GENERAL STATEMENT OF PURPOSE

According to our mission statement, the North Shore - Long Island Jewish Health System (System) “strives to improve the health of the communities it serves and is committed to providing the highest quality clinical care.” In conformity with this mission, it is the responsibility of every provider to care for patients safely and effectively. Our patients should expect that this care will be rendered with attention to quality, timeliness, and respect for their rights. Few conditions are more likely to prevent fulfillment of these responsibilities than the unaddressed impairment of a physician or physician assistant (PA). It is necessary for us to treat the impaired provider with compassion, understanding, without improper discrimination, and to rehabilitate him/her and return him/her to active practice whenever possible. Our guiding principle is that identifying and treating potentially impaired physicians/PAs will result in improved outcomes for patients and practitioners. This process must be kept confidential, separate and distinct from any disciplinary proceedings required by the Medical Staff or administration.

New York State (NYS) Public Health Law Section 230-11a requires that physicians and hospital chief executive officers report to the Office for Professional Medical Conduct ("OPMC") when there is reasonable evidence to indicate that a physician/PA is guilty of professional misconduct. Such misconduct as defined in NYS Education Law Section 6509 includes practicing the profession while impaired by alcohol, drugs, or physical or mental disability.

The System endorses the concept of “doctors helping doctors” by encouraging physicians/PAs to seek confidential assistance for themselves and their colleagues. It affirms that substance use and psychiatric disorders as well as physical impairment are illnesses that can be successfully treated. The desire is to return physicians/PAs to the safe practice of medicine once they are engaged in treatment, have invested in recovery, and are medically cleared for duty.

Education of the Medical Staff and all other organizational staff about physician/PA impairment and the existence of this policy are integral to its implementation.
I. **DEFINITION OF IMPAIRMENT**

Impairment is defined as the presence of substance use or a physical, mental, or emotional condition that adversely affects the individual’s ability to practice safely and competently.

II. **IDENTIFYING THE IMPAIRED PHYSICIAN / PHYSICIAN ASSISTANT**

Signs of potential impairment may be obvious or subtle, observed directly, or through telephone conversations, or indirectly via reports from others. In addition, a physician/PA may self-report his/her impairment. Regardless of the method of identification, immediate action must be taken through the procedures set forth in this policy.

III. **TYPES OF IMPAIRMENT**

It is recognized that although the essence of practicing medicine is cognitive, physical impairments may also affect the practice of medicine. Cognitive and physical disabilities must be addressed, but in distinctly different fashions. A physical or cognitive disability may be transient in nature or may be persistent.

A. **Physical Impairments in Physicians / Physician Assistants**

The System and its health care facilities will support physically challenged physicians /PAs who are able and willing to provide care that meets the required professional standards, with reasonable and appropriate accommodations as deemed necessary.

B. **Mental Impairment in Physicians / Physician Assistants**

Many commonly diagnosed psychiatric conditions may not result in an impairment to the ability to practice medicine. Physicians/PAs should be encouraged to seek treatment for such conditions; however, knowledge of the fact that a physician/PA has a mental health condition or has sought mental health treatment should not, in and of itself, be considered grounds for intervention/assessment. Physicians/PAs with more serious or difficult to-treat conditions may suffer impairment in their ability to practice. Some physicians/PAs with these illnesses may also have an impaired ability to recognize the need for assessment and treatment. If there is a specific behavioral incident or a pattern of behavior or functioning that indicates the possibility of impairment due to a mental illness, then intervention/assessment is warranted. Note that physicians/PAs may also self-refer to the Medical Society of the State of New York’s (MSSNY) Committee for Physician’s Health, and may want to consider this option to document appropriate treatment efforts.

Mental illness may impair a physician’s clinical judgment and may affect patient
care by impairing a physician’s ability to interact effectively or appropriately with patients, patients’ families or staff members.

C. **Alcohol / Substance Abuse Impairment in Physicians/Physician Assistants**

Substance abuse occurs among physicians at a rate similar to that in the population at large. Statistics reveal that approximately 7.5% of physicians suffer from some form of alcohol use disorder and another 1.5 to 2.0% addiction to other drugs. The greatest incidence of this disease occurs in anesthesiologists, emergency department physicians, and psychiatrists but no specialty is immune. The early recognition and treatment of this disease results in over a 90% recovery rate. Although relapse reaches a low level after five years of monitoring the longer the period of monitoring the better the outcome. Signs and symptoms of substance abuse can be any of those described above as disruptive behaviors in section III. D. “Mental Impairments in Physicians/Physicians Assistants” or the following:

