Community Medical Center | RWJBarnabas HEALTH

MEDICAL STAFF POLICY AND PROCEDURE

Title: **APPROPRIATE BEHAVIOR/CULTURE OF SAFETY**	Policy Number: #83

PURPOSE:

This policy is designed to emphasize the need for all individuals to treat others with respect, courtesy and dignity, regardless of their position in the organization, and to protect all persons within hospital facilities from behavior which does not meet that standard. Individuals are expected to act in a professional manner consistent with our goal to deliver excellent, safe patient care. The policy does not relate to the clinical competence of a physician or health care provider whose behavior is at issue. The policy is intended to set forth a process of documenting inappropriate behavior, providing adequate notice that such behavior is inappropriate and a forum to address and correct the behavior. This policy is intended to promote and support a culture of safety by establishing the Hospital's expectations and defining actions for addressing the problems of behavior that threaten the performance of the health care team.

DEFINITIONS:

A. Employee/Vendor: All employees and vendors involved in the direct or ancillary delivery of service to patients. This includes all persons who have the ability to influence the facility's decision-making processes.
B. Practitioner: Any appropriately licensed physician, dentist, podiatrist, psychologist or other health care provider credentialed by the Medical Staff.
C. Inappropriate Behavior: Behavior or conduct that interferes with the ability of another individual to function effectively and harmoniously within the hospital environment; behavior or conduct that can reasonable be construed by a reasonably prudent person under similar circumstances to create and does create in another individual the perception or fear that the workplace is unsafe, dangerous or hostile, thus interfering with that individual's ability to safely and professionally perform their duty; or, behavior which knowingly endangers a patient, fellow worker or colleague. Inappropriate behavior cannot be narrowly defined and is a function of specific behavior, perception and circumstances, requiring interpretation and evaluation by leaders cognizant of the range of encompassed actions. The following are non-exhaustive examples of behaviors that may be considered inappropriate and/or disruptive conduct:

1. Verbal statements directed at individuals that goes beyond the bounds of fair professional comment, causing embarrassment, fear or impeding performance.
2. Non-constructive criticism, addressed to its recipient in such a way as to intimidate, undermine confidence, belittle, embarrass or to impute stupidity, malevolence or incompetence.
3. Imposing idiosyncratic requirements on the nursing staff, colleagues and other hospital staff, which do not enhance patient care and serve only to burden the staff with onerous or unnecessary and time-consuming techniques and procedures.
4. Use of profanity or vulgarity in a patient care context or environment.
5. Abusive behavior or inappropriate physical contact of any kind, including both verbal and non-verbal actions, violent, intemperate, intimidating, or threatening gestures, actions or language or behavior. This does not include reasonable behavior by the Practitioner in the context of a care environment that has become unsettled by the behavior of a patient, a resident or an individual served.
6. Threats of physical violence, assault/battery, throwing of instruments or equipment, or inappropriate touching or gestures.
7. Harassment, which means unwelcome conduct, whether verbal, non-verbal, physical, or visual, that is based on a person's status, such as sex, color, race, ancestry, national origin, age, disability, job status or other recognized group status or personal characteristics.
8. Retaliation against persons who report disruptive behavior or sexual harassment, or conduct which interferes unreasonably with an individual's work performance or which creates an intimidating, hostile or offensive work environment.
9. Intentional/deliberate failure to act or respond concerning patient care or safety.
10. Exhibiting deliberate uncooperative, reluctant, or impatient behaviors without good cause that jeopardizes patient safety.

COMPLAINT PROCESS FOR ALLEGED INAPPROPRIATE BEHAVIOR OF PRACTITIONER:

A. Inappropriate behavior by a Practitioner, which disrupts the orderly operation of the hospital or jeopardizes patient care or creates an unsafe or hostile work environment should be documented as soon as possible. Ideally, the report should provide the following information:
   1. The date, time and location of the questionable behavior including the name and medical record number of any patient or patient's family member who was involved in or witnessed the incident.;
   2. A factual, objective description of the questionable behavior including the circumstances which precipitated the event;

3. The consequences, if any, of the disruptive behavior as it relates to patient care or personnel or hospital operations;
4. Any witnesses to the event;
5. Any action taken including date, time, place, action, and name(s) of those intervening; and
6. Names of individuals notified of the event.

