

[Hospital Logo]	[Insert Manual Name]	No.	CO-5.002
	TITLE: IDENTIFICATION, ASSESSMENT, AND MANAGEMENT OF DISRUPTIVE BEHAVIOR BY MEMBERS OF THE MEDICAL STAFF, ADVANCED PRACTICE PRACTITIONERS AND ALLIED HEALTH PROFESSIONALS	Page:	1 of 8
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I. SCOPE:

This policy applies to all credentialed members of the Medical Staff of _____ (“Hospital”), including physicians, podiatrists, dentists, psychologists, and Allied Health Professionals (*e.g.*, advanced practice registered nurse practitioners and physician assistants) (“Professionals”). This policy should not be used in isolation, but to supplement the Hospital’s overall Clinical Risk Management/Patient Safety Plan, the Rules and Regulations of the Medical Staff (including peer review policies and procedures) and other relevant Governance Documents.

II. PURPOSE:

The purpose of this policy is to outline the procedures the Hospital, through its Medical Staff, will utilize to address issues pertaining to disruptive behavior exhibited by Professionals.

III. DEFINITIONS:

- A. **“Chief of Staff”** shall mean the individual who is elected in accordance with the Medical Staff Bylaws to serve as the leader of the Medical Staff, regardless of title given such position under the Medical Staff Bylaws.
- B. **“Disruptive Behavior”** is defined as personal conduct, whether verbal or physical, that negatively affects, or that has the potential to negatively affect, patient care. Such behavior may include, but shall not be limited to:
 1. inappropriate displays of anger or resentment (examples include, but are not limited to: verbal outbursts, condescending language or voice intonation, abusive language; impatience with questions, blaming or shaming others for possible adverse outcomes; unnecessary sarcasm or cynicism; threats of violence, retribution or litigation and passive behaviors);
 2. inappropriate words or actions directed towards another person (examples include, but are not limited to: sexual comments or innuendos; sexual harassment (verbal and/or physical and/or visual harassment); seductive, aggressive, or assaulting behavior including throwing, flinging, or banging equipment or other materials; racial, ethnic, or socioeconomic slurs; lack of regard for personal comfort and dignity of others including bullying; public derogatory comments or inappropriate medical record entries about the quality of care provided by the hospital or another practitioner; or other inappropriate medical record entries);

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3. inappropriate responses to patient needs or staff requests (examples include, but are not limited to: pattern of late or unsuitable replies to pages or calls; unprofessional demeanor or conduct including the use of profanity; an uncooperative, defiant approach to problems; or rigid, inflexible responses to requests for assistance or cooperation); or
4. any behavior which is a violation of State and Federal laws and regulations, hospital or medical staff policy, rules and regulations.

Disruptive behavior does not include constructive criticism (feedback) offered in good faith with the aim of improving patient care.

- C. **“Professional”** shall mean any individual permitted by law and by the Hospital to provide patient care and services, within the scope of the individual’s license and consistent with individually granted clinical privileges. These include, but are not limited to: physicians, podiatrists, dentists, and Allied Health Professionals (*e.g.*, advanced practice registered nurse practitioners and physician assistants).
- D. **“Electronic Safety and Risk Management”** or **“eSRM/Midas”** means the software application which resides used for on-line incident reporting at the Hospital. eSRM/Midas is designed to support and increase information about adverse events and near misses in order to improve patient safety.

IV. POLICY:

The objective of the Medical Staff is to deliver quality health care, treatment and services to patients and to provide for safe and a uniform quality of patient care. Disruptive behavior by Professionals can foster medical error, provoke poor patient satisfaction, contribute to preventable adverse outcomes, increase the cost of care and otherwise adversely affect patient care. Accordingly, it is Medical Staff policy that such behavior be addressed promptly, and if possible, corrected through peer review protected non-disciplinary mechanisms. However, to the extent disruptive behavior persists despite warnings and other efforts to address the problem, or if it is determined that such disruptive behavior renders a Professional unable to safely perform the privileges he or she has been granted, the Professional may be referred for appropriate corrective action in accordance with the Medical Staff Bylaws.