- Increased sick time and time away from work
- Increasing personal and professional isolation
- Unpredictable work habits and patterns
- Heavy "wastage" of drugs
- Inappropriate prescription of large narcotic doses

D. **Disruptive Behavior in Physicians/ Physician Assistants**

Disruptive behavior, while at times associated with mental illness, is never acceptable. (Please refer to the *Code of Professionalism where available*)

Examples of such disruptive behavior may include, without limitation:

- Sexual harassment involving employees or patients
- Use of Racial or ethnic slurs
- Intimidation or abusive language
- Sarcasm or cynicism
- Late or unsuitable replies to calls
- Threats of violence, retribution, or litigation
- Swearing or use of foul language
- Unprofessional appearance
- Use of insults and verbal put downs
- Staring or glaring
- Stalking
- Unwanted physical contact
- Ignoring others as if they did not exist
- Yelling, loud or angry outbursts
- Throwing objects
Though representative of disruptive behaviors, this list is neither diagnostic nor all-inclusive. The clinical diagnoses associated with these behaviors can vary widely. Not uncommonly, a physician/PA may be accurately diagnosed with a combination of more than one type of disorder which results in disruptive behavior.

V. PROCEDURE

A. Medical Staff Health Committee (MSHC)

Each Health System facility shall have a Medical Staff Health Committee (MSHC), chaired by an appointee of the facility’s Medical Board and comprised of the following:

- Medical Director or Chief Medical Officer
- Where appropriate:
  - Director of substance abuse treatment program
  - Psychiatrist
  - Neurologist
  - Medical staff/Staff Society President or delegate
- Other members deemed appropriate

The MSHC should be a standing committee of the Medical Board. In the event that a System hospital has an existing committee for physician impairment, it should be incorporated into the MSHC.

This Committee is deemed part of the hospital’s Quality Assurance/Malpractice Prevention Program and its members are extended the legal protection associated with the program.

B. Committee for Physicians Health

Public Health Law authorizes the Committee for Physicians’ Health (CPH) to confidentially confront and monitor physicians / PAs who suffer from substance use/ abuse or behavioral health disorders. CPH activities are confidential and its records are not discoverable under civil law. As a division of MSSNY, CPH is not part of any government agency. The law provides immunity for colleagues who make good faith referrals to CPH and relieves CPH members of the duty to report to the Office for Professional Medical Conduct (OPMC), information discovered solely as a result of a CPH investigation.

The System encourages physicians/PAs to seek help from CPH for themselves or their colleagues. Physicians and administrators have NO legal obligation to contact OPMC about any physician/PA who seeks CPH assistance before misconduct has occurred.
C. **Confrontation and Interventions**

When a physician/PA exhibits signs of physical and/or mental impairment, the prevailing environment and circumstances will determine the appropriate response. The intent is not to diagnose but to intervene as reasonably necessary to protect the patient and, if possible assist the physician/PA. Thus, to the extent practicable, while protecting the safety of patients and others, the person(s) confronting the practitioner will endeavor to protect the privacy of the physician/PA. The following principles will guide the initial confrontation of a physician/PA under suspicion of being impaired:

Whenever a staff member has reason to believe that a physician/PA has lost the ability to practice medicine with reasonable skill and safety, due to physical or behavioral limitations (either from direct observation or from accounts given by others), the staff member should submit a report to his/her supervisor and to one of the designated individual(s) listed below by order of preference.

- The Chairman of the caregiver’s department
- The Chairman of the department reporting the event
- The Medical Director or Chief Medical Officer of the hospital
- The Chairman of the hospital’s Medical Staff Health Committee (MSHC)

In the event that none of the above-referenced persons can be contacted and a situation poses an immediate risk to the patient, physician/PA or others, the Administrator on Call should be contacted.

Whenever possible, no fewer than two people should approach an individual suspected of impairment. A written, confidential, record of the encounter must be kept. This must document witness accounts.

Any laboratory work should be performed under a code number or mutually agreed to pseudonym in accordance with the policy for toxicology screens set forth in Appendix I. The laboratory report should immediately be returned to the Medical Review Officer (MRO) or a person acting in that capacity. If the laboratory report is positive for substances of abuse, or otherwise indicates an urgent situation it should be discussed immediately with the supervisor of the
physician/PA and forwarded to the Chairman of the MSHC.

