I. SCOPE

This policy applies to all credentialed members of the Medical Staff of the Detroit Medical Center (DMC), including physicians, podiatrists, dentists, psychologists, and Allied Health Professionals (e.g., advanced practice registered nurse practitioners and physician assistants) ("Professionals"). With respect to the reporting and cooperation requirements set forth herein, this policy applies to all DMC Hospitals, all DMC medical staff members and all employees, contractors, and all other persons rendering services at a DMC Hospital. This policy should not be used in isolation, but to supplement the DMC's overall Clinical Risk Management/Patient Safety Plan, the Rules and Regulations of the Medical Staff (including peer review policies and procedures) and other relevant Governance Documents.

II. PURPOSE

The purpose of this policy is to outline the procedures the DMC, through its Medical Staff, will utilize to address issues and create an appropriate method of investigation and action pertaining to disruptive behavior exhibited by Professionals.

III. DEFINITIONS

A. "Chief of Staff" shall mean the individual who is elected in accordance with the Medical Staff Bylaws to serve as the leader of the Medical Staff, regardless of title given such position under the Medical Staff Bylaws.

B. "Disruptive Behavior": Behavior which causes disturbances, significantly distracts or impairs other's ability to fulfill their duties, harasses, or adversely impacts or threatens the welfare of anyone or has the potential to negatively affect patient care. Such behavior may include but shall not be limited to:

1. Inappropriate displays of anger or resentment (examples include, but are not limited to: verbal outbursts; condescending language or voice intonation; abusive language; impatience with questions; blaming or shaming others for possible adverse outcomes; unnecessary sarcasm or cynicism; threats of violence, retribution or litigation and passive behaviors);

2. Inappropriate words or actions directed towards another person (examples include, but are not limited to: sexual comments or innuendos; sexual harassment (verbal and/or physical and/or visual harassment); seductive, aggressive, or assaulting behavior including throwing, flinging, or banging equipment or other materials; racial, ethnic, or socioeconomic slurs; lack of regard for personal comfort and dignity of others including bullying; public derogatory comments or inappropriate medical record entries about the quality of care provided by the hospital or another practitioner; or other inappropriate medical record entries);

3. Inappropriate responses to patient needs or staff requests (examples include, but are not limited to: pattern of late or unsuitable replies to pages or calls; unprofessional demeanor or conduct including the use of profanity; an uncooperative, defiant approach to problems; or rigid, inflexible responses to requests for assistance or cooperation); or

4. Any behavior which is a violation of State and Federal laws and regulations, hospital or medical staff policy, rules and regulations. Disruptive behavior does not include constructive criticism (feedback) offered in good faith with the aim of improving patient care.

C. "Professional" shall mean any individual permitted by law and by the DMC to provide patient care and services, within the scope of the individual's license and consistent with individually granted clinical privileges. These include, but are not limited to: physicians, podiatrists, dentists, and Allied Health Professionals (e.g., advanced practice registered nurse practitioners and physician assistants).

D. "Electronic Safety and Risk Management" or "eSRM/Midas" means the software application which is used for on-line incident reporting at the DMC. eSRM/Midas is designed to support and increase information about adverse events and near misses in order to improve patient safety.

IV. POLICY

The objective of the Medical Staff is to deliver quality health care, treatment and services to patients and to provide for safe and uniform quality of patient care. Disruptive behavior by Professionals can foster medical error, provoke poor patient satisfaction, contribute to preventable adverse outcomes, increase the cost of care and otherwise adversely affect patient care. Accordingly, it is Medical Staff policy that such behavior be addressed promptly, and if possible, corrected through peer review protected non-disciplinary mechanisms. However, to the extent disruptive behavior persists despite warnings and other efforts to address the problem, or if it is determined that such disruptive behavior renders a Professional unable to safely perform the privileges he or she has been granted, the Professional may be referred for appropriate corrective action in accordance with the Medical Staff Bylaws.

V. PROCEDURE

A. Reporting Procedure

1. Reporting Procedure. A complaint alleging that a Professional has engaged in disruptive behavior, however received, should immediately be reported and documented as follows:
   a. Documentation of disruptive behavior may be completed by a hospital medical staff member, employee, resident or student via

eSRM/Midas. The date, time and description of the alleged incident should be included. The Department Director may complete the eSRM/Midas for the employee in order to validate confidentiality. The Risk Manager will forward the eSRM/Midas report to the Medical Staff Services office which will forward the complaint to the Specialist-in-Chief (SIC) or designee, Service Chief Chief of Staff, CMO or to such other duly authorized peer review committee as the MEC may direct.

b. If the report originates from a member of the medical staff or other Professional, then either verbal or written communication describing the alleged event shall be communicated directly to the SIC or designee, Chief of Staff, CMO or to such other duly authorized peer review committee as the MEC may direct .