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V. PROCEDURE:

A. Reporting Procedure

1. Reporting Procedure. A complaint alleging that a Professional has engaged in disruptive behavior, however received, should immediately be reported and documented as follows:
 - a. Documentation of disruptive behavior may be completed by a hospital employee via eSRM/Midas. The date and time and description of the alleged incident should be included. The Department Director may complete the eSRM/Midas for the employee in order to validate confidentiality. The Risk Manager will forward the eSRM/Midas report to the Medical Staff Services office which will forward the complaint to the Medical Executive Committee (MEC), through the Chief of Staff, or to such other duly authorized peer review committee as the MEC may direct.
 - b. If the report originates from a member of the medical staff or other Professional, then either verbal or written communication describing the alleged event shall be communicated directly to the Chief of Staff or to the Medical Staff Services office which will forward the complaint to the MEC, through the Chief of Staff, or to the chairman of such other duly authorized peer review committee as the MEC may direct.
2. Circumstances Involving Imminent Danger to Patient Safety. If there is concern that disruptive behavior presents an imminent danger to the health or safety of any individual, the Chief Medical Officer, Chief of Staff, Department Chair or the Chief Executive Officer shall be notified. In such circumstances, consideration may be given to the imposition of summary suspension if criteria for such actions are met (as established by the Medical Staff bylaws). In such a case, the Professional shall be entitled to fair hearing and appellate procedures as set forth in the Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall not have the hearing and appeal rights set forth in the Medical Staff bylaws, but shall have access to such hearing rights as the policy on Allied Health Professionals may provide.

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3. Peer Review. To the extent that a complaint of disruptive behavior also demonstrates that a particular case should be reviewed in accordance with Medical Staff peer review policies, the case should be referred for peer review. In such an event, peer review of the case should proceed in accordance with Medical Staff policy, independent of the evaluation of the disruptive behavior under this policy.

B. Collegial Intervention

Upon receipt by the MEC (or another duly constituted peer review committee designated by the MEC to receive such complaints) of a complaint alleging that a Professional has engaged in disruptive behavior, the MEC (or designee) shall direct the complaint to the Chairman of the Department to which the Professional is assigned to review the matter. The Chairman’s review shall include a determination as to whether there have been other complaints regarding similar behavior by the Professional, or whether the complaint alleges that the disruptive behavior has adversely impacted patient care.

If the Chairman determines: (i) that there has been a history of similar complaints and prior warnings with regard to this same Professional; or (ii) that the conduct complained of may have a material adverse impact on patient care, the matter shall proceed as described in Section V.C. below. For purposes of this policy “history of similar complaints or prior warnings” shall mean that the affected Professional has been the subject of at least three substantiated complaints and collegial interventions in the preceding three years.

If the complaint is the first such complaint and there is no evidence that the matter has had a material adverse impact on patient care, the Chairman, on behalf of the MEC, shall meet informally with the Professional for a collegial intervention. The Chairman may include such other Medical Staff leaders in the collegial intervention as he/she determines appropriate or necessary. If the complaint is the second or third complaint, the Chairman shall include another Medical Staff leader in the meeting with the Professional.

The goals of the collegial intervention are to: (1) inform the Professional of the nature of the concern raised; (2) explain what conduct is acceptable and what conduct is not acceptable; and (3) advise the Professional of the consequences if further similar concerns are raised and confirmed in the future.

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After the collegial intervention, a note indicating whether the complaint was found to be substantiated or unsubstantiated shall be placed in the Professional's peer review file, stating the reasons for same. A copy of the complaint shall also be retained in the Professional's peer review file, should a pattern of disruptive behavior requiring intervention be identified at a later time.

If the Chairman is not able to substantiate the complaint, the Chairman shall close the complaint and the matter shall be considered concluded. A copy of the complaint and the Chairman's conclusion that the complaint was not substantiated shall be retained in the Professional's peer review file for a period of three years, after which time it shall be discarded. Complaints that have been substantiated and any written transmittals to the Professional regarding such complaint shall be retained indefinitely.

C. Investigation by the Medical Executive Committee (to be conducted in accordance with the Hospital's Medical Staff Bylaws)

Upon the Chairman's determination that a Professional has engaged in three or more instances of disruptive behavior after a collegial intervention or other warning within a three-year period, or if a complaint alleges that the disruptive behavior has had an actual adverse impact on patient care and the Chairman determines that there appears to be a factual basis for the complaint, the matter shall be referred back to the MEC for corrective action. The MEC shall conduct (or delegate to another legally constituted peer review committee of the Medical Staff responsibility for conducting) such formal investigation as it, in its discretion, deems necessary to determine whether disciplinary action is warranted. Prior to undertaking any activity, the MEC shall consult with Regional Counsel and the Hospital's designated Medical Staff Counsel. The investigation shall include:

1. providing written notification to the Professional that a complaint regarding disruptive behavior has been made, providing sufficient detail regarding the nature of the complaint (while providing confidentiality regarding the identity of the complainant) to permit the Professional to respond; and
2. conducting informal interviews with the complainant and the affected Professional (each out of the presence of the other). Such investigation may also include, as deemed necessary, informal interviews with other persons having knowledge of the matter, review of reports of other or prior complaints alleging disruptive behavior by the Professional (if applicable),

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and such other manners of investigation as are deemed reasonable and necessary.

