

1. Disrupts the operation of the hospital;
2. Affects the ability of others to do their jobs;
3. Creates a "hostile work environment" for hospital employees or other medical staff members;
4. Interferes with an individual's ability to practice competently; or
5. Adversely affects or impacts the community's confidence in the hospital's ability to provide quality patient care.

## **Documentation of Behavior That Undermines a Culture of Safety**

1. Documentation of behavior that undermines a culture of safety is critical. Physicians, nurses and other hospital employees who observe or are otherwise made aware of<sup>1</sup> undermining behavior by a practitioner must document the behavior. Whenever possible, the behavior shall be documented on the attached Practitioner Behavior that Undermines a Culture of Safety Report Form (the "Report") (attached hereto as "Exhibit A"). Such documentation shall be provided to the hospital's Chief Executive Officer ("CEO") as soon as practicably possible.<sup>2</sup> The documentation shall include:

- (a) the name of the practitioner(s) involved in the questionable behavior;
- (b) the date and time of questionable behavior;
- (c) a statement of whether the behavior affected or involved a patient in any way, and if so, the chart number of the patient;
- (d) the circumstances that precipitated the situation, if known;
- (e) a description of the questionable behavior limited to factual, objective language as much as possible;
- (f) the consequences, if any, of the behavior as it relates to patient care or hospital operations;
- (g) a record of any action taken to remedy the situation including date, time, place, action, and name(s) of those intervening.

2. Once the Report is received by the CEO, the CEO shall provide a copy of the Report to the Chief of Staff. In performing all functions hereunder, the CEO and Chief of Staff shall be deemed authorized agents of the Medical Executive Committee and shall enjoy all immunity and confidentiality protection afforded under state and federal law.

## **Investigation**

1. Once received, a report will be investigated by the CEO and the Chief of Staff. As part of the investigation, the CEO will interview the employee or other person completing the report as soon as reasonably practical, usually within three (3) business days of having received the Report, in order to gather additional, more complete information. If the CEO is unable to complete the Report within this time period, the documentation of the investigation will indicate why the interview could not occur within three (3) business days. The CEO will document the time, date and substance of this meeting, and such documentation will be made part of the investigative file.

2. In general, investigations of behavior that undermines a culture of safety should be completed within five (5) business days after the initial interview of the complaining party, whenever practical. Once an investigation is completed, the CEO will follow-up with the reporting employee or other individual to inform them (in general terms and without disclosing peer review information or other confidential or sensitive

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<sup>1</sup> Physicians, nurses or other staff who receive a complaint from a patient, family member or community member shall encourage those individuals to document their complaint. Should the individual refuse to do so, the physician, nurse or staff member receiving the complaint shall document the information.

<sup>2</sup> The CEO will strongly encourage any employee or physician reporting such conduct to document the conduct as outlined above. Should the individual refuse to do so, the CEO shall document the conduct as described to him/her, and shall note on the form that the conduct was not personally observed by him/her and that the reporting individual refused to document the conduct. The CEO shall nonetheless have a duty to investigate any credible verbal complaint that describes conduct that may create a risk to the well being of any person, a hostile working environment, or expose the hospital to liability.

information), of the conclusions of the investigation, and that appropriate actions will be taken. The employee or person reporting should be encouraged to report any further behavior that undermines a culture of safety. In addition, the employee or other reporting individual shall be advised that retaliatory action will not be tolerated, and will be encouraged to report any action which appears to have been taken in retaliation for making a report pursuant to this policy.

3. Reports which are determined to be credible, based on the facts and information gathered during the investigation, will be addressed through the procedure set out below and will become a part of the physician's quality file. If the report is determined to be credible, the practitioner who is the subject of the report shall be interviewed prior to conclusion of the investigation.

4. If at any time it appears to the Chief of Staff, the CEO or any committee charged with implementation of this policy that a practitioner's behavior may result from an impairment, the procedure set forth in the Practitioner Wellness Policy shall be followed.

### **Progressive Corrective Action**

1. A single confirmed incident warrants a formal discussion with the offending practitioner. This meeting will be held in conjunction with the interview described in Paragraph 3 above. The Chief of Staff and CEO **shall** initiate a meeting with the practitioner. The CEO shall create a record of the meeting, and shall document that the practitioner was informed that the conduct in question was inappropriate. The CEO will also, during that meeting, review the substance of this policy with the practitioner, and explain to the practitioner the possible results of continued behavior that undermines a culture of safety. A follow-up letter to the practitioner shall state that the practitioner is required to behave professionally and cooperatively.

2. If there is a second incident of behavior that undermines a culture of safety, the CEO and Chief of Staff shall follow the same process as described above. However, this second meeting with the practitioner shall constitute the practitioner's final warning. A letter shall be sent to the practitioner following the meeting informing the practitioner that if there is a third incident of behavior, the matter will be referred to the hospital's Medical Executive Committee for appropriate corrective action, which may include a referral to the Board of Trustees for suspension from the medical staff, or termination of the practitioner's medical staff privileges.

