SUBJECT: HMC Medical and Dental Staff Professionalism Policy and Procedure	Reference N0. 113 Ver: 3	Original Date Created: 04/01/2002 Last Review Date: 10/30/2019
	Page 1 of 9	Subcategory: Patient Care/Clinical

I. POLICY

The Hospital and Medical Staff are committed to maintaining an environment in which all individuals within its facility are treated courteously, respectfully and with dignity, and in which all members of the medical and professional staff act in a professional manner that contributes to the safe and efficient functioning of its health care operations.

Disruptive behavior by any member of the Medical Staff or any Independent Allied Health Practitioner (individually, a “Practitioner” and collectively, the “Medical Staff”) can lower Hospital staff morale, create a hostile work environment, and undermine both clinical and administrative processes. If not promptly and effectively addressed, disruptive behavior can undermine the Hospital's ability to provide safe, quality patient care.

Hunterdon Medical Center has ZERO tolerance for disruptive behavior which is prohibited under this policy.

II. STANDARDS OF CONDUCT

A. Practitioners are held to the following reasonable expectations:

1. Compliance with the Hunterdon Medical Center Medical Staff Bylaws ("Bylaws"), rules, regulations, policies, federal, state and local legal requirements (including HIPAA privacy regulations) and reasonable Hospital/Medical Staff expectations communicated in writing to the Medical Staff;
2. Using appropriate conflict resolution skills in managing disagreements;
3. Addressing concerns about clinical judgments and practices in a collegial manner with associates or colleagues privately and directly or through appropriate quality and risk management channels;
4. Addressing dissatisfaction with policies and procedures through appropriate grievance channels; communicating with others clearly and directly, displaying respect for their dignity;
5. Supporting policies promoting cooperation and teamwork; and,
6. Being open and receptive to constructive criticism.

B. Disruptive Behavior includes, but is not limited to, the following:

1. Repeated failure or refusal to comply with the Bylaws, rules, regulations, policies, federal, state and local legal requirements (including HIP AA privacy regulations) or reasonable Hospital/Medical Staff expectations communicated in writing to the Medical Staff;
2. Belittling or humiliating Hospital staff, ancillary personnel or professional colleagues either singularly or in the presence of others;
3. Using foul, offensive or abusive language

4. Engaging in offensive, intimidating or threatening conduct; including unwarranted yelling or screaming, and throwing, hitting or slamming objects
5. Inappropriate arguments with patients, family members, staff, or other providers;
6. Insensitive comments about a patient's medical condition, appearance, or situation;
7. Jokes or non-clinical comments about race, ethnicity, religion, sexual orientation, age, physical appearance, or socioeconomic or educational status;
8. Engaging in sexual harassment as defined by the HMC Sexual Harassment policy
9. Casting inappropriate blame on others for negative outcomes;
10. Refusal to comply with known and generally accepted practice standards such that refusal inhibits staff and other care providers from delivering quality care;
11. Repeated failure to respond to calls or requests for information or persistent lateness in responding to calls for assistance when on call or expected to be available;
12. Not working collaboratively or cooperatively with patients;
13. Creating rigid or inflexible barriers to requests for assistance/cooperation;
14. Failing to show appropriate respect and courtesy to patients and,
15. Otherwise failing to comport with the expectations set forth in Section A, above.
16. Highly offensive and/or aggressive acts (including those that could also constitute criminal acts such as assault or theft) or working while under the influence of a substance or alcohol as defined in HMC Prevention of Substance Abuse policy.
17. Inappropriate use of medical records, including chart notes, to include disparaging remarks and fraudulent documentation
18. Retaliation against a person who had filed a complaint against a Practitioner for violation of these standards

Disruptive behavior that is actionable under this Policy can consist of a single serious incident that is considered unprofessional conduct, or a series of incidents that together form a pattern of unprofessional conduct.

Disruptive behavior is NOT legitimate concern regarding patient care and operations that are handled in a constructive manner through appropriate channels in the best interests of patients and the community.

III. PROCEDURE

A. Applicability.

The response to a complaint or concern raised about disruptive behavior will be commensurate with the nature of the incident, the context of the incident, and the Practitioner's history with the institution.

This policy is designed to identify behavior that is significantly, carelessly, or deliberately disruptive. Behavior that is isolated, which may result from fatigue, unusual production pressures or crisis, is not included. This policy is NOT intended to conflict with a practitioner's right to constitutionally free speech or to make protected disclosures, including good faith reports of improper activities.