2. Circumstances Involving Imminent Danger to Patient Safety. If there is concern that disruptive behavior presents an imminent danger to the health or safety of any individual, the Market or Hospital Chief Medical Officer, Chief of Staff, SIC or designee or the Chief Executive Officer shall be notified. In such circumstances, consideration may be given to the imposition of summary suspension if criteria for such actions are met (as established by the Medical Staff bylaws). In such a case, the Professional shall be entitled to fair hearing and appellate procedures as set forth in the Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall not have the hearing and appeal rights set forth in the Medical Staff bylaws, but shall have access to such hearing rights as the policy on Allied Health Professionals may provide.

3. Peer Review. To the extent that a complaint of disruptive behavior also demonstrates that a particular case should be reviewed in accordance with Medical Staff peer review policies, the case should be referred for peer review. In such an event, peer review of the case should proceed in accordance with Medical Staff policy, independent of the evaluation of the disruptive behavior under this policy.

B. Collegial Intervention

Upon receipt by the SIC or designee, Chief of Staff, CMO (or another duly constituted peer review committee designated by the MEC to receive such complaints) of a complaint alleging that a Professional has engaged in disruptive behavior, the SIC to which the Professional is assigned or their designee will review the matter. This review shall include a determination as to whether there have been other complaints regarding similar behavior by the Professional, or whether the complaint alleges that the disruptive behavior has adversely impacted patient care.

If the review determines: (i) that there has been a history of similar complaints and prior warnings with regard to this same Professional; or (ii) that the conduct complained of may have a material adverse impact on patient care, the matter shall proceed as described in Section V.C. below. For purposes of this policy "history of similar complaints or prior warnings" shall mean that the affected Professional has been the subject of at least two substantiated complaints and collegial interventions in the preceding two years.

If the complaint is the first such complaint and there is no evidence that the matter has had a material adverse impact on patient care, the SIC or his/her designee, on behalf of the MEC, shall meet informally with the Professional for a collegial intervention. Other Medical Staff leaders may be included in the intervention as appropriate or necessary. If the complaint is the second complaint, the SIC or his/her designee shall include another Medical Staff leader in the meeting with the Professional.

The goals of the collegial intervention are to: (1) inform the Professional of the nature of the concern raised; (2) explain what conduct is acceptable and what conduct is not acceptable; and (3) advise the Professional of the consequences if further similar concerns are raised and confirmed in the future.

After the collegial intervention, a note indicating whether the complaint was found to be substantiated or unsubstantiated shall be placed in the Professional's credentialing file, stating the reasons for same. A copy of the complaint shall also be retained in the Professional's credentialing file, should a pattern of disruptive behavior requiring intervention be identified at a later time.

If the SIC or his/her designee is not able to substantiate the complaint, the complaint shall be closed and the matter shall be considered concluded. A copy of the complaint and the conclusion that the complaint was not substantiated shall be retained in the Professional's credentialing file for a period of three years, after which time it shall be discarded. Complaints that have been substantiated and any written transmittals to the Professional regarding such complaint shall be retained indefinitely.

C. Investigation by the Medical Executive Committee (to be conducted in accordance with the Hospital's Medical Staff Bylaws)

Upon the SICs determination that a Professional has engaged in two or more instances of disruptive behavior after a collegial intervention or other warning within a three-year period, or if a complaint alleges that the disruptive behavior has had an actual adverse impact on patient care and the SIC determines that

there appears to be a factual basis for the complaint, the matter shall be referred back to the MEC for corrective action. The MEC shall conduct (or delegate to another legally constituted peer review committee of the Medical Staff responsibility for conducting) such informal investigation as it, in its discretion, deems necessary to determine whether disciplinary action is warranted. Prior to undertaking any activity, the MEC shall consult with Regional Counsel and the DMC's designated Medical Staff Counsel. The investigation shall include:

1. Providing written notification to the Professional that a complaint regarding disruptive behavior has been made, providing sufficient detail regarding the nature of the complaint (while providing confidentiality regarding the identity of the complainant) to permit the Professional to respond; and

2. Conducting informal interviews with the complainant and the affected Professional (each out of the presence of the other). Such investigation may also include, as deemed necessary, informal interviews with other persons having knowledge of the matter, review of reports of other or prior complaints alleging disruptive behavior by the Professional (if applicable), and such other manners of investigation as are deemed reasonable and necessary.

