

# ***MEDICAL STAFF BYLAWS***

## ***APPENDIX “B”***

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### **DUPONT HOSPITAL**

### **HOSPITAL POLICY REGARDING PRACTITIONER WELLNESS**

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It is the policy of this hospital to properly review and act upon concerns that a licensed independent practitioner, as defined in the Medical Staff Bylaws, is suffering from an illness or impairment. The hospital will conduct its review and act in accordance with pertinent state and federal law, including, but not limited to, the Americans with Disabilities Act. The purpose of this policy is to provide education about practitioner health, address prevention of physical, psychiatric, or emotional illness, and facilitate confidential diagnosis, treatment, and rehabilitation of practitioners who suffer from a potentially impairing condition. The Practitioner Wellness Policy affords resources separate from the corrective action process to address physician health. This policy provides a confidential mechanism for addressing impairment of Medical Staff members and providing appropriate advice, counseling, or referrals.

Impairment, as used in this policy, includes acute and ongoing physical, psychiatric, and emotional illness or injury, as well as health issues due to drugs or alcohol.

As part of the hospital’s commitment to the safe and effective delivery of care to patients, the Hospital and Medical Staff shall conduct educational sessions concerning practitioner health and impairment issues, including illness and impairment recognition issues specific to practitioners (“at-risk” criteria). These sessions shall address prevention of physical, psychiatric, or emotional illness; and facilitate confidential diagnosis, treatment, and rehabilitation of licensed independent practitioners who suffer from an illness or potentially impairing condition.

#### **Report & Review**

If any individual in the hospital has a reasonable suspicion that a licensed independent practitioner (hereinafter “LIP”) appointed to the Medical Staff is impaired, the following steps shall be taken:

1. An oral or, preferably, a written report shall be given to the Chief Executive Officer or the Chief of Staff. The reporting individual shall otherwise keep the report and the facts related thereto confidential. The report shall include a description of the incident(s) that led to the belief that the LIP may be impaired. The report must be factual. The individual making the report need not have proof of the impairment, but must state the facts leading to the suspicions. A LIP who feels that he/she may be suffering from impairment may also make a confidential self-report.

2. Notwithstanding the foregoing, in the event that any person observes a LIP who appears to be currently impaired by drugs or alcohol, that person shall report the events to the Chief of Staff and/or CEO immediately. The Chief of Staff and/or CEO may order an immediate drug or alcohol screen if, in their opinion, circumstances so warrant.
3. If, after discussing the incidents with the individual who filed the report, the Chief Executive Officer and Chief of Staff believe there is sufficient information to warrant further inquiry, the Chief Executive Officer and/or Chief of Staff may:
  - (a) meet personally with the LIP or designate another appropriate person to do so; and/or
  - (b) direct in writing that a review be instituted and a report thereof be rendered by an ad hoc committee to be appointed by the MEC for this purpose. The MEC shall appoint an ad hoc committee of three (3) physicians to convene within five (5) days of receipt of the request. The ad hoc committee shall be referred to as “the committee” hereafter in this policy.
4. In performing all functions hereunder, the Chief Executive Officer and Chief of Staff shall be deemed authorized agents of the MEC and the committee and shall enjoy all immunity and confidentiality protections afforded under state and federal law.
5. Following a written request to review, the committee shall review the concerns raised and any and all incidents that led to the belief that the LIP may be impaired. The committee's review may include, but is not limited to, any of the following:
  - (a) a review of any and all documents or other relevant materials;
  - (b) interviews with any and all individuals involved in the incidents or who may have information relevant to the review, provided that any specific inquiries made regarding the LIP's health status are related to the performance of the LIP's clinical privileges and Medical Staff duties and are consistent with proper patient care or effective operation of the hospital.
  - (c) a requirement that the LIP undergo a complete medical examination as directed by the committee, so long as the exam is related to the performance of the LIP's clinical privileges and Medical Staff duties and is consistent with proper patient care or the effective operation of the hospital;
  - (d) a requirement that the LIP take a drug test to determine if the LIP is currently using drugs illegally or abusing legal drugs.
6. The committee shall meet informally with the LIP as part of its review. This meeting does not constitute a hearing under the due process provisions of the hospital's Medical Staff Bylaws or pertinent credentialing policy and is not part of a disciplinary action. At this meeting, the committee may ask the LIP health-related questions so long as they are related to the performance of the LIP's clinical privileges and Medical Staff duties, and are consistent with proper patient care and the effective operation of the hospital. In addition, the Committee may discuss with the LIP whether a reasonable accommodation is needed or could be made so that

the LIP could competently and safely exercise his or her clinical privileges and the duties and responsibilities of Medical Staff appointment.