Neither the investigation nor any other activities of the MEC (or peer review committee, as applicable) in investigating the complaint as described above shall constitute a hearing; they shall be informal, and none of the hearing and appeal rights under the Medical Staff Bylaws shall apply. Hearing and appeal rights under the Medical Staff Bylaws shall only be triggered if the MEC determines to pursue disciplinary action, and such hearing and appeal rights shall be as provided for in the Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall have such hearing rights as the policy on Allied Health Professionals may provide.

If at any time during the course of the investigation the MEC determines that a particular case should be reviewed in accordance with Medical Staff peer review policies, the case should be referred for peer review if not already done. Further, to the extent the Medical Executive Committee determines that the Professional is unable to safely perform the privileges he or she has been granted, the MEC may impose a summary suspension if criteria for such action (as established by the Medical Staff Bylaws) are met. In such cases, the Professional shall be entitled to the rights set forth in the hearing and appellate procedures in the hospital's Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall not have the hearing and appeal rights set forth in the Medical Staff bylaws, but shall have access to such hearing rights as the policy on Allied Health Professionals may provide.

D. Recommendation of the Medical Executive Committee Following Investigation

Upon conclusion of the investigation described in Section V.C. above, the MEC shall make recommendations with regard to the resolution of the complaint. At this time the MEC may:

1. Determine that the Professional did not engage in disruptive behavior, and thus, dismiss the matter without further action. A record of the complaint shall be kept in the Professional's peer review file for a period of three years, should a pattern of disruptive behavior requiring intervention be identified at a later time.
2. Determine that the Professional may have engaged in disruptive behavior, but that corrective action under Section V.D.3. below is not currently warranted.

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In such cases, the Chief of Staff (or designee) will then meet informally with the Professional for a collegial intervention, as described in Section V.B. of this policy. A copy of the complaint and the results of the MEC investigation shall be kept in the Professional's peer review file for three years, should a pattern of disruptive behavior requiring intervention be identified at a later time; or

3. Determine that the Professional has engaged in disruptive behavior or that a pattern of disruptive behavior has emerged and/or he or she is unable to perform safely the privileges he or she has been granted, and action beyond a collegial intervention is warranted. In such cases, the MEC may:
 - a. To the extent the MEC believes that the disruptive behavior may result from physical, psychiatric, or emotional illness, refer the matter to the Practitioner Health/Practitioner Wellness Committee to facilitate the confidential diagnosis, treatment, and rehabilitation of the practitioner, in accordance with provisions set forth in the facility's Medical Staff Bylaws;
 - b. Impose corrective action that does not affect the Professional's clinical privileges or medical staff membership (e.g., written reprimand, terms of probation, requirements for self-correction, etc.). The MEC shall monitor the Professional for compliance with the terms of any corrective action imposed, as well as for additional incidents of disruptive behavior, which may subject the Professional to further corrective action; or
 - c. Recommend corrective action that affects the Professional's clinical privileges or medical staff membership, or if warranted, impose summary suspension if criteria for such action(s) are met (as established by the Medical Staff Bylaws). In such cases, the Professional shall be entitled to the hearing and appellate review procedures in the Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall not have the hearing and appeal rights set forth in the Medical Staff Bylaws, but shall have access to such hearing rights as the policy on Allied Health Professionals may provide.

E. Confidentiality/Protection from Retaliation

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The Medical Staff and the Hospital shall protect the confidentiality of, and prohibit retaliation against, persons who report disruptive behavior regarding Professionals. (See Human Resources policy HR.ERW.08 No Retaliation.) The Medical Staff and Hospital shall also protect the confidentiality of the complaint to the extent that it implicates a Professional’s mental or physical health.

F. Enforcement

All employees and Professionals whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Professionals failing to comply with this policy will be subject to appropriate performance management pursuant to all applicable policies and procedures, , including the Medical Staff Bylaws, Rules and Regulations.

VI. REFERENCES:

- Human Resources policy HR.ERW.08 No Retaliation
- American Medical Association Code of Ethics, Opinion on Professional Rights and Responsibilities, E-9.045, available at <http://www.ama-assn.org/>
- American Medical Association, Report of the Council on Ethical and Judicial Affairs, Physicians with Disruptive Behavior (CEJA Report 2-A-00)
- Susan Lapenta, *Disruptive Behavior and the Law*, available at <http://findarticles.com/>
- Texas Medical Association, Common Disruptive Behaviors in Physicians
- The Joint Commission Sentinel Event Alert, “Behaviors that undermine a culture of safety,” Issue 40, July 9, 2008