B. Completion of Report:
   1. Any individual who is the victim of disruptive behavior or who observes such conduct may submit the "Report of Incident of Inappropriate Behavior") the "Report") on the Hospital form (Exhibit A) or complete and sign a statement ideally designed to provide the information outlined above.
   2. Non-physician employees may exercise the option of reporting disruptive behavior to the appropriate department manager who shall complete and sign the written report, using his/her best efforts to obtain the information requested in Exhibit A and submit it to the Chief Human Resource Officer & Vice President.
   3. Non-employees and members of the Medical Staff may exercise the option of reporting disruptive behavior by Practitioners to the appropriate Department Chair or the President of the Medical Staff who shall likewise complete, sign and submit the written report (Exhibit A).
   4. If the alleged disruptive conduct involves the Department Chair of other Medical Staff Officers, such conduct should be reported to the President of the Medical Staff who shall complete and sign the written report on the Hospital form (Exhibit A). If the alleged disruptive conduct is committed by the President or Vice President of the Medical Staff, such conduct should be reported to the Chief Medical Officer.

C. The completed report shall be submitted to the Chief Medical Officer and Chief Human Resource Officer & Vice President if the report is prepared by or on behalf of an employee.

INTERVENTIONS:

Depending upon the severity of the allegations, and as provided below, interventions should initially be non-adversarial in nature, if possible, with the focus on restoring trust, placing accountability and on rehabilitating the offending Practitioner, and protecting patient care and safety. The Medical Staff supports tiered, non-confrontation intervention strategies, starting with informal discussion of the matter with the appropriate Medical Staff Officer, Section Chief or Department Chair. 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 there is reason to believe inappropriate or disruptive behavior is due to an illness or impairment, the matter may be evaluated and managed confidentiality according to the established procedures of the Medical Staff in dealing with impaired Practitioners. Nothing in this Policy shall prohibit the Medical Staff from taking appropriate action including, but not limited to, the imposition of summary or precautionary suspension in the event of egregious or repeated disruptive or inappropriate behavior.

PROCEDURE FOR RESOLUTION:

In all cases, the Practitioner shall be provided with a copy of this Policy. At any stage in the process of investigations and/or resolution, the Practitioner may request that Medical Staff leadership including the Department Chair/Section Chief be notified of the allegation and participate in the investigation and/or resolution of the complaints/concerns. Further, Medical Center administration and/or Medical Staff Leadership may consult with legal counsel as it deems appropriate at any stage in the process.

Step 1: INFORMAL RESOLUTION OF COMPLAINT/CONCERN

Objective: To resolve internally and expeditiously, to the satisfaction of complainant and Practitioner, complaints or concerns regarding a Practitioner's conduct.

Any complaint or concern regarding a Practitioner's conduct or behavior, not related to clinical competence, shall be brought to the attention of the Chief Medical Officer ("CMO") who will attempt to resolve the matter informally with the Practitioner and the complainant. However, if the complaint involves a Practitioner who has been the subject of prior complaint(s) of inappropriate conduct or behavior, the CMO shall consult with the Medical Center Administration to determine if the matter should instead proceed to investigation pursuant to Steps 2 and 3 below. If the complaint is brought by an employee, the CMO will notify and enlist the assistance of the Human Resources ("HR") Department. If the complaint is resolved at the CMO level, the terms of the resolution shall be documented, with a copy of the Practitioner, complainant, Chief Human Resource Officer & Vice President and CMO.

Step 2: PROCEDURE FOR UNRESOLVED COMPLAINTS

If the complaint against a Practitioner is by a non-employee and cannot be voluntarily resolved at Step 1, the matter will be referred to the Medical Center administration and the President of the Medical Staff or his designee to determine the need for and manner of any investigation, and whether it should be addressed pursuant to the terms of the Medical Staff By-Laws, Rules and Regulations for physician discipline and corrective action.

If the complaint against a Practitioner by an employee of the Hospital cannot be voluntarily resolved at Step 1 of this process, the Human Resources Department shall conduct a swift and thorough investigation. The manner and method of the investigation will be at the discretion of Human Resources and consistent with prevailing employment laws. To the extent permitted by law, the investigation shall be confidential.

WITNESS INTERVIEWS – INVESTIGATIVE PROCESS

The Practitioner who is the subject of the complaint shall be offered the opportunity to appear for an interview and to submit any information that he/she believes is appropriate. The Practitioner's input will be incorporated into the investigation report.

Upon completion of the investigation, a written copy of the report, in a format that can be shared with the Practitioner, will be forwarded to the CMO. The CMO will forward a written copy of that report to the Practitioner with a copy to the President of the Medical Staff.

All persons involved in the investigative process shall maintain the confidentiality of information, employees, patients and others.

Step 3: ATTEMPT TO RESOLVE VOLUNTARILY AFTER FULL INVESTIGATION

Following the Practitioner's review of the investigation report, the CMO and Chief Human Resource Officer & Vice President will meet in an attempt to reach a resolution that is satisfactory to the Practitioner, complainant and the Hospital. The President of the Medical Staff or his designee shall be invited to participate in such meeting. IF a voluntary resolution is achieved, the conclusion and course of action will be documented in writing by the CMO with copies to the Practitioner, the President of the Medical Staff, the CEO, and CHRO and Vice President. If all parties are in agreement, the course of action will be carried out.

