Practitioner/APP Impairment Policy

GOOD SAMARITAN HOSPITAL

A Medical Staff Document

A. INTRODUCTION

1. This Practitioner[1] Impairment Policy ("Policy") outlines collegial steps that can be taken by the Medical Staff to address Practitioners with a physical or mental impairment that adversely affects their ability to exercise the Privileges granted to them and/or to otherwise function in a hospital setting. The goal of these efforts is to arrive at voluntary, responsive actions by the Practitioner to resolve the concerns that have been raised.

2. The purposes of the Policy are to: assist the affected Practitioner with treatment and recovery from the impairment so that he/she may regain and retain optimal professional function; protect the patients of the affected Practitioner; protect the integrity and credibility of the Hospital; assist the Hospital in meeting its safety and other obligations to its patients, other Practitioners, and Hospital personnel; and educate Practitioners and Hospital staff regarding Practitioner health issues.

3. The intent of this Policy is to provide a mechanism to address impairment in a manner that is separate from the core Medical Staff/Advanced Practice Provider (APP) corrective action functions. Nothing in this Policy, however, should be construed as requiring its implementation as a condition precedent to any action that might otherwise be taken pursuant to the Medical Staff Bylaws or APP Policy, as applicable, including the initiation of formal corrective action proceedings.

4. This Policy does not preclude any person/group authorized to impose a summary suspension pursuant to the Medical Staff Bylaws or APP Policy, as applicable, from doing so. Further, this Policy does not preclude an authorized individual/group from summarily suspending a Practitioner pursuant to the Medical Staff Bylaws or APP Policy, as applicable, based upon information that the authorized individual/group learns as a result of this Policy, nor is any individual/group who imposes such a summary suspension precluded from continuing as a participant in the procedure set forth herein.

5. Terms used in this Policy shall have the same meaning as set forth in the Medical Staff Bylaws or APP Policy, as applicable, unless a different definition is provided for in this Policy.

6. Wherever a position or title is used in the Medical Staff Bylaws or Policies, the authorized designee (*i.e.*, substitute) of the person holding that position or title is included in the term.

[1] For purposes of this Policy, the term "Practitioner" shall include Physicians, Dentists, Podiatrists, Psychologists, and Advanced Practice Providers (APP) with Privileges at the Hospital.

B. REPORTING/DOCUMENTATION OF POTENTIAL IMPAIRMENT; ASSIGNMENT OF REPORT

1. Reporting & Documentation Procedure

   a. If an individual has a good faith belief that a Practitioner may be impaired, the individual should complete and submit a Hospital incident report or otherwise document the incident. Reporting should be done in a prompt manner.

   b. If an individual provides a verbal report to his/her supervisor but declines to reduce it to writing, it is the responsibility of the supervisor to do so.

   c. If an individual provides a report to a member of Medical Staff leadership but declines to reduce it to writing, it is the responsibility of the Medical Staff leader to do so.

   d. In the event that documentation is provided in a form other than an incident report, such documentation should include the/a:

      (i) Date and time of the incident.

      (ii) Factual description of the incident.

      (iii) Name/position of anyone who was involved in the incident.

      (iv) Circumstances that precipitated the incident.

      (v) Consequences, if any, related to patient care or Hospital operations.

      (vi) Action taken to intervene or remedy the incident.

      (vii) Name and date of the individual submitting the report.

2. Assignment of Report

   a. It is the expectation that Hospital incident reports (or other written documentation) that allege(s) Practitioner impairment be directed to the Chief Medical Officer (CMO) or Associate Chief Medical Officer (Associate CMO), as a member and/or designated agent of the Medical Staff Practitioner Effectiveness Committee (PEC), and addressed by the PEC pursuant to this Policy as part of the peer review process.

      (i) In the event that the allegation of impairment involves a Practitioner employed by TriHealth Physician Practices, LLC (TPP), the CMO or Associate CMO shall decide whether the TPP peer review committee should also be notified. If such referral is

made, the PEC shall be advised. The PEC may proceed with its review of an allegation of Practitioner impairment regardless of whether or not the matter is also referred to the TPP peer review committee for review.

(ii) In the event that an allegation of impairment involves a claim of discrimination or harassment by a Practitioner, the CMO or Associate CMO shall notify the Hospital's Human Resources Department to conduct an investigation of such allegation. The PEC may proceed with its review of the impairment matter while Human Resources completes its investigation of the harassment/discrimination allegation.

(1) The PEC will be advised of the findings made by Human Resources with respect to the discrimination/harassment allegation.