B. Receipt of Complaint.

A complaint of Disruptive behavior pertaining to a Practitioner may be oral or in writing and may originate from a variety of different sources, including a patient, a visitor, an employee or another member of the Medical Staff. A complaint may be made as to a single instance of Disruptive behavior or of multiple instances which constitute a pattern of Disruptive behavior.

A complaint of Disruptive behavior may be received by a supervisor, manager or medical staff leader in one of three ways: (1) a document, drafted and signed by the complainant, that identifies the Practitioner and describes the conduct at issue ("Complaint"); (2) an oral or informal (unsigned) complaint to the supervisor, manager or medical staff leader, in which case the supervisor, manager or medical staff leader will prepare a written Complaint on the complainant's behalf; (3) through the electronic event reporting system; or (4) anonymously and
without attribution through the Compliance Hotline, in which case the supervisor or manager \ receiving the complaint will prepare a written Complaint based on the information provided on *)* the Compliance Hotline, containing as much detail as possible under the circumstances.

The individual reporting an incident may remain anonymous and will be asked to provide the following:

- The date and time of the incident.
- The name of the person exhibiting the disruptive behavior.
- Information about who was involved, including patients, if any, and the circumstances that precipitated the situation.
- A factual and objective description of the behavior.
- Identification of others who might have observed the incident.

If a behavior poses or appears to pose an immediate threat of harm to any individual, such as assault or threat of assault, HMC Security or local law enforcement should be contacted.

If the individual reporting an incident is concerned that their report has not been handled appropriately, they should contact Human Resources or their supervisor.

Whenever a Complaint has been received or prepared by a supervisor, manager or medical staff leader as set forth above, it shall promptly be forwarded to the Chief Medical Officer ("CMO") as designee of the President of the Medical Center. The CMO shall promptly provide a copy of the written Complaint to the relevant Department Director (Chair), except as limited by the conflict of interest provisions of Section III(H), below, and shall provide oral notice to the President of the Medical Staff. If the Complaint was made by an employee, the CMO will notify the Human Resources Department ("HR"). The CMO will coordinate the investigation and resolution of the Complaint as set forth in this Policy.

Hunterdon Medical Center prohibits retaliation and will take no adverse action against any person for making a disruptive behavior report in good faith. Retaliation and adverse action in response to reporting disruptive behavior would include but are not limited to the following: discharge, demotion, suspension, harassment, denial of promotion, transfer or in any other manner discriminating or threatening to discriminate against an HMC employee in the terms and conditions of the HMC employee's employment.

C. Notice to Practitioner.

Upon receipt of a Complaint, the CMO will notify the Practitioner orally that a Complaint has been received, including all appropriate details. In the CMO's discretion, depending on the circumstances, s/he may elect to withhold the identity of the complainant from the Practitioner, but in all cases will provide relevant details regarding the complainant (e.g., the complainant's gender, approximate age, and status as a patient/employee/visitor, etc.) as well as the specifics regarding the alleged encounter(s). In every case, the CMO will advise the Practitioner that under no circumstances will any retaliatory action be tolerated and that each report of retaliatory action will be considered and investigated as a separate and distinct complaint.

D. Review.

Upon receipt of a Complaint, a Committee consisting of the CMO, President of the Medical Staff and Department Chair will promptly conduct an investigation to determine whether the complaint of unprofessional conduct can be substantiated. In the event that any two of those positions (CMO,President of the Medical Staff and/or Department Chair) is held by the same person, the President of the Medical Staff will appoint another appropriate Medical Staff member to serve on the Committee from among the past or present Medical Staff leadership. The investigation may include, but is not limited to, interviewing the Complainant (if known), witnesses and the affected Practitioner, and reviewing any available relevant documents. At the completion of the investigation, the Committee will make a determination as to whether the complaint is substantiated or not and if so, the appropriate path for resolution (i.e., Informal Resolution, Administrative Resolution or Initiation of Corrective Action as outlined below).

E. Not Substantiated.

If the Committee determines that the Complaint of disruptive behavior has not been substantiated, the matter will be dismissed. The CMO will provide written notice to the Practitioner that the Complaint was not substantiated, a copy of which will be maintained in the Practitioner's permanent Peer Review Professionalism file maintained in the Medical Affairs Office. The CMO will provide oral notice to the President of the Medical Staff of the determination. The CMO will also provide oral notice to the reporters of the incident that after this Review, the Complaint was not substantiated.