   Neither the investigation nor any other activities of the MEC (or peer review committee, as applicable) in investigating the complaint as described above shall constitute a hearing; they shall be informal, and none of the hearing and appeal rights under the Medical Staff Bylaws shall apply. Hearing and appeal rights under the Medical Staff Bylaws shall only be triggered if the MEC determines to pursue disciplinary action, and such hearing and appeal rights shall be as provided for in the Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall have such hearing rights as the policy on Allied Health Professionals may provide (see 1 MS 007, Allied Health Professionals Credentialing).

   If at any time during the course of the investigation the MEC determines that a particular case should be reviewed in accordance with Medical Staff peer review policies, the case should be referred for peer review if not already done. Further, to the extent the Medical Executive Committee determines that the Professional is unable to safely perform the privileges he or she has been granted, the MEC may impose a summary suspension if criteria for such action (as established by the Medical Staff Bylaws) are met. In such cases, the Professional shall be entitled to the rights set forth in the hearing and appellate procedures in the hospital's Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall not have the hearing and appeal rights set forth in the Medical Staff bylaws,

but shall have access to such hearing rights as the policy on Allied Health Professionals may provide (see 1 MS 007, Allied Health Professionals Credentialing).

D. Recommendation of the Medical Executive Committee Following Investigation Upon conclusion of the investigation described in Section V.C. above, the MEC shall make recommendations with regard to the resolution of the complaint. At this time the MEC may:

1. Determine that the Professional did not engage in disruptive behavior, and thus, dismiss the matter without further action. A record of the complaint shall be kept in the Professional's credentialing file for a period of three years, should a pattern of disruptive behavior requiring intervention be identified at a later time.

2. Determine that the Professional may have engaged in disruptive behavior, but that corrective action under Section V.D.3, below, is not currently warranted. In such cases, the Chief of Staff (or designee) will then meet informally with the Professional for a collegial intervention, as described in Section V.B. of this policy. A copy of the complaint and the results of the MEC investigation shall be kept in the Professional's credentialing file for three years, should a pattern of disruptive behavior requiring intervention be identified at a later time; or

3. Determine that the Professional has engaged in disruptive behavior or that a pattern of disruptive behavior has emerged and/or he or she is unable to perform safely the privileges he or she has been granted, and action beyond a collegial intervention is warranted. In such cases, the MEC may:
   a. To the extent the MEC believes that the disruptive behavior may result from physical, psychiatric, substance abuse, or emotional illness, refer the Professional to facilitate the confidential diagnosis, treatment, and rehabilitation of the practitioner, in accordance with provisions set forth in the facility's Medical Staff Bylaws;
   b. Impose corrective action that does not affect the Professional's clinical privileges or medical staff membership (e.g., written reprimand, terms of probation, requirements for self-correction, etc.). The MEC shall monitor the Professional for compliance with the terms of any corrective action imposed, as well as for additional incidents of disruptive behavior, which may subject the Professional to further corrective action; or
   c. Recommend corrective action that affects the Professional's clinical privileges or medical staff membership, or if warranted, impose

summary suspension if criteria for such action(s) are met (as established by the Medical Staff Bylaws). In such cases, the Professional shall be entitled to the hearing and appellate review procedures in the Medical Staff Bylaws. Professionals who are not members of the Medical Staff shall not have the hearing and appeal rights set forth in the Medical Staff Bylaws, but shall have access to such hearing rights as the policy on Allied Health Professionals may provide.

4. Based on all the information it reviews as a part of its investigation, the DMC MEC shall determine:

Whether his/her disruptive behavior constitutes a "direct threat" to the health or safety of the physician, patients, hospital, employees, other physicians, or others with the hospital. A direct threat must involve a significant risk of substantial harm based upon medical analysis and/or other objective evidence. If the Physician appears to pose a direct threat because of disability, the committee must determine whether it's possible to eliminate or reduce the risk to an acceptable level with a reasonable accommodation.

