

## MODEL MEDICAL STAFF CODE OF CONDUCT

*To encourage a culture of safety and quality, organized medical staffs are encouraged to adopt a Code of Conduct as part of their medical staff bylaws. The medical staff bylaws, of which this Code of Conduct is a part, shall be the exclusive means for review and disciplining medical staff members for inappropriate or disruptive behavior.*

### I. APPLICABLE DEFINITIONS:

“Appropriate behavior” means any reasonable conduct to advocate for patients, to recommend improvements in patient care, to participate in the operations, leadership or activities of the organized medical staff, or to engage in professional practice including practice that may be in competition with the hospital. Criticism that is offered in good faith with the aim of improving patient care should not be construed as disruptive behavior.<sup>1</sup> Appropriate behavior is not subject to discipline under these bylaws.

“Disruptive behavior” is characteristically a chronic or habitual pattern of behavior that creates a hostile environment, the effects of which have serious implications on the quality of patient care and patient safety.<sup>2</sup> Disruptive behavior means any abusive conduct including sexual or other forms of harassment, or other forms of verbal or non-verbal conduct that harms or intimidates others to the extent that quality of care or patient safety could be compromised. Personal conduct whether verbal or physical, that affects or that potentially may affect patient care negatively constitutes disruptive behavior.<sup>3</sup>

“Sexual or other harassment” means conduct toward others based on their race, religion, sex, sexual identity or orientation, nationality or ethnicity, physical or mental disability, or marital status which has the purpose or direct effect of unreasonably interfering with a person’s work performance or which creates an offensive, intimidating or otherwise hostile work environment. Sexual harassment includes unwelcome verbal or physical conduct of a sexual or gender-based nature which may include verbal harassment (such as epithets, derogatory comments or slurs), physical harassment (such as unwelcome touching, assault, or interference with movement or work), and visual harassment (such as the display of derogatory cartoons, drawings or posters). Sexual harassment includes conduct that creates and/or perpetrates an intimidating, hostile, or offensive environment.

“Inappropriate behavior” means conduct that is unwarranted and is reasonably interpreted to be demeaning or offensive. Persistent, repeated inappropriate behavior can become a form of harassment and thereby become disruptive, and subject to treatment as “disruptive behavior.”

“Medical staff member” means physicians and others granted membership on the Medical Staff and, for purposes of this Code, includes individuals with temporary clinical privileges.

### II. TYPES OF CONDUCT

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<sup>1</sup> CEJA Ethical Opinion E-9.045

<sup>2</sup> Russ C, et al. Report of the Special Committee on Professional Conduct and Ethics. Federation of State Medical Boards of the United States. 2000.

<sup>3</sup> CEJA Ethical Opinion E-9.045

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#### A. APPROPRIATE BEHAVIOR

Medical staff members cannot be subject to discipline for appropriate behavior. Examples of appropriate behavior include, but are not limited to, the following:

- Advocacy on patient care matters;
- Recommendations or criticism communicated in a reasonable manner and offered in good faith with the aim of improving patient care and safety;
- Encouraging clear communication;
- Expressions of concern about a patient's care and safety ;
- Expressions of dissatisfaction with policies through appropriate grievance channels or other civil non-personal means of communication;
- Use of cooperative approach to problem resolution;
- Constructive criticism conveyed in a respectful and professional manner, without blame or shame for adverse outcomes;
- Professional comments to any professional, managerial, supervisory, or administrative staff, or members of the Board of Directors about patient care or safety provided by others;
- Fulfilling duties of medical staff membership or leadership;
- Active participation in medical staff and hospital meetings (i.e., comments made during or resulting from such meetings can not be used as the basis for a complaint under this Code of Conduct, referral to the Health and Wellbeing Committee, economic sanctions, or the filing of an action before a state or federal agency);
- Exercising rights granted under the medical staff bylaws, rules and regulations or policies;
- Engaging in legitimate business activities, while being mindful of contractual commitments;
- Membership on other medical staffs; and
- Seeking legal advice or the initiation of legal action for cause.

