



## Manual of Administrative Policy

Code No.  
Section  
Subject

Medical Staff Policy regarding  
Disruptive Practitioner Conduct

Date  
Source

MEC (9/96; 12/05, 6/06; 11/10)  
YH Board of Directors (10/96;  
12/05; 6/06; 12/10; 1/13; **5/15 –  
no revisions**)

### Disruptive Practitioner Policy

#### I. POLICY

It is the policy of York Hospital (“YH”) that every practitioner who is granted the privilege to perform patient care services at YH must continuously demonstrate a willingness and capability to work with and relate to other Medical Staff Appointees, Allied Health Professionals, YH administration and employees, visitors, patients, families, and the community in a cooperative and professional manner. As stated in the YH Medical Staff Code of Conduct, medical staff members are committed to treating all individuals with courtesy, respect, and dignity, in order to promote the provision of high quality care [York Hospital Medical Staff Bylaws, Article III, subsection 3.1.3 (a)].

Disruptive conduct occurring in non-hospital settings will be considered relevant for action under this policy, insofar as it impacts upon the practitioner’s qualifications for continued appointment at YH, including his capacity to provide quality patient care services, adherence to applicable standards of professional ethics, and good character.

Given that York Hospital/WellSpan Health has adopted the Just Culture model of shared accountability, the Just Culture Physician Algorithm will be used with the involved practitioner to evaluate the behavior in question and to guide any response or action plan. The Just Culture model is based on the concept that the two primary manageable inputs into good patient outcomes are good system design (responsibility of hospital and medical staff leadership) and good behavioral choices (responsibility of those who work within the system, including physicians). The three manageable behaviors are defined as follows:

- *Human error* – inadvertently doing other than what should have been done; a slip, lapse, mistake. No action for single human errors, consider remedial action for repetitive errors.
- *At-risk behavior* – a behavioral choice that increases risk where risk is not recognized or is mistakenly believed to be justified. Response is coaching for a single event, consider remedial action for repetitive at-risk behaviors.
- *Reckless behavior* – a behavioral choice to consciously disregard a substantial and unjustifiable risk. Response is corrective and remedial action.

## II. BACKGROUND

It is well documented that disruptive or inappropriate conduct can interfere with the cooperation and free exchange of information that is necessary for the health care team to provide safe and effective patient care; undermine staff morale; make it difficult to recruit and retain qualified practitioners and staff; harm the hospital's reputation; and, expose the hospital and practitioner to legal liability. In order to maintain the trust, confidence and respect of the community, and enable YH to fulfill its legal obligation to provide a safe and professional work environment, it is necessary that all practitioners abide by high standards of conduct, and that YH take reasonable actions to correct inappropriate conduct. This policy is intended to make practitioners aware of the standards of conduct expected of them, and the procedures that will be followed to correct inappropriate conduct. This policy reaffirms in writing the standards of conduct which have been in place for many years.

## III. DEFINITIONS

It is impossible to specifically enumerate all the different forms of disruptive or inappropriate conduct that would be deemed to fall below YH's standards of conduct. However, for purposes of this policy, "disruptive conduct" shall generally mean behavior which violates accepted rules of civil behavior and professional etiquette, violates the YH Medical Staff Code of Conduct, disrupts the efficient and orderly operation of YH, or interferes with patient care. The AMA, in Medical Ethics Opinion E-9.045, indicates that "personal conduct, whether verbal or physical, that negatively affects or that potentially may negatively affect patient care constitutes 'disruptive behavior.' This includes but is not limited to conduct that interferes with one's ability to work with other members of the health care team."

Subject to the context and unique facts and circumstances of each case, the following are some examples of disruptive conduct:

1. Repeated use of vile, loud, intemperate, offensive or abusive language;
2. Repeatedly acting in a rude, insolent, demeaning or disrespectful manner;
3. Verbal or physical threats, intimidation or coercion;
4. Actual physical abuse, or unwanted touching;
5. Illegal discrimination against persons, or refusal to provide patient care services based upon unlawful criteria;
6. Lack of cooperation or unavailability to others for exchange of pertinent patient care information or resolution of patient care issues;
7. Deliberate destruction or damage to property;
8. Criminal conviction of an offense which impacts the practitioner's qualifications for continued appointment at YH, including his capacity to provide quality patient care services, adherence to applicable standards of professional ethics, and good character;
9. Sexual or other forms of harassment, including unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile or offensive work environment;

10. Intentional disruption of YH, Medical Staff, department or committee meetings or activities;
11. Breach of confidentiality;
12. Inappropriate comments or behavior which have the primary purpose or effect of attacking or belittling others practitioners;
13. Inappropriate entries in patient medical records which have the primary purpose or effect of attacking or belittling other providers, imputing stupidity or incompetence of other providers, or impugning the quality of care of other providers; and,
14. Repeated, willful failure to abide by YH, Medical Staff, department or committee bylaws, policies and procedures, or directives, including refusal to comply with required duties or assignments.