If the Physician's disruptive behavior is the result of mental, emotional or physical impairment and, upon consultation with Tenet Legal Affairs or DMC Human Resources as necessary, it shall be further determined whether or not the impairment is classified as a disability under the Americans with Disabilities Act (ADA) and

If the impairment is protected as a disability under ADA, it shall be determined whether or not a reasonable accommodation can be made such that the Physician would be able to competently and safely practice medicine under his or her clinical privileges and execute any other essential duties of medical staff appointment. A reasonable accommodation is one that would not create an undue hardship on the DMC, such that the reasonable accommodation would be excessively costly, extensive, disruptive, or would fundamentally alter the nature of the DMC's operations or the provision of patient care.

Reasonable Accommodation and Voluntary Agreement: If the DMC MEC determines that a reasonable accommodation can be made as described above, the Committee shall attempt to work out a voluntary agreement with Physician, so long as that arrangement would neither constitute an undue hardship upon the DMC nor create a direct threat, as described above. The Market and Hospital CMO, Hospital's President and Chief of

Staff shall be informed of the attempts to work out a voluntary agreement between the Committee and the Physician, and shall approve any agreement before it becomes final and effective.

Committee Recommendation and Report. The Committee shall make a recommendation and report to the Hospital President, Market and Hospital Chief Medical Officer and Chief of Staff as to the appropriate action to be taken (including a Committee determination that there is a reasonable accommodation that can be made, if appropriate). If the Committee's recommendation would provide the Physician with a right to a hearing as described in the DMC's Medical Staff Bylaws or credentialing policy, the Hospital President shall promptly notify the Physician of the recommendation in writing by certified mail, return receipt requested. The recommendation shall not be forwarded to the DMC Board until the individual has exercised or has been deemed to have waived the right to a hearing as provided in the DMCs Medical Staff Bylaws.

Notification to the individual reporting the behavior. The president shall notify the observer regarding the taking of follow-up action and, if appropriate, that a report was sent to the Michigan Department of Consumer and Industry Services (CIS) pursuant to applicable law.

Report to the Michigan Department of Consumer and Industry Services: If as a result of the investigation the DMC MEC has reasonable cause to believe that the Physician is impaired, the Hospital shall make a report to the Michigan Department of Consumer and Industry Services as required by applicable law. If the Physician's privileges are reduced, suspended, or terminated as a result of the action taken by the committee, required reports shall be made to the Michigan Department of Consumer and Industry Services and the National Practitioner Data Bank.

Training: The DMC MEC will conduct regular in-service training for all Chiefs of Staff, SICs, Chiefs of Service, Vice Presidents and Administrators and other personnel who may be involved in the detection of disruptive behaviors.

DMC and Medical Staff Bylaws, Rules and Regulations and Policies: This policy shall not supersede and shall be interpreted in addition to, and shall be coordinated with, policies applicable to Physician employees of the DMC and the Bylaws of the Medical Staff.

VI. REHABILITATION AND REINSTATEMENT GUIDELINES

If it is determined by the DMC MEC that the Physician was disruptive as a result of a mental, emotional or physical impairment and if the indicated impairment has been controlled, a program of rehabilitation can be developed according to the following guidelines for rehabilitation and reinstatement shall be followed:

Identification of Suitable Rehabilitation Program: DMC and medical staff leadership shall assist the Physician in identifying a suitable rehabilitation program. Among the programs to be considered is the Health Practitioner Recovery Program created by Michigan law. The Physician shall not be reinstated until it is established, to the Hospital's satisfaction, that the Physician has successfully completed a program in which the DMC has confidence. At a minimum, the program shall have at least one director who is a Physician ("Physician Director").

Qualification for Consideration of Reinstatement: Upon sufficient proof that the Physician who has been found to be disruptive due to a disability has successfully completed a rehabilitation program, the DMC in is discretion, may consider that Physician for reinstatement to the medical staff.

Patient Care Interests: In considering a disruptive Physician for reinstatement, the DMC and medical staff leadership must consider patient care interests as being paramount in this decision.

Rehabilitation Program Letter: Prior to reinstatement, the Hospital shall first obtain a letter from the Physician Director of the rehabilitation program where the Physician was treated. The Physician must authorize the release of this information. The letter must state each of the following as prerequisite to reinstatement.

- Whether the Physician is participating in the program;
- Whether the Physician is in compliance with all the terms of the program;
- Whether the Physician attends AA meetings regularly (if appropriate);
- To what extent the Physician's behavior and conduct are monitored;
- Whether, in the opinion of the Physician Director, the Physician is rehabilitated;
- Whether an after-care program has been recommended to the Physician and, if so, a description of the after-care program; and
- Whether, in the Physician Director's opinion, the Physician is capable of resuming medical practice and providing continuous, competent care to patients.