#### B. INAPPROPRIATE BEHAVIOR

Inappropriate behavior by medical staff members is discouraged. Persistent inappropriate behavior can become a form of harassment and thereby become disruptive, and subject to treatment as "disruptive behavior." Examples of inappropriate behavior include, but are not limited to, the following:

- Belittling or berating statements;
- Name calling;
- Use of profanity;
- Inappropriate comments written in the medical record;
- Blatant failure to respond to patient care needs or staff requests;
- Deliberate lack of cooperation without good cause;
- Deliberate refusal to return phone calls, pages, or other messages concerning patient care or safety; and
- Intentionally degrading or demeaning comments regarding patients and their families; nurses, physicians, hospital personnel and/or the hospital.

#### C. DISRUPTIVE BEHAVIOR

Disruptive behavior by medical staff members is prohibited. Examples of disruptive behavior include, but are not limited to, the following:

- Physical or verbal intimidation or challenge, including disseminating threats or pushing, grabbing or striking another person involved in the hospital;
- Physically threatening language directed at anyone in the hospital including physicians, nurses, other medical staff members, or any hospital employee, administrator or member of the Board of Directors;
- Physical contact with another individual that is threatening or intimidating;
- Throwing instruments, charts or other things;
- Threats of violence or retribution; and
- Sexual or other forms of harassment including, but not limited to, persistent inappropriate behavior and repeated threats of litigation.

#### D. INTERVENTIONS

Interventions should initially be non-adversarial in nature, if possible, with the focus on restoring trust, placing accountability on and rehabilitating the offending medical staff member, and protecting patient care and safety. The medical staff supports tiered, non-confrontational intervention strategies, starting with informal discussion of the matter with the appropriate section chief or department chairperson. Further interventions can include an apology directly addressing the problem, a letter of admonition, a final written warning, or corrective action pursuant to the medical staff bylaws, if the behavior is or becomes disruptive. The use of summary suspension should be considered only where the physician's disruptive behavior presents an imminent danger to the health of any individual. At any time rehabilitation may be recommended. If there is reason to believe inappropriate or disruptive behavior is due to illness or impairment, the matter may be evaluated and managed confidentially according to the established procedures of the medical staff's Health and Wellbeing Committee (or equivalent committee).

### III. PROCEDURE

Complaints about a member of the medical staff regarding allegedly inappropriate or disruptive behavior should be in writing, signed and directed to the President of the medical staff or, if the President of the medical staff is the subject of the complaint, to the Vice President of the medical staff, and include to the extent feasible:

1. the date(s), time(s) and location of the inappropriate or disruptive behavior;
2. a factual description of the inappropriate or disruptive behavior;
3. the circumstances which precipitated the incident;
4. the name and medical record number of any patient or patient's family member who was involved in or witnessed the incident;
5. the names of other witnesses to the incident;
6. the consequences, if any, of the inappropriate or disruptive behavior as it relates to patient care or safety, or hospital personnel or operations; and
7. any action taken to intervene in, or remedy, the incident, including the names of those intervening.

At the discretion of the President of the medical staff (or Vice President if the President of the medical staff is the subject of the complaint), the duties here assigned to the President of the medical staff can, from time to time, be delegated to another elected member of the medical staff ("designee").

The complainant will be provided a written acknowledgement of the complaint.

In all cases, the medical staff member subject of the complaint shall be provided a copy of this Code of Conduct and a copy of the complaint in a timely fashion, as determined by the organized medical staff, but in no case more than 30 days from receipt of the complaint by the President or Vice President of the medical staff.. The medical staff member will be notified that attempts to confront, intimidate, or otherwise retaliate against the complainant is a violation of this Code of Conduct and may result in corrective action against the medical staff member. An ad hoc committee, none of the members of which may be economic competitors of the medical staff member, consisting of the President or Vice President of the medical staff, or designee, and at least two additional elected members of the medical executive committee, one of whom shall be the medical staff member's department chairperson, provided the chairperson is not the subject of the complaint, shall make such investigation as appropriate in the circumstances which may include seeking to interview the complainant, any witnesses and the subject of the complaint. The subject medical staff member shall be provided an opportunity to respond in writing to the complaint.

The ad hoc committee will make a determination of the authenticity and severity of the complaint. The ad hoc committee shall dismiss any unfounded complaint and may dismiss any complaint if it is not possible to confirm its authenticity or severity, and will notify both the complainant and the subject of the complaint of the decision reached.

