

METHODIST LE BONHEUR HEALTHCARE UNIFIED MEDICAL STAFF

PRACTITIONER HEALTH POLICY

*Adopted by the Medical Executive Committee: December 8, 2020
Approved by the Board: December 16, 2020*

PRACTITIONER HEALTH POLICY

TABLE OF CONTENTS

	<u>PAGE</u>
1. POLICY AND DEFINITION OF HEALTH ISSUE.....	1
2. REPORTS OF POTENTIAL HEALTH ISSUES.....	1
2.A Duty to Self-Report.....	1
2.B Reports of Suspected Health Issues by Others	1
3. RESPONSE TO IMMEDIATE THREATS	2
3.A Scope of Section	2
3.B Assessment of Immediate Threat and Related Testing of Practitioner.....	2
3.C Interim Measures to Protect Patients and Others	3
3.D Referral for Log-in and Follow-up	4
4. LOG-IN AND FOLLOW-UP	4
4.A Logging of Reports and Creation of Confidential Health File	4
4.B Follow-up with Individual Who Filed Report	4
4.C Notification to Employer	4
4.D Fact-Finding.....	4
4.E Referral to Practitioner Well-Being Committee	4
5. PRACTITIONER WELL-BEING COMMITTEE REVIEW	4
5.A Individuals Participating in Review/Additional Clinical Expertise.....	4
5.B Additional Fact-Finding.....	5
5.C Meeting with Practitioner	5
5.D Practitioner’s Refusal to Obtain Assessment.....	5
5.E Self-Disclosure to Other Entities	5
5.F Review of Practitioner’s Clinical Practice	5
6. INTERIM MEASURES PENDING COMPLETION OF ASSESSMENT	6
7. ASSESSMENT OF HEALTH STATUS.....	6
7.A General.....	6
7.B Person to Conduct Assessment	7
7.C Costs of Assessment	7
7.D Forms	7

	<u>PAGE</u>
8. REINSTATEMENT/RESUMING PRACTICE	7
8.A Request for Reinstatement from Leave of Absence or to Resume Practicing	7
8.B Additional Information	8
8.C Determination by Practitioner Well-Being Committee	8
9. CONDITIONS OF CONTINUED PRACTICE	8
9.A General	8
9.B Refusal to Agree to Conditions	8
9.C Reasonable Accommodations	8
9.D Voluntary Agreement to Conditions Not a “Restriction”	9
10. REFERRALS TO MEDICAL EXECUTIVE OR EMPLOYER	9
10.A Referral to Medical Executive Committee	9
10.B Referral to Employer	9
11. AUTOMATIC RELINQUISHMENT/RESIGNATION FOR REFUSAL TO PROVIDE INFORMATION OR MEET WITH THE PRACTITIONER WELL-BEING COMMITTEE	10
11.A Refusal of Testing When There Are Immediate Concerns	10
11.B Other Refusals	10
11.C Automatic Resignation	10
11.D Reporting Requirements	11
12. CONFIDENTIAL HEALTH FILES/REAPPOINTMENT PROCESS	11
12.A Creation of Confidential Health File	11
12.B Information Reviewed at Reappointment	11
13. ADDITIONAL PROVISIONS GOVERNING THE REVIEW OF HEALTH ISSUES	12
13.A Confidentiality	12
13.B Health Issues Identified During Credentialing Process	13
13.C Immediate Referrals to Medical Executive Committee	13
13.D No Legal Counsel or Recordings During Collegial Meetings	13
13.E Identity of Individual Who Reports a Health Issue	14
13.F Supervising Physicians and Advance Practice Professionals	14
13.G Redisclosure of Drug/Alcohol Treatment Information	15
13.H Educational Materials	15

	<u>PAGE</u>
13.I Delegation of Functions.....	15
13.J Practitioner Health Manual	15
13.K Substantial Compliance	16
13.L Legal Protections	16
13.M Definitions.....	16
 APPENDIX A: Flowchart of Review Process for Practitioner Health Issues.....	 18

PRACTITIONER HEALTH POLICY

1. POLICY AND DEFINITION OF HEALTH ISSUE

- (a) Methodist Healthcare Memphis Hospitals and Methodist Healthcare – Olive Branch Hospital (the “Hospital”) are committed to providing safe, quality care, which can be compromised if a Practitioner is suffering from a Health Issue that is not appropriately addressed. The Hospital is also committed to assisting Practitioners in addressing Health Issues so they may practice safely and competently.
- (b) This Policy outlines the process that will be used to evaluate and collegially resolve concerns that a Practitioner may have a Health Issue. A flowchart that outlines the review process described in this Policy is set forth in **Appendix A**.
- (c) A “Health Issue” is any physical, mental, or emotional condition that could adversely affect a Practitioner’s ability to practice safely and competently. **Examples of Health Issues** are included at **PHM-1** in the Practitioner Health Manual. Other definitions used in this Policy are included in Section 13.