On the basis of the allegations and the initial encounter with the physician/PA, as set forth above, the designated individual(s) conducting the initial confrontation and investigation shall have the responsibility to make a determination as to whether intervention with respect to the identified impairment is of an urgent or non-urgent nature. A situation in which impairment reasonably appears to pose imminent harm to patients is considered urgent. In an urgent situation, the physician/PA should be requested to voluntarily relinquish all patient care activities pending review by her/ his supervisor. If the physician/PA refuses to comply with this direction, the physician/PA may be summarily suspended in accordance with the relevant provisions of the Medical Staff Bylaws.

All non-urgent situations should be referred to the institutional MSHC directly or through the Clinical Chair, Medical Director.CMO/VPMA. This committee will investigate the allegation thoroughly and determine whether the individual can continue to practice or requires further intervention, including, without limitation, an appropriate referral to CPH.

The discussions and records referred to above will be treated confidentially provided that, in the event that a physician/PA exercises his/her procedural rights under the Medical Staff Bylaws, the participants may describe the substance of the investigation with respect to any Medical Board investigation of the matter.

VI. EVALUATION AND RECOGNITION

In keeping with the definition of impairment adopted by this Policy, a disability, whether mental or physical, will be considered in light of all the relevant circumstances, including without limitation, the following:

• The specific limitations in physical or cognitive functioning resulting from the impairment;
• Whether the impairment is likely to be transient or persistent;
• The specific physical and cognitive requirements of the practitioner’s clinical specialty;
• The specific physical or cognitive requirements of the practitioner’s employment obligations;
• Any adjustments or accommodations to the requirements of the practitioner’s clinical practice, including, without limitation, a change in the clinical specialty or administrative responsibilities of the practitioner that might mitigate the effects of the impairment;
• Adjustments or accommodations to the physical condition of the workplace that might mitigate the effects of the impairment; and,
• Any training, retraining or rehabilitation completed by the practitioner with respect to the impairment.
VII. CRITERIA FOR REFERRAL FOR ASSESSMENT/EVALUATION


After intervention or investigation by the MSHC, a physician/PA should be referred for evaluation/assessment if one or more of the following criteria are met:

- There is evidence of excessive alcohol or other drug consumption or dependence associated with concerns about impairment.
- There is evidence of a mental illness that is not being adequately treated and that impairs the ability to practice.
- There is evidence of a physical impairment that is not being adequately treated and that impairs the ability to practice.

VIII. INTERNAL AND EXTERNAL REPORTING

When there is a reasonable belief that a physician/PA is suffering from mental or substance abuse impairment, he/she will, if practicable, be given the opportunity to self refer to CPH and information concerning CPH will be provided. It should be made clear that failure to self refer will result in referral by the Department Chair or the MSHC. In the event that CPH referral is recommended by the MSHC, the Department Chair, the Executive Director, the Medical Director and the Associate Executive Director for Patient Care and Nursing Services should be notified on a confidential basis as necessary, to ensure the smooth operation of the hospital. Except in rare circumstances based upon the need to disclose information for legal or operational reasons, no other persons should have access to information concerning the matter.

OPMC notification is necessary when information reasonably appears to show that a physician/PA is guilty of professional misconduct. All reporting to OPMC must be conducted through the Quality Management Department and/or the Department of Legal Affairs.

IX. TREATMENT AND MONITORING

In the event that the physician/PA with an impairment related to mental illness or substance abuse accepts a referral to CPH, then the evaluation and referral for treatment, as well as the monitoring of the impairment will be conducted or arranged by CPH. In some cases, a practitioner with a mental impairment may choose to obtain treatment and arrange for monitoring through other resources, which may be acceptable to the MSHC. The MSHC and the Department Chair will determine the extent to which they require progress reports on such treatment and monitoring relative to the ability of the physician/PA to continue or return to the practice of his/her profession in the Hospital. The physician/PA must authorize sufficient release of information from the treating agency to the MSHC to permit the MSHC to effectively monitor the physician/PA’s condition.
In the instance of a physician who is impaired by reason of physical disability, the evaluation and treatment may be managed through the Department of Physical Medicine and Rehabilitation of the hospital or another Department as deemed appropriate by the MSHC. The designated consulting clinical department in consultation with peers in the physician’s/PA’s specialty will make recommendations to the MSHC if they determine a change should be made in the scope of the physician’s/PA’s privileges. Any such changes will be addressed in accordance with the corrective action provisions of the Medical Staff Bylaws. For all physicians referred there must be appropriate follow up and monitoring to ensure maintenance of skills. Employed or voluntary physicians/PAs may arrange for treatment of their condition through a resource of their choosing acceptable to the MSHC.