If the ad hoc committee determines the complaint is well founded, the complainant and the subject of the complaint will be informed of the decision, and the complaint will be addressed as follows:

1. If this is the first incident of inappropriate behavior, the appropriate section chief, or chairperson of the offending medical staff member's assigned department, shall discuss the matter with the offending medical staff member, and emphasize that the behavior is inappropriate and must cease. The offending medical staff member may be asked to apologize to the complainant. The approach during this initial intervention should be collegial and helpful.
2. Further isolated incidents that do not constitute persistent, repeated inappropriate behavior will be handled by providing the offending medical staff member with notification of each incident, and a reminder of the expectation the individual comply with this Code of Conduct.
3. If the ad hoc committee determines the offending medical staff member has demonstrated persistent, repeated inappropriate behavior, constituting harassment (a form of disruptive behavior), or has engaged in disruptive behavior on the first offense, a letter of admonition will be sent to the offending medical staff member, and, as appropriate, a rehabilitation action plan developed by the ad hoc committee, with the advice and counsel of the medical executive committee.
4. If, in spite of this admonition and intervention, disruptive behavior recurs, the ad hoc committee shall meet with and advise the offending medical staff member such behavior must immediately cease or corrective action will be initiated. This "final warning" shall be sent to the offending medical staff member in writing.
5. If after the "final warning" the disruptive behavior recurs, corrective action (including suspension or termination of privileges) shall be initiated pursuant to the medical staff bylaws of which this Code of Conduct is a part, and the offending medical staff member shall have all of the due process rights set forth in the medical staff bylaws.
6. If a single incident of disruptive behavior or repeated incidents of disruptive behavior constitute an imminent danger to the health of an individual or individuals, the offending medical staff member may be summarily suspended as provided in the medical staff bylaws. The medical staff member shall have all of the due process rights set forth in the medical staff bylaws.

7. If no corrective action is taken pursuant to the medical staff bylaws, a confidential memorandum summarizing the disposition of the complaint, along with copies of any written warnings, letters of apology, and written responses from the offending medical staff member, shall be retained in the medical staff member's credentials file for two (2) years, and then must be expunged if no related action is taken or pending. Informal rehabilitation, a written apology, issuance of a warning, or referral to the Health and Wellbeing Committee (or equivalent committee) will not constitute corrective action.
8. At any time during this procedure the medical staff member has a right to personally retain and be represented by legal counsel.

#### **IV. INAPPROPRIATE OR DISRUPTIVE BEHAVIOR AGAINST A MEDICAL STAFF MEMBER**

Inappropriate or disruptive behavior which is directed against the organized medical staff or directed against a medical staff member by a hospital employee, administrator, board member, contractor, or other member of the hospital community shall be reported by the medical staff member to the hospital pursuant to hospital policy or code of conduct, or directly to the hospital governing board, the state or federal government, or relevant accrediting body, as appropriate.

#### **V. ABUSE OF PROCESS**

Threats or actions directed against the complainant by the subject of the complaint will not be tolerated under any circumstance. Retaliation or attempted retaliation by medical staff members against complainants will give rise to corrective action pursuant to the medical staff bylaws. Individuals who falsely submit a complaint shall be subject to corrective action under the medical staff bylaws or hospital employment policies, whichever applies to the individual.

#### **VI. PROMOTING AWARENESS OF CODE OF CONDUCT**

The medical staff shall, in cooperation with the hospital, promote continuing awareness of this Code of Conduct among the medical staff and the hospital community, by :

1. sponsoring or supporting educational programs on disruptive behavior to be offered to medical staff members and hospital employees;
2. disseminating this Code of Conduct to all current medical staff members upon its adoption and to all new applicants for membership to the medical staff.
3. encouraging the Health and Wellbeing Committee (or equivalent committee) to assist members of the medical staff exhibiting inappropriate or disruptive behavior to obtain education, behavior modification, or other treatment to prevent further infractions.
4. informing the members and the hospital staff of the procedures the medical staff and hospital have put into place for effective communication to hospital administration of any medical staff member's concerns, complaints and suggestions regarding hospital personnel, equipment, and systems.