2. REPORTS OF POTENTIAL HEALTH ISSUES

2.A *Duty to Self-Report.*

- (1) **General Duty.** Practitioners who have a Health Issue are required to report it to a Medical Staff Officer, the Chief Medical Officer (“CMO”), or another Medical Staff Leader.
- (2) **Exception.** The duty to self-report does not apply to:
 - (a) A Health Issue that will be fully resolved before the Practitioner next exercises his or her clinical privileges; or
 - (b) A Health Issue that was evaluated as part of a Practitioner’s application for appointment or reappointment to the Medical Staff.

2.B *Reports of Suspected Health Issues by Others.*

- (1) **General.** Any Practitioner or Hospital employee who is concerned that a Practitioner may be practicing with a Health Issue shall report the concern to a Medical Staff Officer, the CMO, or another Medical Staff Leader.
- (2) **Reporting Form.** A **Health Issue Reporting Form** that may be used to report potential Health Issues is set forth as **PHM-2** in the Practitioner Health

Manual. The form outlines warning signs to facilitate the objective reporting of these issues.

- (3) ***Anonymous Reports.*** Practitioners and employees may report concerns anonymously. However, all individuals are encouraged to identify themselves when making a report so that the PPE Specialists may contact the reporter for additional information that may help the Practitioner and safeguard patients, if necessary.
- (4) ***Reports by Those in Treatment Relationships.*** A Practitioner who becomes aware of a Health Issue affecting another Practitioner as a result of his or her treatment relationship with that Practitioner is not expected to report the Health Issue internally pursuant to this Policy. However, the treating Practitioner should encourage the Practitioner to self-report the issue to the extent required by Section 2.A of this Policy.

In addition, the treating Practitioner should consider whether a mandatory report is required under state law to the applicable licensing board or any other state agency. If the treating Practitioner believes a mandatory report is necessary pursuant to state law, he or she should notify the Practitioner and encourage the Practitioner to self-report prior to making the mandatory report. The treating Practitioner may consult with the CMO for assistance and resources in such matters, but should not disclose to the CMO information that identifies the Practitioner.

3. RESPONSE TO IMMEDIATE THREATS

3.A ***Scope of Section.*** This section applies if a potential Health Issue is reported that raises immediate concerns because either:

- (1) The Practitioner is providing services at the Hospital at that time; or
- (2) The Practitioner is expected to provide services in the very near future such that the Practitioner Well-Being Committee would not have time to meet prior to the Practitioner's provision of services.

By way of example and not limitation, this section applies if a Practitioner seems disoriented or displays erratic behavior while rounding on patients, or is suspected of being under the influence of drugs or alcohol while working.

3.B ***Assessment of Immediate Threat and Related Testing of Practitioner.***

- (1) If a report suggests that a Practitioner may have a Health Issue that poses an immediate threat to patients, the Practitioner, or others, a Medical Staff Officer, the CMO, or another Medical Staff Leader shall immediately and personally assess the Practitioner. If no such individual is reasonably

available, a member of the Administrative Team may conduct the assessment.

- (2) Any two Medical Staff Leaders, or one Medical Staff Leader and one member of the Administrative Team, may require the Practitioner to submit to a blood, hair, or urine test, or other appropriate physical or cognitive testing, to determine his or her ability to safely practice. If the individual who personally assesses the Practitioner is unable to contact a second Medical Staff Leader or member of the Administrative Team after reasonable efforts (e.g., at night or on a weekend), the individual who personally assessed the Practitioner may require the Practitioner to submit to the test described in the prior sentence.
- (3) Failure of the Practitioner to undergo such testing upon request will result in the automatic relinquishment of the Practitioner's clinical privileges pending Practitioner Well-Being Committee review of the matter. See Section 11 of this Policy for additional information on automatic relinquishment. A letter that may be used to notify the Practitioner of an automatic relinquishment is included as **PHM-3** in the Practitioner Health Manual (**Notice of Automatic Relinquishment for Refusal of Testing When There Are Immediate Concerns**).

3.C ***Interim Measures to Protect Patients and Others.*** If the individual who assesses the Practitioner believes the Practitioner may have a Health Issue and that action is necessary to protect patients, the Practitioner, or others, the Practitioner should be asked to voluntarily refrain from exercising his or her clinical privileges or agree to conditions on his or her practice while the matter is being reviewed. Such a request may be made to the Practitioner either before or after any tests or evaluations regarding the Practitioner have been completed.