(2) The PEC shall decide what action should be taken pursuant to this Policy or the Medical Staff Bylaws or APP Policy, as applicable, upon receipt of Human Resource's report.

b. This Policy does <u>not</u> govern the process that is followed in the event a matter is referred to Human Resources. Rather, this Policy is limited to the process to be followed in the event a matter regarding Practitioner impairment is handled by the Medical Staff as a Medical Staff matter.

c. Human Resources will <u>not</u> be provided with any information compiled or reviewed by the MEC, PEC, or other peer review committee as part of a protected peer review process unless otherwise determined by the CMO or Associate CMO and Medical Staff President in consultation with Hospital counsel.

3. <u>Anonymous Report</u>

a. Although knowledge of the reporting individual's identity is preferred for purposes of follow up, such report may be made anonymously.

b. The fact that a report is anonymous will not preclude the matter from being reviewed; however, the fact of anonymity means that it may not be possible to validate the concerns and no response back to the concerned individual will be able to be made.

4. <u>Self-Reporting Encouraged</u>

Impaired Practitioners are encouraged to voluntarily bring the issue to their Department Chair for assistance so that appropriate steps can be taken to protect patients and to help the Practitioner regain and retain the ability to practice safely and competently.

C. PEC REVIEW & ACTION

1. Information regarding the composition and duties of the PEC is set forth in the Medical Staff Organization Policy.

2. Reviews may be conducted by the PEC as a whole or a review may be assigned to one or more PEC members and/or other designated PEC agents (*e.g.,* a Medical Staff officer, Department Chair, *etc.*) to report back to the PEC. **For purposes of this Policy, a reference to the PEC will include the PEC's members and other designated agent(s)**.

3. Upon receipt of a report of Practitioner impairment, the PEC chair shall:

    a. Convene the PEC to review the matter pursuant to the procedure set forth in this Policy.

    OR

    b. Assign the matter to a PEC member(s) and/or other designated PEC agent(s) for review and report back to the PEC.

4. Each report should be sufficiently considered to determine whether the report has validity. This assessment should consist of:

    a. Reviewing documents and talking with individuals (including the complainant and the Practitioner, as appropriate). Individuals who are interviewed will be reminded that this is a confidential peer review process and the discussion may not be disclosed to others.

    b. Determining whether the report reflects a first-time issue or whether there have been any prior incidents, or formal or collegial interventions with the Practitioner, in order to determine whether a pattern or trend is developing or has developed.

5. In the event that a member of the PEC is the Practitioner who is the subject of the report or otherwise has a conflict of interest with respect to the Practitioner who is the subject of the report, another Practitioner shall be appointed to participate in review of the matter and the PEC member who has a conflict of interest or who is the subject of the report shall not participate in the PEC proceedings as a PEC member.

6. The PEC may notify the Practitioner upon receipt of a report of impairment; however, such notification is not required prior to proceeding with review of the matter

7. As part of its review, the PEC may request that the Practitioner:

a. Have a physical examination and/or mental evaluation, at the Practitioner's expense, by a Physician or other qualified individual approved by the PEC who shall submit a report to the PEC containing, at a minimum, the following information:

(i) Whether the Practitioner is impaired.

(ii) The nature and scope of the impairment.

(iii) Whether such impairment is treatable and, if so, recommendations as to the proper course of treatment.

(iv) The Practitioner's present ability to continue to safely and competently practice in a Hospital setting.

(v) Whether any limitations should be placed on the Practitioner with respect to his or her practice.

b. In the event a second opinion is requested by the PEC, such subsequent evaluation shall be at the Hospital's expense.

8. Upon completion of review of a report of suspected impairment, the PEC shall prepare a written report setting forth its findings as to whether the Practitioner is impaired and, if so, shall provide its recommendations as to what action(s) should be taken.

9. If the PEC concludes that there is reason to believe that the Practitioner is impaired, the PEC has the authority to enter into a voluntary agreement with the Practitioner to, as applicable:

a. Undertake treatment through an appropriate and approved treatment provider in an effort to resolve the impairment at issue.[2]

(i) The PEC shall encourage treatment when appropriate and shall assist the affected Practitioner in locating a program or properly qualified individual to treat the affected Practitioner.

(ii) The Practitioner shall be financially responsible for the costs of his or her treatment.

(iii) The Practitioner shall agree to execute all necessary releases and consents/authorizations and to pay all fees, if any, so that reports from the treatment provider can be submitted to the PEC.

[2] An "approved treatment provider" for purposes of substance abuse shall be one recognized and approved by the State Medical Board of Ohio or other appropriate state licensing entity. For impairment that does not involve substance abuse an "approved treatment provider" is a provider mutually acceptable to the Practitioner and the PEC as applicable to the Practitioner's impairment.