Merely expressing contrary opinions is not disruptive conduct, nor is expressing concern or constructive criticism of inappropriate policies or procedures or unacceptable performance or conditions, if it is done in good faith, in an appropriate time, place and respectful and professional manner, and with the aim of improving patient care and safety rather than attacking the character or clinical competence of the practitioner or bringing blame or shame upon the practitioner. Except as otherwise required by their legal or ethical duties, practitioners are requested to first express their concerns or constructive criticism through appropriate Medical Staff, administrative or governing board channels, and seek an internal resolution prior to publicly expressing their concerns or constructive criticism.

#### IV. PROCEDURE

1. Within any team setting, there will be times when interactions among members of the team can become testy, particularly in stressful environments or emotional circumstances. Without in any way condoning or minimizing the unacceptability of disruptive conduct, it is usually preferable that team members and colleagues will first try to informally resolve their differences and patch up any frayed relationships through direct one on one communications and cooperation, perhaps with the assistance or facilitation of another team member. Hopefully it is not necessary to escalate the matter to the next level of this procedure unless informal resolution is unsuccessful after reasonable one on one reconciliation efforts have first been attempted.

Peer accountability is also recognized within the YH Medical Staff as effective in addressing inappropriate conduct. Peer to peer, private conversations ("coffee cup talks") include:

- Empathy;
- Understanding of the situation from all perspectives;
- Shared accountability;
- A reminder of appropriate behavior; and
- Confidentiality.

2. If the informal one on one reconciliation efforts described in number one above are unsuccessful or if the severity of the circumstances would make informal resolution seem unlikely or inappropriate, any person who experiences or observes disruptive conduct by a practitioner shall submit a timely written or verbal report to the relevant Department Chair in order to make YH aware of the disruptive conduct and

therefore enable YH to take appropriate action. Reports may also be made to the President of the Medical Staff and/or the Vice President-Medical Affairs (or, whenever these officers are referred to in this policy, it shall include their assistants or designees), but such reports will be referred to the Department Chair for follow-up, unless such a referral is inappropriate under the circumstances (for example, where it is alleged that the Department Chair engaged in the disruptive conduct).

3. Whenever possible, reports of the disruptive conduct should include:
  - a. the name of the practitioner and the reporter;
  - b. the date, time and location of the conduct;
  - c. the name of any patient who may have been affected by or involved in the conduct;
  - d. the name of any other person who may have been affected by or involved in the conduct;
  - e. any circumstances which precipitated the conduct;
  - f. a factual, objective, detailed description of the conduct;
  - g. any negative impact upon YH operations or patient care that may have been caused by the conduct;
  - h. if known, any action taken to remedy the conduct or its consequences, including the date, time, location, and name of persons taking such remedial action; and,
  - i. the name of any other witnesses who can corroborate the report.

4. It is understood that, particularly if the conduct has been directed toward a YH employee, the report may be made through the employee's supervisor, other YH management staff, or the Human Resources Department, rather than directly by the affected employee.

5. Upon receipt of such a report, the relevant Department Chair may consult and coordinate his response with the President of the Medical Staff and/or the Vice President-Medical Affairs, as he deems appropriate under the circumstances. The Department Chair (and other officers, if appropriate) should take reasonable efforts to investigate the facts and determine whether the report is credible, including speaking with the individual who prepared the report, the involved practitioner, and others as they deem appropriate.

All efforts should be taken to protect the privacy of the reporter, practitioner, patients and other persons affected by the disruptive conduct, and to treat all information gathered as confidential peer review information. It is intended that, to the maximum extent permitted by law, all persons who participate in good faith in such an investigation shall be protected from liability by the Pennsylvania Peer Review Protection Act, the Medical Care Availability and Reduction of Error Act, the Patient Safety and Quality Improvement Act of 2005, and the Health Care Quality Improvement Act of 1986.

6. The primary goal of this policy is help practitioners conform their behavior to reasonably expected standards of conduct. Therefore, upon receiving a report, the initial approach should be collegial and educational.

However, if this approach is not successful or is not appropriate based upon the nature and severity of the disruptive conduct, YH may, in its discretion, take additional steps of progressive discipline, up to and including corrective action under the YH Medical Staff Bylaws and the YH Medical Staff Corrective Action Procedures and Fair Hearing Plan.