- (1) ***Agreement to Voluntarily Refrain.*** If the Practitioner agrees to voluntarily refrain from exercising his or her privileges, the Associate Chief of Staff or CMO may assign the Practitioner's patients to another individual with appropriate clinical privileges or to the appropriate Practitioner on the Emergency Department call roster. Affected patients shall be informed that the Practitioner is unable to proceed with their care due to an emergency situation. Any wishes expressed by patients regarding a covering Practitioner will be respected to the extent possible. The Practitioner's agreement to voluntarily refrain is not reportable to the National Practitioner Data Bank or state licensing board. Such agreements should be documented in a letter or other correspondence to the Practitioner that is maintained in the Practitioner's Confidential Health File.
- (2) ***Other Action.*** If the Practitioner will not agree to: (i) voluntarily refrain from exercising his or her privileges; or (ii) conditions on his or her practice that are deemed necessary, an individual authorized by the Medical Staff

Bylaws to impose a precautionary suspension will consider whether a precautionary suspension or some other measure is necessary as a safeguard while the Health Issue is assessed.

- 3.D ***Referral for Log-in and Follow-up.*** Following the immediate response described above, the matter shall be referred to the PPE Specialists for log-in and follow-up as described in the next section.

4. LOG-IN AND FOLLOW-UP

- 4.A ***Logging of Reports and Creation of Confidential Health File.*** The PPE Specialists will log any report of a Health Issue and create a Confidential Health File that is maintained separately from the credentials or quality files (however, the existence of the Confidential Health File will be noted in the credentials or quality file). See Section 12 of this Policy for more information on Confidential Health Files.
- 4.B ***Follow-up with Individual Who Filed Report.*** The PPE Specialists or CMO shall follow up with individuals who file a report. A **Response to Individual Who Reported Concerns About a Health Issue** that may be used for this purpose is included as **PHM-4** in the Practitioner Health Manual.
- 4.C ***Notification to Employer.*** If a reported concern involves an Employed Practitioner, the PPE Specialists will notify the Employer that the matter is being reviewed pursuant to this Policy. The Employer will be invited to provide any information that it believes may be relevant to the Employed Practitioner and the concern being reviewed. The Employer will also be informed that the Practitioner Well-Being Committee may request the Employer's participation in the review.
- 4.D ***Fact-Finding.*** The PPE Specialists, Associate Chief of Staff and/or CMO shall interview witnesses or others who may have information and gather any other necessary documentation or information needed to assess the reported concern. An **Interview Tool for Fact-Finding (Script and Questions)** is included as **PHM-5** in the Practitioner Health Manual.
- 4.E ***Referral to Practitioner Well-Being Committee.*** All suspected Health Issues will be referred to the Practitioner Well-Being Committee for its review as set forth in the next section.

5. PRACTITIONER WELL-BEING COMMITTEE REVIEW

- 5.A ***Individuals Participating in Review/Additional Clinical Expertise.*** If the Practitioner Well-Being Committee determines that it would be necessary or helpful in addressing the reported concern, it may consult with or include a representative of the Employer, the Department Chair, a subject matter expert (e.g., an addictionologist, neuropsychologist, or psychiatrist) or any other individual with

relevant expertise. Any individual who participates in a review is an integral part of the Hospital's review process, and shall be governed by the same responsibilities and legal protections (e.g., confidentiality, indemnification, etc.) that apply to other participants in the process. The chair of the Practitioner Well-Being Committee has the discretion to recuse the Employer representative during any deliberations or vote on a matter.

- 5.B ***Additional Fact-Finding.*** The Practitioner Well-Being Committee may review any documentation relevant to the Health Issue. It may also meet with the individual who initially reported the concern and any other individual who may have relevant information. An **Interview Tool for Fact-Finding (Script and Questions)** is included as **PHM-5** in the Practitioner Health Manual.
- 5.C ***Meeting with Practitioner.*** If the Practitioner Well-Being Committee believes that a Practitioner may have a Health Issue, the Practitioner Well-Being Committee shall meet with the Practitioner. At this meeting, the Practitioner will be advised of the nature of the concern, asked to provide input, and informed of the Practitioner Well-Being Committee's recommendations. **Talking Points for Meeting with Practitioner About Health Issue** that may be used to help the Practitioner Well-Being Committee prepare for and conduct such meetings are included as **PHM-6** in the Practitioner Health Manual.
- 5.D ***Practitioner's Refusal to Obtain Assessment.*** If a Practitioner refuses to obtain a health assessment that is recommended by the Practitioner Well-Being Committee or provide the results to the Practitioner Well-Being Committee, the process outlined in Section 11 of this Policy will be followed.
- 5.E ***Self-Disclosure to Other Entities.*** In its discretion, the Practitioner Well-Being Committee may encourage the Practitioner to self-disclose the Health Issue to other entities where the Practitioner practices. The Practitioner Well-Being Committee may point out that Medical Staff Bylaws and related documents typically require Practitioners to self-disclose such information. If applicable, documentation confirming that the self-disclosure occurred should be obtained (e.g., e-mail confirmation from other entities).
- 5.F ***Review of Practitioner's Clinical Practice.***
 - (1) If the Practitioner Well-Being Committee has concerns that a Practitioner's Health Issue may have affected the Practitioner's clinical practice prior to the Health Issue being identified, the Practitioner Well-Being Committee may review a sample of the Practitioner's cases. In conducting this review, the Practitioner Well-Being Committee may seek assistance from any Practitioner, an external reviewer or other sources. Confidentiality reminders should be provided to those assisting with the review.

