

MEDICAL STAFF BYLAWS

APPENDIX "B"

THE ORTHOPAEDIC HOSPITAL

REGARDING IMPAIRED PRACTITIONERS

It is the policy of this hospital to properly investigate and act upon concerns that a licensed independent practitioner, as defined in the Medical Staff Bylaws, is suffering from an impairment. The hospital will conduct its investigation and act in accordance with pertinent state and federal law, including, but not limited to, the Americans With Disabilities Act.

As part of the hospital's commitment to the safe and effective delivery of care to patients, the Hospital and Medical Staff shall conduct education sessions concerning practitioner health and impairment issues, including illness and impairment recognition issues specific to practitioners ("at-risk" criteria).

Report & Investigation

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 President of Medical 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. Impairment, as used in this policy, includes both physical and mental impairment, as well as impairment due to drugs or alcohol.

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 President of Medical Staff and/or CEO immediately. The President of Medical Staff and 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 President of Medical Staff believe there is sufficient information to warrant further investigation, the Chief Executive Officer and President of Medical Staff may:

- (a) Meet personally with the LIP or designate another appropriate person to do so; and/or

- (b) direct in writing that an investigation 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 investigate the issue within five (5) days of receipt of the request.

4. In performing all functions hereunder, the Chief Executive Officer and President of Medical Staff shall be deemed authorized agents of the MEC and the ad hoc committee and shall enjoy all immunity and confidentiality protections afforded under state and federal law.

5. Following a written request to investigate, the ad hoc committee shall investigate the concerns raised and any and all incidents that led to the belief that the LIP may be impaired. The ad hoc committee's investigation may include, but is not limited to, any of the following:

- (a) a review of any and all documents or other materials relevant to the investigation;
- (b) interviews with any and all individuals involved in the incidents or who may have information relevant to the investigation, 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 ad hoc 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 ad hoc committee shall meet informally with the LIP as part of its investigation. 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 ad hoc 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 it reviews as part of its investigation, the ad hoc 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 investigation 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 an investigation 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 ad hoc 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 or create a direct threat, also as described above. The Chief Executive Officer and President of Medical 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 ad hoc committee determines that there is no reasonable accommodation that can be made as described above, or if the ad hoc committee cannot reach a voluntary agreement with the LIP, the ad hoc committee shall make a recommendation and report to the MEC, through the President of Medical 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 ad hoc committee shall be included in the LIP's confidential file. If the initial or follow-up investigation reveals that there is no merit to the report, the report shall be destroyed. If the initial or follow-up investigation 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

If it is determined that the LIP suffers from an 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 ad hoc 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 an 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 ad hoc 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 ad hoc 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 ad hoc committee has the right to require an opinion from other physician consultants of its choice.

6. From the primary care physician the ad hoc 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 ad hoc 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 ad hoc 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 ad hoc 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.

Recommended by the Medical Executive Committee this _____ day of _____, 2008.

Approved by the Board this _____ day of _____, 2008.

Chairperson

Secretary