The above does not preclude the System or its constituent hospitals from establishing individual monitoring criteria that may proceed concurrently with the monitoring criteria of CPH. It is recommended that adherence to both policies be employed. The literature indicates that five years or more of monitoring is efficacious for substance abusers. Mental and physical impairment may be transitory and monitoring must be individualized.
Appendix I

Preferred Technique for Laboratory Testing

Procedure:
Physicians/PAs suspected of having a mental impairment or substance abuse problem should be requested by the designated individual to undergo appropriate tests designed to detect the presence of alcohol or drugs. Testing will be conducted in accordance with policy on confidentiality and chain of custody adherence for specimen collection. The Employee Health Service, laboratory, or the Emergency Department, in accordance with established procedures including chain of custody, should conduct the collection and handling of specimens. The physician/PA will be required to sign a written consent.

If the physician/PA refuses to submit to testing, the following should occur:
- The physician/PA should be asked for the reason of refusal. This must be documented.
- The physician/PA should be informed that a refusal might cause clinical leadership to draw a negative inference. That, in conjunction with evidence obtained during investigation, may result in disciplinary action as described in this policy.
- The physician/PA should be requested a second time to submit to testing.

Collection of Specimens:
Collection should take place in a private setting with the appropriate facilities and equipment available. A record must be kept of the samples given and the names of the individuals who handled the sample.

Urine Collection:
If possible, the “Chain of Custody” technique should be used. In cases where the “Chain of Custody” technique is not used, the following should occur:
- If the collection container is unwrapped, the physician/PA should pick among several containers.
- The specimen bottle must be sealed and labeled with tape. The physician/PA must sign across the sealing piece of tape, attesting to the fact that it is his/her sample.
- The urine collection should be “witnessed” (i.e. the observer can attest to the fact that there was no chance for the physician/PA to dilute, adulterate, or exchange the specimen by either being in the room where the specimen is collected or listening attentively from behind a closed door. It is never acceptable for persons of the opposite sex to be direct observers.

Blood Collection:
Blood should be drawn for a Blood Alcohol Level (BAL) study (Do not use alcohol preps for this
process).
The specimen must be labeled in front of the physician/PA.
Any remaining serum should be frozen, labeled and retained for the duration of the evaluation / investigation of impairment.

**Review of Positive Test Results:**
All positive test results should be reviewed and interpreted by a Medical Review Officer (MRO) to determine whether there is an acceptable medical explanation for the positive test result. This information will be then forwarded to the MSHC. The System will maintain a list of MROs who can perform this function. The physician/PA need not be present and can be contacted by phone by the MRO when necessary.
Appendix II

Physician Impairment/PA- Process Flow Diagram


Notify Designated Individuals (1)
(No less than two present)
Intercede & Make Judgment
(a written confidential record of the proceedings must be kept)

Relieve of Duties with Coverage
Call security if refusal to comply
(Request Toxicology if appropriate)

MSSNY-CPH
(reports back to MSHC with patient’s consent)

Evaluation & Treatment Facility

Medical Staff Health Committee (MSHC) (2)
(Re-evaluate, Interview)

Appropriate Rehab, Neuro, Etc.

Medical Board or Medical Executive Committee
Accepts Recommendations & Makes Decision

No Further Action is Required

RECOMMENDATION FOR RESTRICTIONS

Monitoring Per Guidelines of MSHC & CPH

NOT URGENT

SUBSTANCE ABUSE OR MENTAL IMPAIRMENT

PHYSICAL IMPAIRMENT

URGENT

NO EVIDENCE OF IMPAIRMENT

(1) Designated Individuals in order of preference:
Chair of the MD/PA’s Dept
Chair of the Department reporting event
Medical Director or CMO of the Hospital
Chair of the MSHC
If no one available—call AOD

(2) Medical Staff Health Committee (MSHC):
Chairman (appointed by the Medical Board)
Medical Director
Other members as appropriate
- Psychiatrist
-Physiatrist
-Neurologist
-President of the Medical Staff or designee
Where available:
-Director of rehab/addiction program

Evaluation & Treatment Facility

Monitoring Per Guidelines of MSHC & CPH

Physical Impairment

No Further Action is Required

Relieve of Duties with Coverage
Call security if refusal to comply
(Request Toxicology if appropriate)

MSSNY-CPH (reports back to MSHC with patient’s consent)

Appropriate Rehab, Neuro, Etc.
Appendix III

Bibliography


Joint Commission for Accreditation for Healthcare Organizations – Standards for Physician Health

A Policy Guide –The Hospital’s Response to the Impaired Physician, Medical Society of the State of New York, Committee for Physician’s Health