- (2) If a potential concern is identified, the Practitioner Well-Being Committee will determine if the concern was likely caused by the Health Issue:
 - (a) If so, the Practitioner Well-Being Committee will assess whether resolution of the Health Issue will also resolve any potential clinical concerns. Oversight of the Practitioner's clinical practice may be included as part of any conditions of the Practitioner's continued practice. In addition, the Practitioner Well-Being Committee shall assess whether it is necessary to contact any previous patients for purposes of obtaining additional testing or other interventions (e.g., concerns that previous radiologic interpretations may have been adversely affected by the Health Issue).
 - (b) If the clinical concern was likely not related to the Practitioner's Health Issue, the matter will be referred for review under the Professional Practice Evaluation Policy (Peer Review).

6. INTERIM MEASURES PENDING COMPLETION OF ASSESSMENT

If a Practitioner agrees to obtain an assessment, the Practitioner Well-Being Committee may also recommend that the Practitioner voluntarily take one or more of the following actions while the assessment is pending:

- (a) Agree to specific conditions on his or her practice, which could include obtaining assistance from other Practitioners during patient care activities;
- (b) Refrain from exercising some or all privileges at the Hospital and at other practice locations as may be appropriate; or
- (c) Take a leave of absence.

If a Practitioner does not agree to take a temporary voluntary action recommended by the Practitioner Well-Being Committee while the assessment is pending, an individual authorized by the Medical Staff Bylaws to impose a precautionary suspension will consider whether a precautionary suspension or some other measure is necessary as a safeguard while the Health Issue is assessed.

7. ASSESSMENT OF HEALTH STATUS

- 7.A **General.** The Practitioner Well-Being Committee may require the Practitioner to undergo a physical, mental, cognitive, or other examination or other assessment by an appropriate clinician. This may include, but is not limited to, an assessment by the [state](#) Physicians Health Program. The Practitioner Well-Being Committee may also ask the Practitioner to provide a letter from his or her treating physician confirming the Practitioner's ability to safely and competently practice, and

authorize the treating physician to meet or speak with the Practitioner Well-Being Committee.

- 7.B ***Person to Conduct Assessment.*** The Practitioner Well-Being Committee shall select the health care professional or organization to perform any examination, testing, or evaluation, but may seek input from the Practitioner. More than one health care professional or organization may be asked to perform an examination, test, or evaluation, and this may occur either concurrently or serially (e.g., a substance abuse assessment following a positive drug screen).
- 7.C ***Costs of Assessment.*** The Practitioner shall be responsible for any costs associated with the assessments described in the prior section, unless the Practitioner Well-Being Committee determines otherwise.
- 7.D ***Forms.*** The Practitioner Health Manual includes the following forms, which should be used when implementing the provisions of this section:
- (1) **Consent for Disclosure of Information and Release from Liability (PHM-7)**, which authorizes the Hospital to release information to the health care professional or organization conducting the evaluation;
 - (2) **Authorization for Release of Protected Health Information (PHM-8)**, which authorizes the health care professional or organization conducting the evaluation to disclose information about the Practitioner to the Practitioner Well-Being Committee; and
 - (3) **Health Status Assessment Form (PHM-9)**, which documents the results of an evaluation.

8. REINSTATEMENT/RESUMING PRACTICE

8.A *Request for Reinstatement from Leave of Absence or to Resume Practicing.*

- (1) ***Leave of Absence.*** If a Practitioner was granted a formal leave of absence to participate in a treatment program or otherwise address a Health Issue, the Practitioner must apply for reinstatement of privileges using the process set forth in the Medical Staff Bylaws. However, prior to applying for reinstatement, the Practitioner must first submit a written request to the Practitioner Well-Being Committee for clearance to apply for reinstatement and be granted written permission by the Practitioner Well-Being Committee.
- (2) ***Agreement to Refrain Without Formal Leave of Absence.*** In all other circumstances where the Practitioner refrained from practicing (e.g., voluntary agreement between Practitioner and Practitioner Well-Being Committee; Practitioner was absent from Medical Staff duties while

participating in a treatment program or otherwise addressing a Health Issue), the Practitioner must submit a written request to the Practitioner Well-Being Committee and receive written permission to resume exercising his or her clinical privileges.