Primary Care Physician: The Physician must inform the DMC of the name and address of his/her primary care physician, and must authorized that physician to provide the Hospital with information regarding his/her condition and treatment. The DMC has the right to require an opinion from other physician consultants of its choice.

Physician's Condition: From the primary care physician the DMC shall be advised of the precise nature of the Physician's condition and the course of treatment as well as the answers to the questions posed above in 4e and 4g.

Restoration of Clinical Privileges: Assuming al the information received indicates that the Physician is rehabilitated and capable of resuming care of patients, the DMC shall take the following additional precautions when restoring clinical privileges:

The Physician must identify a Physician willing to assume responsibility for the care of his or her patients in the event of his or her inability or unavailability;

The Physician shall be required to obtain and submit to the hospital periodic reports from his/her primary care physician, for a period of time by the President of the Medical Staff, stating that the Physician 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;

The Physician must have confirmed in writing that he/she has complied with any disciplinary actions, sanctions or conditions imposed regarding reinstatement.

Monitoring: The Physician's exercise of clinical privileges in the DMC shall be monitored by the Department Chairperson or by a Physician appointed by the Department Chairperson. The nature of the monitoring shall be determined by the DMC MEC after its review of all the circumstances.

Submission to Screening Test: The Physician must agree to submit to an alcohol or drug screening test, if appropriate to the impairment, at the request of the President of the Medical Staff or designee, the Chairperson of the DMC MEC or the pertinent Department Chair.

Response for Requests for Information: All requests for information concerning the Impaired/Disruptive Physician shall be forwarded to the President of the Medical Staff for response. The President may consult with the Legal Affairs Department upon the receipt of such requests.

VII. Confidentiality/Protection from Retaliation

The Medical Staff and the DMC shall protect the confidentiality of, and prohibit retaliation against, persons who report disruptive behavior regarding Professionals. (See Human Resources policy HR.ERW.08 No Retaliation.) The Medical Staff and Hospital shall also protect the confidentiality of the complaint to the extent that it implicates a Professional’s mental or physical health.

VIII. Enforcement

All employees and Professionals whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Professionals failing to comply with this policy will be subject to appropriate performance management pursuant to all applicable policies and procedures, , including the Medical Staff Bylaws, Rules and Regulations.

IX. REFERENCES

- Human Resources policy HR.ERW.08 No Retaliation

-American Medical Association Code of Ethics, Opinion on Professional Rights and Responsibilities, E-9.045, available at http://www.ama-assn.org/

-American Medical Association, Report of the Council on Ethical and Judicial Affairs, Physicians with Disruptive Behavior (CEJA Report 2-A-00)

-Susan Lapenta, Disruptive Behavior and the Law, available at http://findarticles.com/

-Texas Medical Association, Common Disruptive Behaviors in Physicians

-The Joint Commission Sentinel Event Alert, “Behaviors that undermine a culture of safety,” Issue 40, July 9, 2008

ADMINISTRATIVE RESPONSIBILITY

The Executive Vice President/COO and the Senior Vice President/CMO have overall administrative responsibility for this policy. The Chiefs of Staff, the President of the Medical Staff and the Hospital President shall have day-to-day responsibility for this policy. The Chief of Staff and the Department Chairs may designate another Physician to act when absent or unavailable to act in connection with this policy.

APPROVAL

This policy has been approved and is duly authorized by Detroit Medical Center, Children's Hospital of Michigan, Detroit Receiving Hospital, Harper/Hutzel Hospital, Huron Valley-Sinai Hospital, Rehabilitation Institute of Michigan, and Sinai-Grace Hospital. The posting of the policy on the DMC intranet signifies that is in full force and effect.

KEY Search Words impaired intimidating behavior, safety threat, physical verbal substance abuse, illicit alcohol drug screen test

THIS POLICY: is/has been: (check one)

	NEW	✓	REVIEWED		REVISED*

CHANGES/REVISIONS: List Changes Here

Supersedes	August 2015	Next Review Date	January 2020

Origination Date	October 2001	History - Review/Revision Dates	October 2001, October 2004, March 2005, November 2008, January 2009, December 2013, August 2015, August 2017
Related Tenet Policy (ies) #'s			
Retired		Incorporated into or Replaced by Tenet Policy	
Name of Committee / Title of person(s) responsible for this policy's review and approval process			