

Title:	The Impaired Physician	Page 1 of 5
Policy No:	1 MS 025	Effective Date: 02/24/2017

**I. SCOPE**

This policy applies to all physicians rendering services at a DMC hospital. 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 residents, interns, fellows, employees, contractors, students, and all other persons rendering services at a DMC hospital.

**II. OBJECTIVE**

To create an appropriate method for investigation and action in the case of the suspected or actual impairment of a physician on the medical staff of a Detroit Medical Center (DMC) Hospital.

**III. DEFINITIONS**

Impaired - the inability to safely practice medicine according to the minimum standards of care. This may be due to intoxication, substance abuse, use of medication, or physical or mental ill health.

**IV. POLICY**

All DMC hospitals will appropriately investigate and act upon concerns that a physician is suspected of being impaired or exhibiting disruptive behavior as defined by this policy. To protect the welfare of all patients, the following definition and provisions shall apply.

**V. PROVISIONS**

**I. REPORT AND INVESTIGATION**

1. Notice to Senior Medical or Administrative Personnel: If an individual(s) ("observers") working in the hospital has a reasonable suspicion that a physician appointed to the medical staff is impaired, the observer shall immediately notify his or her supervisor, or the most senior or most immediately available administrative or medical staff member (e.g. Chief of Staff, Chairperson of Department, head nurse, supervisor of the department, senior staff physician, hospital administrator on call). The confidentiality of the individual(s) or "observer" shall be maintained. A physician may also self-refer themselves to an Administrator, Chairperson of Department, Chief of Staff, or to any clinical staff personnel. The maintenance of confidentiality of the physician seeking referral or referred for assistance shall apply; except as limited by applicable law, ethical obligation or when the health and safety of a patient is threatened.
2. Suspected Immediate Threat of Patient's Welfare - If the physician suspected of impairment is rendering medical care to a patient or is anticipated to render medical care to a patient immediately or very soon after the time the physician is suspected of being impaired, the person receiving the report shall immediately notify an Officer of the Medical Staff. Summary suspension may be initiated, if indicated, in accordance with the DMC Bylaws. Provisions for the transfer of care of the physician's patients shall be documented in the medical records of such patients. The Officer of the Medical Staff, as outlined in the Bylaws may initiate an interview with the involved medical staff prior to investigation.
3. Written Request for Investigation by the President of the DMC, the Medical Executive Committee (MEC), or the Governing Body - The recipient of the report shall immediately notify the President of the Medical Staff verbally and in writing (either directly or through the Chief of Staff or Department Chair) and request that the committee investigate the concerns raised as outlined in the Bylaws. The observer and the recipients of the report should not conduct an investigation or make independent inquiries.
4. Committee Investigation - After receiving a written request to investigate, the DMC MEC shall investigate the concerns raised and any and all circumstances and/or incidents that led to the belief that the physician may be impaired. The committee's investigation may include, but is not limited to, any of the following:
  - a. A review of any and all documents or materials relevant to the investigation.
  - b. Interviews with any and all individuals who may have information relevant to the investigation.

Title:	The Impaired Physician	Page 2 of 5
Policy No:	1 MS 025	Effective Date: 02/24/2017

- c. A requirement that the physician undergo medical and/or psychiatric examination(s) relevant to the issues under investigation, as directed by the MEC.
- d. A requirement that the physician take a drug test to determine if the physician has recently engaged in illicit drug use or is currently under the influence of alcohol.

The DMC MEC ("Committee"), or designee, shall meet with the physician as part of its investigation. This meeting does not constitute a hearing under the due process provisions of the hospital medical staff bylaws or pertinent credentialing policy. At this meeting, the committee may ask the physician health-related questions so long as they are related to the performance of duties under the physician's clinical privileges and medical staff duties and is consistent with proper patient care and/or proper operations of the hospital. In addition, the committee may discuss with the physician whether reasonable accommodations are needed or could be made so that the duties and responsibilities of the physician may be executed effectively and safely.

5. Committee Determination - Based on all the information is reviews as a part of its investigation, the DMC MEC shall determine:
  - a. Whether the physician was impaired at the time of the initial incident or report, and whether the physician is currently impaired and/or what other problem(s), if any, is affecting the physician's performance.
  - b. Whether the impairment constitutes a "direct threat" to the health or safety of the physician, patients, hospital, employees, other 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 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.
  - c. If the physician is found to be impaired, the nature of the impairment shall be determined. 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
  - d. 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 Hospital, such that the reasonable accommodation would be excessively costly, extensive, disruptive, or would fundamentally alter the nature of the Hospital's operations or the provision of patient care.
  
6. 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 the physician. The 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.
  
7. Committee Recommendation and Report - The committee shall make a recommendation and report to the Hospital President, 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 Hospital'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 Hospital 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.
  
8. Credentialing and Personnel Files - If the investigation reveals that there is no merit to the allegations reported, the report shall be destroyed. If the investigation reveals that there may be

Title:	The Impaired Physician	Page 3 of 5
Policy No:	1 MS 025	Effective Date: 02/24/2017

some merit to the report, but not enough to warrant immediate action, the report shall be included in a confidential portion of the physician's credentialing file, and if the physician is an employee, the physician's personnel file. If the investigation results in a determination of immediate action, the original report and a description of the actions taken by the Committee/President shall be included in the physician's credentialing file and personnel file where applicable.