8.B ***Additional Information.*** Before acting on a Practitioner's request for clearance to apply for reinstatement from a leave of absence or to resume practicing, the Practitioner Well-Being Committee may request any additional information or documentation that it believes is necessary to evaluate the Practitioner's ability to safely and competently exercise clinical privileges. This may include requiring the Practitioner to undergo a health assessment conducted by a physician or entity chosen by the Practitioner Well-Being Committee in order to obtain a second opinion on the Practitioner's ability to practice safely and competently.

8.C ***Determination by Practitioner Well-Being Committee.***

- (1) If the Practitioner Well-Being Committee determines that the Practitioner is capable of practicing safely and competently without conditions, this decision will be documented. The Practitioner may then: (i) proceed with the reinstatement process outlined in the Medical Staff Bylaws, if a leave of absence was taken; or (ii) resume practicing, if no leave of absence was taken.
- (2) If the Practitioner Well-Being Committee determines that conditions should be placed on a Practitioner's practice as a condition of reinstatement or resuming practice, it will follow the process outlined in the following Section.

9. CONDITIONS OF CONTINUED PRACTICE

9.A ***General.*** The Practitioner Well-Being Committee may ask the Practitioner to agree to comply with certain conditions in order to receive clearance to apply for reinstatement of privileges from a leave of absence or to otherwise resume practicing. **Examples of Conditions of Continued Practice** are included as **PHM-10** in the Practitioner Health Manual.

9.B ***Refusal to Agree to Conditions.*** If the Practitioner does not agree to conditions requested pursuant to the prior paragraph, the Practitioner Well-Being Committee cannot compel the Practitioner to comply with them. In that situation, the Practitioner Well-Being Committee will refer the matter to the Medical Executive Committee for its independent review under the Medical Staff Credentials Policy.

9.C ***Reasonable Accommodations.*** Reasonable accommodations may be made consistent with Hospital policy to assist the Practitioner in resuming his or her practice. Examples of reasonable accommodations include, but are not limited to, providing assistive technology or equipment or removing architectural barriers.

The Practitioner Well-Being Committee will consult with Hospital executive personnel to determine whether reasonable accommodations are feasible.

- 9.D ***Voluntary Agreement to Conditions Not a “Restriction.”*** A Practitioner’s voluntary agreement to conditions similar to the **Examples of Conditions of Continued Practice** at PHM-10 in the Practitioner Health Manual generally does not result in a “restriction” of that Practitioner’s privileges. Accordingly, such a voluntary agreement generally does not require a report to the National Practitioner Data Bank (“NPDB”) or to any state licensing board or other government agency, nor would it entitle a Practitioner to a hearing under the Medical Staff Bylaws. However, the Practitioner Well-Being Committee will assess each situation independently. If there is concern in a given situation that a condition may be reportable to the NPDB or a state licensing board or agency, the Practitioner Well-Being Committee will consult with Hospital counsel and communicate with the Practitioner about the matter prior to making any such report.

10. REFERRALS TO MEDICAL EXECUTIVE COMMITTEE OR EMPLOYER

- 10.A ***Referral to Medical Executive Committee.*** A matter shall be immediately referred to the Medical Executive Committee for its review and action pursuant to the Medical Staff Credentials Policy if the Practitioner fails to:
- (1) agree to conditions requested by the Practitioner Well-Being Committee to receive clearance to apply for reinstatement of privileges from a leave of absence or to otherwise resume practicing;
 - (2) continually comply with any agreed-upon condition of reinstatement or continued practice; or
 - (3) cooperate in the monitoring of his or her practice.

Following its review, the Medical Executive Committee shall take appropriate action under the Credentials Policy. This may include, but is not limited to, initiating an Investigation.

- 10.B ***Referral to Employer.*** The Practitioner Well-Being Committee may refer a matter to the Employer for disposition, after consultation with the Employer. In such case, the Practitioner Well-Being Committee will obtain a report from the Employer regarding the final action taken by the Employer. If the Practitioner Well-Being Committee determines that the Employer’s action is insufficient, the Practitioner Well-Being Committee may take whatever action it deems necessary in accordance with this Policy.