F. Substantiated Complaint.

If the Committee determines that disruptive behavior occurred, the Committee, in consultation with the Human Resources Department as deemed appropriate by them, will determine the severity of the incident and level of response. The CMO will prepare a written report of the Review and Determination, which will identify the documents reviewed and witnesses interviewed, and will contain a summary of the information on which the Determination is based including any prior complaints of disruptive behavior that have been made against the affected Practitioner and the manner in which they were resolved. The CMO will provide written notice to the Practitioner, and oral notice to the President of the Medical Staff and the President of the Hospital, of the Determination. The Committee will then proceed to resolve the matter, as circumstances warrant, through Informal Resolution as described in Paragraph I below, Administrative Resolution as described in Paragraph 2 below, or the Initiation of Corrective Action as described in Paragraph 3 below.

1. **Informal Resolution.** The types of conduct that will be considered appropriate for Informal Resolution include but are not limited to the following, particularly in the case of an isolated incident:

    - Use of inappropriate language;
    - An outburst of anger;
    - Inappropriately criticizing colleagues or staff in front of patients, visitors or
    - other staff;
    - Demeaning comments or intimidation;
    - Inappropriate arguments with patients, family physicians, staff or other care
    - providers;
    - Insensitive comments about the patient's medical condition, appearance,
    - situation, etc.;
    - Sudden difficulty working collaboratively or cooperatively with others;
    - Refusal to follow hospital policies that are not immediately critical to patient

- well-being (breach of critical policies would warrant a higher level of
- concern);
- A sudden behavioral change; and
- Non-compliance with institutional processes or waste of resources.

The appropriate response to the conduct will depend on how egregious it is in its first presentation. An Informal Resolution is a face to face meeting between the Practitioner and either the CMO, President of the Medical Staff, the Department Chair and/or their designee where the incident is reviewed, including how it deviated from expected professional conduct. If the Practitioner acknowledges the behavior and makes a good faith commitment to manage his/her behavior in the future, then the matter is deemed concluded. The CMO, President of the Medical Staff, or Department Chair may or may not make recommendations for further counseling or support at that time. The CMO, President of the Medical Staff, Department Chair, or designee involved in the Informal Resolution will document in writing the conversation and agreement which will be retained in the Peer Review Professionalism file in the Medical Affairs Office, where it may be reviewed by the President of the Medical Staff at his/her option.

The CMO will provide oral notice to the reporter of the event that an Informal Conversation has occurred, without including details. The informal resolution may include a period of monitoring and follow-up as appropriate. An Informal Resolution will not include any element that would trigger any hearing or appeal rights under the Medical Staff Bylaws. It may include a period of monitoring or subsequent follow up. If the Practitioner does not agree with the Informal Resolution, then the Committee will proceed to either Administrative Resolution or the Initiation of Corrective Action, as outlined below.

2. **Administrative Resolution.** If (i) a professionalism issue is not fully resolved by Informal Resolution, or (ii) a more serious Complaint of professionalism is substantiated, or (iii) the Practitioner does not agree to a proposed Informal Resolution, the Committee, in consultation with HR if deemed appropriate, may implement an Administrative Resolution consisting of private counseling, education, FPPE, letter of warning or reprimand or other like measure, or may proceed to the Initiation of Corrective Action, at their option. An Administrative Resolution will not include any element that would trigger hearing or appeal rights under the Bylaws. In the event that the Committee implements an Administrative Resolution, the CMO, President of the Medical Staff, and/or Department Chair or designee will meet with the Practitioner and provide written notice of the Administrative Resolution to the Practitioner. The CMO will provide oral notice of the Administrative Resolution to the President of the Medical Staff, and a record of the Administrative Resolution will be

placed in the affected Practitioner's Peer Review Professionalism File (where it may be reviewed by the President of the Medical Staff at his/her option). That written record should include the Review/ Determination summary elements, the cause of the unprofessional conduct, the plan to remediate that conduct, the plan to monitor and measure the impact of the remediation plan, the time frame, and the consequences of no progress or non-compliance. The occurrence of an administrative resolution will be included in the practitioner's OPPE report for the next occurring evaluation period. The CMO will also provide the reporter of the incident with oral notice that an Administrative Resolution had been applied.

3. Corrective Action.

If the disruptive behavior has persisted, or escalated, or deemed to be deleterious to the safety of patients or staff or presents a hostile working environment to other health care professionals, staff, patients or visitors, as deemed by the Committee, then the matter will be referred to the Medical Executive Committee with a request for the initiation of corrective action pursuant to the Bylaws of the Hospital's Medical Staff ("Corrective Action").