7. Based on all of the information reviewed, the committee shall determine:
  - (a) whether the LIP is impaired, or what other problem, if any, is affecting the LIP;
  - (b) whether the LIP would benefit from professional resources, such as counseling, medical treatment or rehabilitation services for purposes of diagnosis and treatment of the condition or concern, and if so, what services would be appropriate;
  - (c) if the LIP is impaired, the nature of the impairment and whether it is classified as a disability under the ADA;
  - (d) if the LIP's impairment is a disability, whether a reasonable accommodation can be made for the LIP's impairment such that, with the reasonable accommodation, the LIP would be able to competently and safely perform his or her clinical privileges and the duties and responsibilities of Medical Staff appointment;
  - (e) whether a reasonable accommodation would create an undue hardship upon the hospital, such that the reasonable accommodation would be excessively costly, extensive, substantial or disruptive, or would fundamentally alter the nature of the hospital's operations or the provision of patient care;
  - (f) whether the impairment constitutes a "direct threat" to the health or safety of the LIP, patients, hospital employees, physicians or others within the hospital. A direct threat must involve a significant risk of substantial harm based upon medical analysis and/or other objective evidence. If the LIP appears to pose a direct threat because of a disability, the Committee must also determine whether it is possible to eliminate or reduce the risk to an acceptable level with a reasonable accommodation; and
8. If the review produces sufficient evidence that the LIP is impaired, the CEO shall meet personally with the LIP or designate another appropriate individual to do so. The LIP shall be told that the results of a review indicate that the LIP suffers from an impairment that affects his/her practice. The LIP should not be told who filed the report and does not need to be told the specific incidents contained in the report.
9. If the committee determines that there is a reasonable accommodation that can be made as described above, the Committee shall attempt to work out a voluntary agreement with the LIP, so long as that arrangement would neither constitute an undue hardship upon the hospital nor create a direct threat, also as described above. The Chief Executive Officer and Chief of Staff shall be kept informed of attempts to work out a voluntary agreement between the Committee and the LIP and shall approve any agreement before it becomes final and effective.
10. If the committee determines that there is no reasonable accommodation that can be made as described above, or if the committee cannot reach a voluntary agreement with the LIP, the committee shall make a recommendation and report to the MEC, through the Chief of Staff, for appropriate corrective action pursuant to the Bylaws. If the MEC's action would provide the LIP with a right to a hearing as described in the hospital's Medical Staff Bylaws or

credentialing policy, all action shall be taken in accordance with the Fair Hearing Plan, and strict adherence to all state and federal reporting requirements will be required. The Chief Executive Officer shall promptly notify the LIP of the recommendation in writing, by certified mail, return receipt requested. The recommendation shall not be forwarded to the Board until the individual has exercised or has been deemed to have waived the right to a hearing as provided in the hospital's Medical Staff Bylaws or credentialing policy.

11. The original report and a description of the actions taken by the committee shall be included in the LIP's confidential file. If the initial or follow-up review reveals that there is no merit to the report, the report shall be maintained in the LIP's confidential file but shall be accompanied by a notation, signed by the reviewing person or body that indicates that the report is wholly without merit. If the initial or follow-up review reveals that there may be some merit to the report, but not enough to warrant immediate action, the report shall be included in a separate portion of the LIP's file and the LIP's activities and practice shall be monitored until it can be established that there is, or is not, an impairment problem.
12. The Chief Executive Officer shall inform the individual who filed the report that follow-up action was taken, but shall not disclose confidential peer review information or specific actions implemented.
13. All parties shall maintain confidentiality of any LIP referred for assistance, except as limited by law, ethical obligation, or when safety of a patient is threatened. Throughout this process, all parties shall avoid speculation, conclusions, gossip, and any discussions of this matter with anyone outside those described in this policy.
14. In the event of any apparent or actual conflict between this policy and the bylaws, rules and regulations, or other policies of the hospital or its Medical Staff, including the due process sections of those bylaws and policies, the provisions of this policy shall control.
15. Nothing herein shall preclude commencement of corrective action, including summary suspension under the Medical Staff Bylaws, or termination of any contractual agreements between the Hospital and the LIP, including any employment agreement, in the event that the LIP's continued practice constitutes a threat to the health or safety of patients or any person.

## **Rehabilitation & Reinstatement Guidelines**

### **A. Substance Abuse**

If it is determined that the LIP suffers from a drug or alcohol related impairment that could be reasonably accommodated through rehabilitation, the following are guidelines for rehabilitation and reinstatement:

1. Hospital and Medical Staff leadership shall assist the LIP in locating a suitable rehabilitation program. A LIP who may benefit from counseling or rehabilitative services, but who is not believed to be impaired in his ability to competently and safely perform his/her clinical privileges or the duties of Medical Staff membership, may be referred for assistance while still actively practicing at the hospital. In cases where the LIP's ability is believed to be impaired, the LIP shall be allowed a leave of absence if necessary. A LIP who is determined to have an impairment which requires a leave of absence for rehabilitation shall not be reinstated until it is

established, to the satisfaction of the committee, the MEC and the Board, that the LIP has successfully completed a program in which the hospital has confidence.