11. AUTOMATIC RELINQUISHMENT/RESIGNATION FOR REFUSAL TO PROVIDE INFORMATION OR MEET WITH THE PRACTITIONER WELL-BEING COMMITTEE

11.A *Refusal of Testing When There Are Immediate Concerns.* If a Practitioner refuses to undergo testing or an assessment when there are immediate concerns about patient safety as described in Section 3, the refusal will result in the immediate and automatic relinquishment of the Practitioner's clinical privileges pending the Practitioner Well-Being Committee's review of the matter.

11.B *Other Refusals.* If a Practitioner fails or refuses to:

- (1) obtain a health assessment acceptable to the Practitioner Well-Being Committee and provide the results to the Practitioner Well-Being Committee when requested to do so pursuant to this Policy;
- (2) provide other information requested by the Practitioner Well-Being Committee; or
- (3) meet with the Practitioner Well-Being Committee or other specified individuals when requested to do so in accordance with this Policy,

the Practitioner will be required to meet with the Practitioner Well-Being Committee to discuss why the health assessment was not obtained, the requested information (including the results of a health assessment) was not provided, or the meeting was not attended. Failure of the Practitioner to either:

- (i) meet with the Practitioner Well-Being Committee and persuade it that the health assessment, requested information or meeting is not necessary; or
- (ii) provide the requested information prior to the date of the Practitioner Well-Being Committee meeting,

will result in the automatic relinquishment of the Practitioner's clinical privileges until the Practitioner either provides the requested information or attends the original meeting as requested. A **Letter to Practitioner Requesting Meeting with the Practitioner Well-Being Committee/Automatic Relinquishment Possibility if Failure to Meet** is included as **PHM-11** in the Practitioner Health Manual.

11.C *Automatic Resignation.* If the Practitioner fails to meet with or provide information requested by the Practitioner Well-Being Committee within thirty (30) days of the automatic relinquishment, the Practitioner's Medical Staff membership and clinical privileges will be deemed to have been automatically resigned.

11.D *Reporting Requirements.*

- (1) Generally, the automatic relinquishment or resignation of appointment and/or clinical privileges described above are administrative actions that occur by operation of this Policy. They are not professional review actions that must be reported to the NPDB or to any state licensing board or agency, nor do they entitle the Practitioner to a hearing or appeal.
- (2) Notwithstanding the foregoing, if the Practitioner Well-Being Committee or Medical Executive Committee determines that a Practitioner's refusal to provide information or attend a meeting is a deliberate attempt to avoid review of a Health Issue, the Practitioner's action may be viewed as a resignation to avoid an Investigation, and is thus reportable to the NPDB and a state licensing board or agency. Hospital counsel shall be consulted in making such determinations.

12. CONFIDENTIAL HEALTH FILES/REAPPOINTMENT PROCESS

12.A *Creation of Confidential Health File.* Reports of potential Health Issues and documentation received or created pursuant to this Policy shall be included in the Practitioner's Confidential Health File, which shall be maintained by the PPE Specialists as a separate file and shall not be included in the credentials file or the quality file.

12.B *Information Reviewed at Reappointment.*

- (1) The information reviewed by those involved in the reappointment process will not routinely include the documentation in a Practitioner's Confidential Health File. Instead, the process set forth in this subsection will be followed.
- (2) When a reappointment application is received from an individual who has a Health Issue that is currently being reviewed or monitored by the Practitioner Well-Being Committee, or that has been reviewed and resolved in the past reappointment cycle, the PPE Specialists shall contact the Practitioner Well-Being Committee.
- (3) The Practitioner Well-Being Committee will prepare a Confidential Summary Health Report to the Credentials Committee. The Summary Health Report shall be included in the credentials file and reviewed by the Credentials Committee subject to any conditions on the review of health information set forth in the Medical Staff Credentials Policy.
- (4) The Practitioner Well-Being Committee's Summary Health Report will state that it is actively monitoring, or has monitored in the past reappointment cycle, a Health Issue involving the Practitioner. It will not

contain details or specifics regarding the Health Issue. The Summary Health Report will also include a recommendation regarding the Practitioner's ability to perform the duties of Medical Staff membership and safely exercise clinical privileges. A **Sample Summary Health Report for Use at Reappointment** is included as **PHM-12** in the Practitioner Health Manual.

- (5) If the Credentials Committee, Medical Executive Committee, or Board has any question about the Practitioner's ability to safely practice, a representative of the relevant entity will discuss the issue with a member of the Practitioner Well-Being Committee, attend a meeting of the Practitioner Well-Being Committee to discuss the issue, or have a member of the Practitioner Well-Being Committee attend a Board meeting. If a committee or the Board still believes additional information is necessary, its representative may review the Practitioner's Confidential Health File in the Medical Staff Office along with a representative of the Practitioner Well-Being Committee. If there are still concerns, the Confidential Health File will be reviewed at a meeting of the committee or Board in executive session, with guidance regarding the need for strict confidentiality being provided prior to the review.