The CMO and Department Chair will orally notify the President of the MEC, the hospital president, COO of HMC, and if deemed appropriate, HR and the physician and administrative leaders of HMC. The request will be in writing, will set forth the reason(s) why corrective action is being requested, and will include the CMO, President of the Medical Staff, and Department Chair's report of the Review Determination and a record of all actions recommended and taken prior to the request for Corrective Action. The matter will be investigated in accordance with the requirements of the Bylaws; however, the MEC will have the discretion as to whether to appoint a separate Ad Hoc Investigating Committee, or to proceed to investigate and act on the matter as a full MEC.

G. Advocacy and Mentorship

In the event of any substantiated complaint of disruptive behavior, the goal will be for the medical staff leadership to provide support, advice, and mentorship to help address any concerns or issues that are impacting the physician, with the goal of helping to improve performance and prevent future episodes of disruptive behavior. One of more members of the administration and/or medical staff leadership will be offered to provide mentorship. The physician can decided whether to accept further meetings and discussion if there is an isolated incident, but will be mandated to meet quarterly for one year if repetitive episodes of disruptive behavior occur.

H. Procedures following Corrective Action Recommendation.

In the event that the MEC recommends a form of Corrective Action with respect to a Practitioner that confers hearing/appeal rights on the Practitioner, the Practitioner will be entitled to the hearing and appeal procedures set forth in Article VI of the Medical Staff Bylaws, following which the Governing Body will make a final decision.

I. Avoidance of Conflict.

In the event that the applicable Departmental Director, or a member of his/her group practice, is himself/herself the subject of the unprofessional conduct complaint (a "Conflict"), such person will not receive a copy of the Complaint as set forth in Section III(B), and will not conduct or consult in the investigation and resolution of the matter, and an appropriate substitute who does
not have a Conflict will be appointed by the President of the Medical Staff from among the past or present Medical Staff leadership.

J. Legal Representation.

Legal advice may be sought independently by either party at any stage during the investigation or resolution of any formal report brought pursuant to this Policy but, except as provided in the Bylaws with regard to the Fair Hearing Plan, since these are not adversarial proceedings, there is no right to representation by counsel in any meetings, interviews, appearances or other interactions occurring during the course of such investigation and/or resolution. Practitioners are entitled to legal representation in connection with any hearings or appeals as set forth in the Fair Hearing Plan.

K. Majority Vote.

All determinations, recommendations, and decisions to be made by any body pursuant to this Policy shall be by a vote of a majority of the members present at a meeting at which the quorum requirements have been met.

IV. GENERAL PROVISIONS

A. Condoning Disruptive Behavior a Separate Offense.

Any medical staff member in a supervisory, managerial or other leadership capacity who condones incidents of disruptive behavior or related retaliation (that is, such person is aware of an incident or incidents as a result of observation or receipt of a verbal or written report and does not investigate or directly address the incident with the alleged perpetrator, which investigation and/or manner of addressing the incident is documented in writing, or does not report the incident pursuant to this Policy) will be subject to

disciplinary and/or corrective action up to and including revocation of medical staff membership and clinical privileges at the Hospital, pursuant to this Policy.

B. Requirement/Presumption of Good Faith Reporting.

All reports of disruptive behavior must be made in good faith and must be represented accurately and honestly. Reports shall be presumed to have been made in good faith, and the burden will be on any person seeking to challenge the good faith of the report to establish that the report was not made in good faith.

C. False Reports or Statements.

Any member of the Medical Staff who intentionally makes a false report or who intentionally makes false statements related to a report of disruptive behavior will be subject to disciplinary and/or corrective action up to and including revocation of medical staff membership and clinical privileges at the Hospital pursuant to this Policy. Any employee who intentionally makes a false report or who intentionally makes false statements related to a report of disruptive behavior shall be referred to HR for appropriate investigation and disciplinary action, up to and including termination of employment.

D. Peer Review Privilege.

All matters involving the investigation and resolution of complaints of disruptive behavior by members of the Medical Staff will be maintained in the Peer Review Professionalism file in the Medical Affairs Office and will, to the extent permitted by law, be kept confidential, as self-critical analysis, in accordance with all applicable legal and professional requirements as set forth by New Jersey law.

E. Imminent Threat/Summary Suspension

A pattern of disruptive behavior or any incident of disruptive behavior that is determined to create an imminent threat to patient safety, or otherwise meet the standards for summary suspension under the Bylaws, may lead to summary suspension of clinical privileges pursuant to the provisions of the Bylaws. In the event that summary suspension is initiated, the summary suspension will be implemented and processed in accordance with the requirements of the Bylaws and Fair Hearing Plan, as applicable.

Policy Owner: Chief Medical Officer

References:
Original Policy Number and Date: II-02-83, 4/02