Step 4: COMPLAINTS UNRESOLVED FOLLOWING INTERNAL INVESTIGATION

If a complaint against a Practitioner cannot be voluntarily resolved at the close of the investigation as stated above, the full investigation report will be submitted to the President of the Medical Staff or his designee, the President and CEO of the Medical Center and the Chief Legal Officer of RWJ Barnabas Health for evaluation of the need for corrective action pursuant to the By-Laws of Community Medical Center, State law and the Medical Staff By-Laws.

If a decision is made to request corrective action by the Medical Staff, the request shall be made in accordance with the Medical Staff By-Laws and General Rules and Regulations of the Medical Staff, which shall act in accordance therewith and which may include further

investigation of the complained-of activity. The procedures set forth in the Medical Staff By-Laws, General Rules and Regulations and the Community Medical Center By-Laws shall govern.

RECORDS

The Practitioner shall be notified in writing of the outcome of the complaint. The record of the complaint, findings, conclusion, and remedial action, if any, shall be forwarded to, and maintained in the files of the Chief Medical Officer. If the complainant was an employee, a copy of the records shall also be maintained by the Chief Human Resource Officer & Vice President. Regardless of where the record is maintained, the Practitioner shall be entitled to provide a statement of explanation and/or rebuttal to be placed maintained along with the record, in the appropriate file. Only the CMO, the President of the Medical Staff or his designee and the Chair of the involved specialty will have access to the records. Exceptions may be made by the CMO. Notwithstanding the foregoing, the records may be provided to the Medical Executive Committee or a specially designated investigative or peer review committee in the event action is taken against the Practitioner pursuant to the Medical Staff Bylaws and/or Rules and Regulations.

ATTACHMENTS:

- *Report of Incident of Inappropriate Practitioner Behavior (Exhibit A)*

ORIGINAL DATE:	January 1, 1999
REVIEWED:	December 15, 1999; January 1, 2002; January 1, 2005; March 24, 2009; February 13, 2015; January 7, 2020
REVISED:	August 24, 2009

SIGNATURES

Patrick Ahearn	1/10/20
Patrick Ahearn, Chief Executive Officer	Date
William Strazzella, DO, FCCP, President of the Medical Staff	1/8/20 Date
Donald Jump, CPA, Chair, Board of Trustees	1/22/20 Date

EXHIBIT A

COMMUNITY MEDICAL CENTER

Report of Incident of Inappropriate Behavior by a Practitioner

In accordance with Medical Center Policy #83 regarding inappropriate behavior and sexual harassment, the following form should be used to report and document instances of alleged inappropriate behavior or sexual harassment by a practitioner.

Please complete this form as fully as possible. If any question is not applicable, indicate by "NA". Sign this form and submit it to the Chief Medical Officer. If this form is being completed by an employee, please submit to the Chief Human Resources Officer or your Department Head.

I. Indicate the date, time and location of the questionable conduct

Date: _____ Time: _____ Location: _____

II. Your name and title: _____

III. Name of Practitioner: _____

IV. Describe the incident as factually and objectively as possible, including the circumstances which caused the situation. Use additional sheet, if necessary.

_____
_____
_____
_____
_____
_____

V. Describe the consequences, if any of the questionable conduct, as it relates to you, other employees, patient care, hospital operations or employee morale.

_____
_____
_____
_____
_____
_____

VI. Name(s) of any other person(s) present.

_____

_____

_____

_____

VII. Was questionable conduct directed toward a patient? _____ Yes _____ No

If yes, please provide patient name _____

Did other patients or visitors observe this occurrence? _____ Yes _____ No

If yes, please list: _____

VIII. Describe any action taken by you:

_____

_____

_____

_____

_____

Was a supervisor, department chairperson, hospital manager or any other person notified? _____ Yes _____ No

If "yes," when and how? _____

Name and title of person notified: _____

IX. Was any other report prepared by you regarding this incident? _____ Yes _____ No

If yes, to whom was the report given?

Name and title of person: _____

X. Other comments:

_____

_____

_____

_____

_____

Date: _____

_____

Signature of Person Reporting

_____

Title or Position

Intervention Process

The Medical Staff Policy encourages a tiered approach that provides different strategies depending on severity of alleged behavior

STEP 1 – INFORMAL RESOLUTION

STEP 1: informal discussion between Practitioner and Chief Medical Officer (CMO) in attempt to resolve the complaint: [Medical Staff Officer, Section Chief, or Dept. Chair may be asked by Practitioner to participate. CMO may consult with Administration and Human Resources. Any resolution will be documented

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STEP 2- UNRESOLVED COMPLAINTS

Step 2: (a) If non-employee complaint is not resolved voluntarily, matter is sent to Med Staff Pres. and Admin. to determine need for investigation and controlling rules for disposition.