3. If there is a pattern of behavior that undermines a culture of safety (defined as three or more incidents of behavior), the CEO and/or Chief of Staff shall refer the matter to the Medical Executive Committee for recommendation and to the Board of Trustees for final action and resolution of the matter. Any action, recommendation or communication by the MEC becomes a part of the practitioner's permanent file. More formal corrective action may be pursued at this juncture if deemed warranted by the Chief of Staff and/or CEO.

4. Nothing herein shall be deemed to prohibit more formal corrective action as a result of a single incident, or at any time during the investigative or corrective action process, should the Chief of Staff and/or CEO determine that the seriousness of the incident justifies such action.

5. If at any time during the process any participant has reason to believe that the practitioner's behavior may result from an impairment, the procedures set forth in the Practitioner Wellness Policy should be followed.

6. Summary suspension may be appropriate pending the completion of this process, depending on the substance and seriousness of the reported offense. Any summary suspension pursuant to this policy must meet the requirements for summary suspension as outlined in the Medical Staff Bylaws.

### **Disciplinary Action Pursuant to Medical Staff Bylaws**

1. The CEO and Chief of Staff shall be responsible for presenting the history of conduct to the Medical Executive Committee.
2. The Medical Executive Committee shall be fully apprised of any reports of behavior that undermines a culture of safety, and any meetings and warnings, so that it may pursue whatever action is necessary to terminate the unacceptable conduct.
3. The Medical Executive Committee may refer the matter to the Board of Trustees with or without recommendation as to action. If the Medical Executive Committee makes a recommendation, it shall be processed as provided in the corrective action section of the Medical Staff Bylaws.
4. Should the Medical Executive Committee forward the matter without a recommendation, any further action, including hearing and appeal, shall then be initiated by the Board of Trustees and shall be processed as provided in the corrective action section of the Medical Staff Bylaws.

*Although this policy is intended to outline a suggested method of progressive counseling and discipline, nothing herein shall be deemed to require such progressive discipline in the event that the seriousness of the individual's behavior warrants immediate corrective action. A single egregious incident, including but not limited to physical or sexual harassment, a felony conviction, assault, a fraudulent act, stealing, or damaging hospital property may result in immediate corrective action.*

### **Documentation and Document Retention**

1. All meetings with the practitioner and/or relating to the reported behavior that undermines a culture of safety shall be documented and maintained in the practitioner's quality file.
2. After each meeting with the practitioner, a letter summarizing the substance of the meeting shall be sent to the practitioner.
3. A copy of all original Reports shall be maintained in the practitioner's quality file with all of the documents and notes on the matter. The practitioner may also submit a written response to be placed in the file if he/she so desires.

Date Form Completed: \_\_\_\_\_  
Completed by: \_\_\_\_\_

**Section 1: General Information**

Practitioner Involved: \_\_\_\_\_ Date of undermining behavior: \_\_\_\_\_  
Time of undermining behavior: \_\_\_\_\_ am / pm  
Location of incident: \_\_\_\_\_  
Were any patients involved in the incident? If yes, please provide patient chart number:  
\_\_\_\_\_

**Section 2: Description of Behavior that Undermines a Culture of Safety**

Describe the circumstances which precipitated the situation, if known: \_\_\_\_\_  
\_\_\_\_\_

Describe the questionable behavior in objective, fact-based terms: \_\_\_\_\_  
\_\_\_\_\_

Describe the results, if any, of the undermining behavior as it relates to patient care or hospital operations:  
\_\_\_\_\_  
\_\_\_\_\_

What actions, if any, were taken to remedy the situation? Include the names of other individuals that may have intervened: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 3: Confidentiality and Non-retaliation**

Your report of behavior that undermines a culture of safety will be treated as confidentially as possible consistent with Hospital and Medical Staff policy and applicable law. We cannot assure you that the practitioner in question will never become aware of your identity, however, we can assure you that retaliation against any person for making a complaint of undermining conduct will not be tolerated. Retaliation is taken very seriously and retaliation against any individual will be a basis for corrective action. We encourage you to report any behavior which you believe to be retaliatory in nature.

**Section 4: Verification of Report**

Please sign below verifying that the contents of this report are true and accurate, to the best of your knowledge, and based on personal knowledge of the reported behavior that undermines a culture of safety. Once completed, this report should be delivered to the Hospital Chief Executive Officer.

Name of Person Reporting: \_\_\_\_\_ Signature: \_\_\_\_\_

PRACTITIONER BEHAVIOR THAT UNDERMINES A CULTURE OF SAFETY REPORT FORM  
Privileged and Confidential for use by Legal Counsel  
Not Part of the Medical Record  
DO NOT PHOTOCOPY