13. ADDITIONAL PROVISIONS GOVERNING THE REVIEW OF HEALTH ISSUES

13.A ***Confidentiality.*** Maintaining confidentiality is a fundamental and essential element of an effective professional practice evaluation process.

- (1) ***Documentation.*** All documentation that is prepared in accordance with this Policy shall be maintained in the Practitioner's Confidential Health File. All documents (whether paper or electronic) should be conspicuously marked with the notation "Confidential PPE/Peer Review" or words to that effect, consistent with their privileged and protected status under state or federal law. However, failure to mark documents in this manner shall not be viewed as an indication that the document is not privileged. Access to the Confidential Health File for recredentialing purposes is governed by Section 12 of this Policy. Any other request to access the Confidential Health File must be approved by the Practitioner Well-Being Committee.
- (2) ***Verbal Communications.*** Telephone and in-person conversations should take place in private at appropriate times and locations to minimize the risk of a breach of confidentiality (e.g., conversations should not be held in Hospital hallways).
- (3) ***E-mail.*** Hospital e-mail or e-mail sent through the provider quality portal may be used to communicate between individuals participating in the health review process, including with the Practitioner in question. All e-mails should include a standard convention, such as "Confidential PPE/Peer

Review Communication” in the subject line. E-mail should not be sent to non-hospital accounts unless either: (1) the e-mail merely directs recipients to check their Hospital e-mail; or (2) the e-mail is encrypted in a manner approved by the Hospital’s information systems department.

- (4) ***Participants in the Review Process.*** All individuals involved in the review process (Medical Staff and Hospital employees) will maintain the confidentiality of the process. All such individuals shall sign an appropriate **Confidentiality Agreement** (sample agreements are included as **PHM-13** and **PHM-14** in the Practitioner Health Manual). Any breaches of confidentiality will be reviewed under the Medical Staff Professionalism Policy. Breaches of confidentiality by Hospital employees will be referred to human resources.

13.B ***Health Issues Identified During Credentialing Process.*** A Health Issue that is identified during the credentialing process shall be addressed pursuant to the Medical Staff Credentials Policy. The Credentials Committee may request assistance from the Practitioner Well-Being Committee in assessing the Health Issue, if that would be helpful. If a determination is made by the Credentials Committee that the Practitioner is qualified for appointment and privileges, but has a Health Issue that should be monitored or treated, the matter shall be referred to the Practitioner Well-Being Committee for ongoing monitoring or oversight of treatment pursuant to this Policy.

13.C ***Immediate Referrals to Medical Executive Committee.*** Nothing in this Policy precludes immediate referral to the Medical Executive Committee or the elimination of any particular step in the Policy if necessary to effectively address a Practitioner Health Issue. Similarly, nothing in this Policy precludes referral of a matter to the Medical Executive Committee if a Practitioner fails to abide by this Policy or any agreement reached with the Practitioner Well-Being Committee (for example, conditions of continued practice).

13.D ***No Legal Counsel or Recordings During Collegial Meetings.***

- (1) To promote the collegial and educational objectives of this Policy, all discussions and meetings with a Practitioner shall generally involve only the Practitioner and the appropriate Medical Staff Leaders and Hospital personnel. No counsel representing the Practitioner or the Medical Staff or the Hospital shall attend any of these meetings. In their discretion, Medical Staff Leaders may permit a Practitioner to invite another Practitioner to the meeting. In such case, the invited Practitioner may not participate in the discussion or in any way serve as an advocate for the Practitioner under review, must sign a Confidentiality Agreement, and may be required to leave the meeting at any time.

- (2) Practitioners may not create an audio or video recording of a meeting nor may they broadcast it in any manner (e.g., via live streaming). If a recording is made in violation of this rule, the recording shall be destroyed. In their discretion, Medical Staff Leaders may require that smart phones, iPads, and similar devices be left outside the meeting room. In exceptional circumstances, Medical Staff Leaders or Hospital personnel may record a meeting if necessary to prepare accurate minutes or an interview summary. Once the document is prepared, however, any such recording shall also be destroyed.