(iv) If appropriate under the circumstances, relevant facts regarding the impairment may be reported to the State Medical Board of Ohio or other appropriate licensing entity.

b. Seek counseling.

c. Request a leave of absence pursuant to the Medical Staff Bylaws or APP Policy, as applicable, if the Practitioner agrees to participate in an approved inpatient treatment program; or, if the Practitioner's approved treatment provider recommends that the Practitioner not treat patients for a period of time while undergoing treatment for an impairment. The fact that a treating provider has opined that the affected Practitioner may continue to treat patients while undergoing treatment shall not preclude the PEC from recommending to the MEC that corrective action be taken limiting such Practitioner's Privileges in the event the Practitioner does not otherwise voluntarily agree to such limitation.

10. In the alternative, the PEC may:

a. Recommend to the MEC that corrective action be initiated against the Practitioner pursuant to the applicable provisions of the Medical Staff Bylaws or APP Policy, as applicable.

b. Take any other action consistent with the purposes of this Policy and the Medical Staff Bylaws or APP Policy, as applicable.

11. Unless corrective action is recommended, the PEC shall not be required to obtain the approval of the MEC with respect to any arrangements agreed to by the PEC and the Practitioner.

12. If the PEC concludes that there is no reason to believe that the Practitioner is impaired, the matter will be closed. The fact that a report was filed and closed based upon lack of validity will be documented by the PEC in its minutes and a note to such effect will be maintained in the Practitioner's quality file.

13. If the PEC concludes that there may be merit to the report but that the facts are insufficient to warrant immediate action, the Practitioner's activities and practice will be monitored until it can be established that there is, or is not, a reasonable belief that an impairment exists.

D. REINSTATEMENT OR NEW GRANT OF PRIVILEGES

1. Upon completion of such treatment as is necessary with respect to the impairment at issue, the Practitioner (if he/she wishes to resume practice) must request, in writing, termination of the leave of absence (if any) and, as applicable, reinstatement (or a new grant) of Privileges pursuant to the procedure set forth in the Credentials Policy or APP Policy, as applicable.

2. The Practitioner shall execute any and all authorizations/consents and releases necessary to ensure that applicable information is provided to the Hospital.

3. The PEC shall obtain a letter from the Practitioner's approved treatment provider containing the following information to the extent applicable to the Practitioner's impairment:

    a. The nature of the Practitioner's condition.

    b. The status of the Practitioner's participation in a rehabilitation program or other applicable course of treatment.

    c. Whether the Practitioner has complied and is in compliance with the terms of a rehabilitation program or other applicable course of treatment.

    d. If applicable, whether the Practitioner attends rehabilitation program meetings (*e.g.*, Alcoholics Anonymous, *etc.*) regularly.

    e. To what extent the Practitioner's conduct is monitored.

    f. Whether, in the opinion of the treatment provider, the Practitioner is capable of resuming professional practice and providing continuous, competent, and safe care to patients.

    g. Whether an aftercare program has been recommended to the Practitioner; and, if so, a description of such program.

    h. Whether any practice restrictions are recommended.

4. The fact that a treatment provider submits information favorable to the Practitioner shall not preclude the PEC from obtaining a second opinion if the PEC believes such opinion necessary; nor, shall it preclude the MEC from obtaining such an opinion prior to reinstating (or granting) such Practitioner's Privileges. The PEC or MEC, as applicable, shall be solely responsible for selecting a Practitioner to provide a second opinion, and the costs associated with obtaining such second opinion shall be borne by the Hospital.

5. The PEC shall provide a written recommendation to the MEC as to whether the Practitioner's Privileges should be reinstated (or granted) or whether further treatment is necessary.

6. The following conditions must also be considered (to the extent applicable to the Practitioner's impairment) for purposes of determining whether they should be included as a condition of reinstatement (or grant) of the Practitioner's Privileges:

    a. That the Practitioner provide the PEC with the name of at least one (1) Medical Staff Member with comparable Privileges to that of the Practitioner who is willing to assume responsibility for the care of the

Practitioner's patients in the event the Practitioner is unable or unavailable to care for them.

b. That the Practitioner attend recovery meetings (*e.g.* Alcoholics Anonymous, Narcotics Anonymous, *etc*.), at which the Practitioner's attendance is recorded, and submit a written record of such attendance to the PEC.

c. That the Practitioner submit to random blood and/or urine testing at the request of the Associate CMO or Medical Staff President with the results of such testing to be submitted to the PEC. The cost of such testing will be borne by the Practitioner. The PEC shall determine the method by which the specimen is to be collected and the manner in which the testing is to be done. If the specimens for such testing are not submitted in accordance with the specified time requirements, the Practitioner's Privileges shall be automatically suspended until compliance has been established to the satisfaction of the PEC.