Department Chairmen will use the Just Culture Physician Algorithm to evaluate the behavior in question – at this stage, as well as in repetitive events as noted in sections 8, 9, and 10. This should be done openly with the involved practitioner so that they can arrive at the appropriate response that takes into account all information and perspectives.

At each step in the process, the practitioner will have the opportunity to write his/her own response to the concern(s) being raised. The document will also be placed in the physician's file along with the letter to the physician and documentation of the meeting.

At each step in the process, the Department Chair (and other officers, if appropriate) should consider whether the onset or continuation of disruptive conduct might possibly be caused by a significant medical, psychological, or substance abuse problem. If so, it may be appropriate for the practitioner to be referred to the Physicians' Health Program, or other medical or mental health professionals, for a "fitness for duty" evaluation, recommended follow-up, and possible monitoring agreement, with the goal of restoring the practitioner to safe and healthy practice, if possible.

At each step in the process, the Department Chair (and other officers, if appropriate) should also consider whether the Risk Management Department should be notified regarding any disruptive conduct which may expose YH to liability or which requires YH action (for example, waiving a patient's bill). The Department Chair should also consider whether the Legal Department should be consulted to determine whether any disruptive conduct must be reported to any authorities, including the relevant state professional licensure board and/or the National Practitioner Data Bank, and to determine the legally appropriate response to any requests for information regarding the practitioner.

7. If it is determined that the disruptive conduct most likely occurred, but represents a single or relatively minor instance, the relevant Department Chair (and other officers, if appropriate) shall personally meet with the practitioner to discuss and seek to informally correct the conduct. The practitioner should be made aware of the reported conduct, and given an opportunity to respond. The Department Chair should emphasize (a) the inappropriateness of the conduct, and (b) the possible consequences, including formal corrective action, if the disruptive conduct is repeated. The practitioner should provide his assurance that he will conform his behavior to reasonably expected Medical Staff Code of Conduct, he will not retaliate against any reporter or witness, and he will offer an apology to persons who have been negatively affected by the disruptive conduct, as necessary.

A copy of the report, any response by the practitioner, and documentation of the meeting and any agreed-upon actions should be kept in the practitioner's confidential peer review file.

Even if it can not be determined with certainty that the disruptive conduct occurred, it may be helpful for the Department Chair to remind the practitioner of the standards of conduct expected of all practitioners, and to assist the practitioner in identifying ways to change his conduct in order to avoid future reports.

8. If reports of repeated instances of disruptive conduct indicate that a pattern of conduct is developing, the relevant Department Chair (preferably with the participation of the President of the Medical Staff and the Vice President-Medical Affairs) shall again personally meet with the practitioner to discuss and seek to informally correct the pattern of conduct. The same procedures should be followed as in #7 above. However, at the conclusion of this step, if it is determined that repeated instances of the disruptive conduct most likely occurred, the practitioner should be issued a written warning, and required to enter into a written agreement to abide by the conditions which are recommended by the Department Chair (with the input of the President of the Medical Staff and/or the Vice President-Medical Affairs). A copy of the written warning and agreement should be retained in the practitioner's confidential peer review file.

9. If, after receiving such a written warning, there are any subsequent reports of disruptive conduct, or if the Department Chair (in consultation with the President of the Medical Staff and the Vice President-Medical Affairs) determines that it is warranted by the pattern of conduct described in #8 above, the practitioner may be required to appear before the Medical Executive Committee (MEC) to give an accounting of his disruptive conduct.

10. If, after appearing before the MEC, there are any subsequent reports of disruptive conduct, or if the Department Chair and/or the President of the Medical Staff and/or the Vice President-Medical Affairs determine that it is warranted under the circumstances (for example, based upon the severity of the disruptive behavior), the Department Chair and/or the President of the Medical Staff and/or the Vice President-Medical Affairs shall promptly submit a request for formal corrective action to the Medical Executive Committee, in accordance with the YH Medical Staff Bylaws and the YH Medical Staff Corrective Action Procedures and Fair Hearing Plan. A copy of the request shall be sent to the President of YH and the practitioner involved. If necessary to protect others from disruptive conduct, precautionary suspension may be imposed upon the practitioner, in accordance with the YH Medical Staff Bylaws and the York Hospital Medical Staff Corrective Action Procedures and Fair Hearing Plan.

11. Reports of disruptive or inappropriate conduct (and other relevant documents) will be considered in the appointment and reappointment of the practitioners.

12. The YH Board of Directors has ultimate authority for taking disciplinary action to correct disruptive conduct, and it reserves the right to take

appropriate action at any time as it deems necessary to correct or prevent illegal behavior or ensure safety.

13. Upon initial appointment and at every subsequent appointment, practitioners shall be asked to sign a certification that they have read and comply with the Medical Staff Code of Conduct and this policy.