9. Notification to Observer - 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 Commerce pursuant to applicable law.
10. Integrity of the Process - Throughout the process, all parties shall avoid speculation, conclusions, gossip and any discussions of the matter with anyone outside those described in this policy.
11. Report to the Michigan Department of Community Health (MDCH) - If as a result of the investigation the DMC MEC has reasonable cause to believe that the physician is impaired, the DMC shall make a report to the Michigan Department of Community Health (MDCH), Bureau of Health 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 MDCH, Bureau of Health Services and the National Practitioner Data Bank. In the case of substance abuse, the committee shall, in a timely manner, advise the physician of the Health Professionals Recovery Program (HPRP can be accessed at <http://www.mich.com/hprp/> or by phone at 1-800-453-3784) in order to offer the physician a means of voluntary enrollment in a recovery program.
12. Training - The DMC MEC will conduct regular in-service training for all Chiefs of Staff, Chiefs of Service, Vice Presidents and Administrators and other personnel who may be involved in the detection of disruptive behaviors or impaired performance.
13. Hospital 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 Hospital and the Bylaws of the Medical Staff.

## II. REHABILITATION AND REINSTATEMENT GUIDELINES

If it is determined by the DMC MEC that the physician suffers from an impairment that could reasonably be accommodated through rehabilitation the following guidelines for rehabilitation and reinstatement shall be followed:

Identification of Suitable Rehabilitation Program - Hospital and medical staff leadership shall refer the physician to the Health Professionals Recovery Program created by Michigan law for referral to assessment and treatment programs (See provision 11). In the case of the Impaired Physician, the physician's privileges shall not be reinstated until it is established, to the DMC's satisfaction, that the physician (a) has been cleared for return to clinical work by the treatment program; (b) has been cleared for return to clinical work by HPRP; (c) continues to maintain a valid Michigan license to practice clinical medicine; (d) has completed a return to duty evaluation in Occupational Health Services (OHS) with a negative drug and alcohol test; (e) has had the discharge report of the treatment program, and all applicable follow-up and/or aftercare treatment and monitoring recommendations, and sobriety contracts of both the treatment program and HPRP reviewed by the MRO; (f) has signed a sobriety contract with the DMC (in the case of substance abuse); and (g) has been appointed a DMC worksite monitor who understands his or her role and responsibilities in monitoring and reporting early signs of relapse. The DMC sobriety contract shall by reference incorporate the requirements of the treatment program and HPRP sobriety contracts, and shall specify any applicable work restrictions and accommodation's, ongoing monitoring requirements (i.e. random drug/alcohol testing), and any other requirements or expectations of the DMC which may exceed those of the treatment program and HPRP requirements. Further, this contract shall establish the consequences of non-compliance. DMC OHS, as an HPRP designated drop site shall provide facilities for urine collection for random drug screens and shall prepare specimens for shipment to the HPRP authorized laboratory.

Title:	The Impaired Physician	Page 4 of 5
Policy No:	1 MS 025	Effective Date: 02/24/2017

1. 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 Hospital in its discretion, may consider that physician for reinstatement to the medical staff.
2. Patient Care Interests - In considering an impaired/disruptive physician for reinstatement, the Hospital and medical staff leadership must consider patient care interests as being paramount in this decision.
3. Primary Care Physician - The physician must inform the DMC of the name and address of his/her primary care physician, and must authorize 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.
4. Physician's Condition - From the treating physician the DMC shall be advised of the precise nature of the physician's condition and the course of treatment.
5. Restoration of Clinical Privileges - Assuming all the information received indicates that the physician is rehabilitated and capable of resuming care of patients, the Hospital shall take the following additional precautions when restoring clinical privileges:
  6. 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.
  7. The physician must have confirmed in writing that he/she has complied with any disciplinary actions, sanctions or conditions imposed regarding reinstatement.
8. Monitoring - The physician's exercise of clinical privileges in the Hospital shall be monitored by a physician serving as the worksite monitor, as appointed by the Department Chairperson. In the case of substance abuse, the nature of the monitoring shall comply with both HPRP and DMC requirements as defined by the applicable sobriety contracts. The DMC MEC shall determine monitoring of others after its review of all the circumstances.
9. 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.

**VI. ADMINISTRATIVE RESPONSIBILITY**

The Executive Vice President/COO and the Senior Vice President/CMO shall have overall administrative responsibility for this policy. The President of the Medical Staff, the Chiefs of Staff and the Hospital Presidents have day to day responsibility for this policy. The Chiefs of Staff and 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)

<input type="checkbox"/> NEW	<input checked="" type="checkbox"/>	<input type="checkbox"/> REVIEWED	<input type="checkbox"/> REVISED*
------------------------------	-------------------------------------	-----------------------------------	-----------------------------------

CHANGES/REVISIONS: List Changes Here

Title:	The Impaired Physician	Page 5 of 5
Policy No:	1 MS 025	Effective Date: 02/24/2017

Supersedes	December 2013	Next Review Date	February 2019
Origination Date	October 2001	History - Review/Revision Dates	October 2001, October 2004, March 2005, November 2008, January 2009, December 2013
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		<i>Corporate Director, CVO/Corporate Medical Affairs</i>	