(b) If complainant is an employee, HR conducts an investigation and issues a report

STEP 3: After investigation report is reviewed by Practitioner, Practitioner, CMO, HR and Med Staff President meet to attempt to resolve voluntarily. If resolved, agreement is documented.

STEP 4: UNRESOLVED AFTER INVESTIGATION

If complaint is not resolved voluntarily after investigation, report is forwarded to Med. Staff Pres.; CEO and Corp. Legal for evaluation of corrective action options

Voluntary and involuntary options include but are not limited to, a tiered combination of the following strategies:

- Apology to the affected individual
- Written warning or counseling
- Mandatory training; mentoring or restrictions
- Confidential evaluation to see if alleged incident was affected by illness or impairment
- Corrective Action per MSBL
  or
  Summary or precautionary suspension if behavior is egregious or repeated

Resolution Procedures – Steps 1 and 2

- In all cases, Practitioner must be provided with a copy of the policy.
- At all stages, Practitioner can seek advice/services of legal counsel of his/her choosing.
- At any stage, Practitioner may ask Medical Staff leadership, Section Chief, Dept. Chair, or Medical Staff Officer to be notified and to participate in any investigation and/or resolution.

Step 1 - Informal Resolution

- Initiated by the CMO to resolve informally between Practitioner and the complainant.
- Resolution is voluntary.
- If complainant is an employee, Hospital Human Resources must be involved
- If the Practitioner is a repeat offender, Medical Center Administration may proceed directly to Steps 2 and 3 on a case by case basis if warranted by the circumstances.
- If resolved, resolution is documented, with copies to:
  - Chief of Human Resources Officer
  - complainant
  - CMO
  - Practitioner

If Resolved, STOP and proceed to Record Keeping/Distribution.

If Unresolved, PROCEED TO STEP 2.

Step 2A –Procedure When Complaint Was Filed by a Non-Employee

- Admin. and Medical Staff Pres. determine need for and manner of investigation, and whether incident should be addressed pursuant to MSBL/R&R for corrective action. If not forwarded for corrective action, investigation initiated and Report of same completed.

Step 2B – Procedure When Complaint Was Filed by an Employee

- HR or CMC designee does internal investigation of incident, including interviewing Practitioner.
- Method and manner of investigation at the discretion of HR.
- Report of same completed.

- Practitioner has right to appear for interview and to submit information s/he believes appropriate.
- Report of investigation confidential but sent to CMO, Medical Staff Pres. and Practitioner.
- All persons involved in investigation process must maintain confidentiality.

If Resolved, STOP and proceed to Record Keeping/Distribution.

If Unresolved, PROCEED TO STEP 3.

Resolution Procedures – Steps 3 and 4

Step 3 – Attempt to Resolve Voluntarily after Internal Investigation

- After Practitioner reviews investigation report, CMO, Chief Human Resource Officer and Vice President meet to resolve in a way satisfactory to Practitioner, Complainant, and Hospital.
- President of Medical Staff or designee is invited to participate.
- If resolved, CMO documents the conclusion and provides copies to Practitioner, CEO, Vice President, Chief Human Resources Officer, and President of Medical Staff.
- If all agree with resolution, course of action is carried out.

If Resolved, STOP and proceed to Record Keeping/Distribution.

If Unresolved, PROCEED TO STEP 4.

Step 4 – Procedure for When Complaints Remain Unresolved Following Internal Investigation

- Full investigative report must be submitted to President of the Medical Staff, President and CEO of the Medical Center, and Chief Legal Officer, who together will evaluate whether corrective action is necessary.
- If request for corrective action is made, it may lead to further investigation by Medical Staff pursuant to MSBL Rules and Regulations.

Following Step 4, Proceed to Record Keeping/Distribution procedures.

Maintenance and Distribution of Records

In all cases, upon resolution of the complaint:

- Practitioner must be notified in writing of the outcome
- Practitioner may make a statement of explanation or rebuttal to be maintained with the record

Distribution:

- Records of complaint, findings, conclusions, and remedial action (if any) go to and are retained by:
- CMO, President of Medical Staff (for all complaints)
- Vice President and Chief Human Resources Officer (for complaints filed by employee)
- Record must be maintained by president of Medical Staff and Hospital no longer than 7 years unless there is active litigation or the record is ongoing or is required by law to be maintained.

  **This limitation does not apply to records of the Human Resources department or Central Administration for employees

Access to Records:

- Available only to CMO, CEO, President of Medical Staff, Chair of the involved specialty; and
- Medical Executive Committee, and any specially designated investigative or peer review committee if action is taken against Practitioner
- Exceptions may be made by the CMO.

Reporting of Incident