2. Upon sufficient proof that a LIP who has been found to be suffering from impairment has successfully completed a rehabilitation program that LIP may be considered for reinstatement to the Medical Staff.
3. In considering an impaired LIP for reinstatement, the hospital and Medical Staff leadership must consider patient care interests paramount.
4. The committee must first obtain a letter from the physician director of the rehabilitation program where the LIP was treated. The LIP must authorize the release of this information. That letter shall state:
  - (a) whether the LIP is participating in the program;
  - (b) whether the LIP is in compliance with all of the terms of the program;
  - (c) whether the LIP attends AA meetings or other appropriate meetings regularly (if appropriate);
  - (d) to what extent the LIP's behavior and conduct are monitored;
  - (e) whether, in the opinion of the director, the LIP is rehabilitated;
  - (f) whether an after-care program has been recommended to the LIP and, if so, a description of the after-care program; and
  - (g) whether, in the director's opinion, the LIP is capable of resuming medical practice and providing continuous, competent care to patients.
5. The LIP must inform the committee of the name and address of his or her primary care physician, and must authorize that physician to provide the hospital with information regarding his or her condition and treatment. The committee has the right to require an opinion from other physician consultants of its choice.
6. From the primary care physician the committee needs to know the precise nature of the LIP's condition, and the course of treatment as well as the answers to the questions posed above in (4)(e) and (g).
7. Assuming all of the information received indicates that the LIP is rehabilitated and capable of resuming care of patients, the ad hoc committee, MEC and the Board shall take the following additional precautions when restoring clinical privileges:
  - (a) the LIP must identify a another LIP who is willing to assume responsibility for the care of his or her patients in the event of his or her inability or unavailability;
  - (b) the LIP shall be required to obtain periodic reports for the committee from his or her primary physician-for a period of time specified by the Chief Executive Officer-stating

that the LIP is continuing treatment or therapy, as appropriate, and that his or her ability to treat and care for patients in the hospital is not impaired;

8. The LIP's exercise of clinical privileges in the hospital shall be monitored by the department chairperson or by a physician appointed by the department chairperson. The nature of that monitoring shall be determined by the committee after its review of all of the circumstances.
9. The LIP must agree to submit to an alcohol or drug screening test (if appropriate to the impairment) at the request of the Chief Executive Officer or designee, the Chairperson of the committee or the pertinent department chair.
10. All requests for information concerning the impaired LIP shall be forwarded to the Chief Executive Officer for response.

#### B. Physical, Psychiatric or Emotional Illness

If it is determined that the LIP suffers from an acute or ongoing physical, psychiatric, or emotional illness or injury that is not drug or alcohol related and could be reasonably accommodated through rehabilitation or treatment, the following are guidelines for rehabilitation or treatment and reinstatement:

1. If applicable, Hospital and Medical Staff leadership shall assist the LIP in locating a suitable rehabilitation program or treatment plan. A LIP who may benefit from counseling or rehabilitative services, but whose illness or injury is not believed to interfere with his ability to competently and safely perform his/her clinical privileges or the duties of Medical Staff membership, may be referred for assistance while still actively practicing at the hospital. In cases where the LIP's ability is believed to be undermined, the LIP shall be allowed a leave of absence if necessary. A LIP who is determined to have an illness or injury which requires a leave of absence for rehabilitation or treatment shall not be reinstated until it is established, to the satisfaction of the committee, the MEC and the Board, that the LIP has successfully completed any necessary rehabilitation or treatment in which the hospital has confidence.
2. Upon sufficient proof that a LIP who has been found to be suffering from an illness has successfully completed treatment or has been cleared for return to practice by his/her treating physician (as applicable), that LIP may be considered for reinstatement to the Medical Staff.
3. In considering an LIP for reinstatement, the hospital and Medical Staff leadership must consider patient care interests paramount.
4. If requested by the committee, the LIP must provide the name and address of his or her primary care physician, and must authorize that physician to provide the hospital with information regarding his or her condition and treatment. The committee has the right to require an opinion from other physician consultants of its choice.
5. Assuming all of the information received indicates that the LIP is rehabilitated or recovered and capable of resuming care of patients, the committee, MEC and the Board may take the following additional precautions when restoring clinical privileges:
  - (a) the LIP must identify another LIP who is willing to assume responsibility for the care of his

or her patients in the event of his or her inability or unavailability; and

- (b) the LIP may be required to obtain periodic reports for the committee from his or her primary physician-for a period of time specified by the Committee stating that the LIP is continuing treatment or therapy, as appropriate, and that his or her ability to treat and care for patients in the hospital is not impaired.
6. The LIP's exercise of clinical privileges in the hospital shall be monitored by the department chairperson or by a physician appointed by the department chairperson<sup>2</sup>. The nature of that monitoring shall be determined by the committee after its review of all of the circumstances.
  7. All requests for information concerning the impaired LIP shall be forwarded to the Chief Executive Officer for response.