d. That the Practitioner provide the PEC with copies of any and all aftercare contracts between the Practitioner and the treatment provider.

e. That the Practitioner comply with all requirements imposed in any aftercare contract between the Practitioner and aftercare provider, if applicable, and any other obligations imposed by Ohio laws, rules, regulations, and/or the PEC/MEC.

f. That the Practitioner provide the PEC with any information the Practitioner is required to provide the applicable state licensing board in the event the Practitioner has entered into a contract with a state licensing board with respect to his/her impairment.

g. That the Practitioner execute a contract with the Hospital that sets forth the monitoring process that shall be adhered to by the Practitioner and the PEC/MEC.

h. That the Practitioner agree to such other monitoring conditions as deemed appropriate by the PEC/MEC.

E. PRACTITIONER RIGHTS; REFUSING PEC RECOMMENDATIONS

1. Engagement with the PEC is voluntary. A Practitioner has the right to refuse to participate in this process.

2. A Practitioner has the right to respond, in writing, to allegations raised in a report or to otherwise respond to any letter or other documentation that the Practitioner receives from the PEC. All such written responses will be maintained in the Practitioner’s quality file.

3. If a Practitioner refuses to participate in the process set forth in this Policy; or, if the PEC has recommended a course of treatment but the affected Practitioner has refused to accept the PEC's recommendation or to otherwise comply with the requirements of this Policy, such refusal shall be immediately reported by the PEC to the MEC (for consideration as to whether corrective action should be initiated), the System CEO, CMO or Associate CMO, Medical Staff President, and, if required, the State Medical Board of Ohio or other appropriate state licensing agency.

F. FOLLOW UP WITH REPORTING INDIVIDUAL

1. The individual filing a report of alleged Practitioner impairment shall be advised that follow up action has been taken but shall not be provided specific details of the resolution.

2. No individual who, in good faith, reports suspected impairment or who otherwise participates in the procedure set forth herein shall be retaliated against for such report or participation.

G. EXTERNAL REPORTING REQUIREMENTS

1. The System CEO, CMO or Associate CMO, and Medical Staff President shall be notified prior to any reporting that is required by applicable laws, rules, and/or regulations of actions taken with regard to an impaired Practitioner or information related to an impaired Practitioner.

2. Any reports of criminal activity required under applicable laws, rules, and/or regulations shall be reported immediately to the System CEO, CMO or Associate CMO, and Medical Staff President for reporting to the appropriate authorities.

3. Hospital legal counsel will be consulted prior to any such reporting.

H. CONFIDENTIALITY & IMMUNITY

1. All documentation pursuant to this Policy including letters, notes, reports, minutes, or other writings or communications submitted to or generated by the PEC will be appropriately labeled and treated as confidential/privileged peer review documents protected from discovery by Ohio Revised Code §2305.25 *et seq.* to the full extent permitted by law and will be retained in the Practitioner's quality file and/or in such other peer review committee files, as appropriate, maintained in the Quality Department, the Medical Staff Services Department, or other appropriate secure location.

2. The identity of individuals providing information to the PEC and all information provided by such individuals, whether written or oral, will be maintained as confidential peer review information to the full extent permitted by law.

3. It is the intent of the Hospital and the Medical Staff that the members/other agents of the PEC and all individuals providing information to the PEC will be deemed to be engaged in a peer review activity and entitled to immunity to the full extent permitted by law.

4. All parties involved in the procedure set forth in this Policy will maintain confidentiality and will not discuss the matter with anyone other than as needed to fulfill their obligations under this Policy.

5. The files of the PEC will be made available to the Credentials Committee and Medical Executive Committee to the extent such files contain information relevant to an application for, as applicable, Medical Staff reappointment and/or regrant of Privileges.

6. If the PEC at any time deems corrective action to be warranted, the PEC will make such recommendation to the Medical Executive Committee consistent with this Policy and in accordance with the procedure set forth in the Medical Staff Bylaws or APP Policy, as applicable.

I. EDUCATION

Education for Practitioners and Hospital staff shall be provided as needed regarding Practitioner health and impairment issues with emphasis on identification, prevention, and treatment of physical and mental illness and substance abuse. Such education will also include review of this Policy, the process for reporting and addressing suspected impairment, and information to encourage and assist Practitioners in self-referring for treatment. Education may include, but is not limited to, presentations by the Ohio Physicians Effectiveness Program, legal counsel, recovering Practitioners, addiction specialists, psychiatrists, and/or written materials.

CERTIFICATION OF ADOPTION AND APPROVAL

Adopted by the Medical Executive Committee:

Approved by the Board:

Effective: _____