13.E ***Identity of Individual Who Reports a Health Issue.***

- (1) ***General Rule.*** Since this Policy does not involve disciplinary action or “restrictions” of privileges, the specific identity of an individual reporting a concern or otherwise providing information about a matter (the “reporter”) generally will not be disclosed to the Practitioner.
- (2) ***Exceptions.***
 - (i) ***Consent.*** The Practitioner Well-Being Committee may, in its discretion, disclose the identity of the reporter to the Practitioner if the reporter specifically consents to the disclosure (with the reporter being reassured that he or she will be protected from retaliation).
 - (ii) ***Medical Staff Hearing.*** The identity of the reporter shall be disclosed to the Practitioner if information provided by the reporter is used to support an adverse professional review action that results in a Medical Staff hearing.
- (3) ***Practitioner Guessing the Identity of Reporter.*** This section does not prohibit the Practitioner Well-Being Committee from notifying a Practitioner about a Health Issue concern that has been raised even if the description of the concern would allow the Practitioner to guess the identity of the reporter (e.g., where the reporter and the Practitioner were the only two people present when an incident occurred). In such case, the Practitioner Well-Being Committee will not confirm the identity of the reporter, and will pay particular attention to reminding the Practitioner to avoid any action that could be perceived as retaliation.

13.F ***Supervising Physicians and Advance Practice Professionals.*** Except as set forth below, an appropriate supervising or collaborating physician shall be notified if a concern is being reviewed pursuant to this Policy involving an Advance Practice Professional with whom the physician has a supervisory or collaborative relationship. The disclosure to the supervising or collaborating physician will be limited to a general statement that a Health Issue is currently being reviewed and that additional information will be forthcoming once the Practitioner has signed an

appropriate authorization. The supervising or collaborating physician shall maintain in a confidential manner all information related to reviews under this Policy. Notification to the supervising or collaborating physician as described in this Section is not required, or may be delayed, if the individual or committee conducting the review determines that notification would be inconsistent with a fair and effective review.

- 13.G ***Redisclosure of Drug/Alcohol Treatment Information.*** In the course of addressing a Health Issue pursuant to this Policy, the Hospital may receive written or verbal information about the treatment of a Practitioner from a federally-assisted drug or alcohol abuse program as defined by 42 C.F.R. Part 2. The Hospital may not redisclose such information without a signed authorization from the Practitioner. An **Authorization for Redisclosure of Drug/Alcohol Treatment Information** that may be used for this purpose is included as **PHM-15** in the Practitioner Health Manual.
- 13.H ***Educational Materials.*** The Practitioner Well-Being Committee shall recommend to the Medical Executive Committee educational materials that address Practitioner Health Issues and emphasize prevention, identification, diagnosis, and treatment of Health Issues. This Policy and any educational materials approved by the Medical Executive Committee shall be made available to Practitioners and Hospital personnel. In addition, the Medical Executive Committee shall periodically include information regarding illness and impairment recognition issues in CME activities.
- 13.I ***Delegation of Functions.***
- (1) When a function under this Policy is to be carried out by a member of Hospital management, by a Medical Staff member, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Practitioner or Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of this Policy. In addition, the delegating individual or committee is responsible for ensuring that the designee appropriately performs the function in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter.
 - (2) When an individual assigned a function under this Policy is unavailable or unable to perform that function, one or more Medical Staff Leaders may perform the function personally or delegate it to another appropriate individual as set forth above.
- 13.J ***Practitioner Health Manual.*** The Practitioner Well-Being Committee shall approve forms, checklists, template letters and other documents that assist with the implementation of this Policy. Collectively, these documents are known as the

Practitioner Health Manual. Such documents shall be developed and maintained by the PPE Specialists. Individuals performing a function pursuant to this Policy should use the document currently approved for that function and revise as necessary.

13.K ***Substantial Compliance.*** While every effort will be made to comply with all provisions of this Policy, substantial compliance is required. Technical or minor deviations from the procedures set forth within this Policy do not invalidate any review or action taken.

13.L ***Legal Protections.*** Practitioners have significant personal legal protections from various sources when they perform functions described in this Policy as long as they maintain confidentiality and act in accordance with the Policy. These legal protections are further described in Article 7 of the Medical Staff Bylaws.

13.M ***Definitions.***

- (1) ***“Administrative Team”*** means the CEO, Chief Operating Officer, Chief Medical Officer, Chief Nursing Officer, or any Administrator on call.
- (2) ***“Employed Practitioner”*** means a Practitioner who is employed by an Employer.
- (3) ***“Employer”*** means:
 - (a) the Hospital; or
 - (b) a Hospital-related entity or a private entity that:
 - (i) has a formal peer review process and an established peer review committee; and
 - (ii) is subject to the same information sharing policy as the Hospital, or has information sharing provisions in a professional services contract or in a separate information sharing agreement with the Hospital.
- (4) ***“Health Issue”*** is defined in Section 1 of this Policy.
- (5) ***“Medical Staff Leader”*** means any Medical Staff officer, Department Chair, Associate Chair, Service Chief or committee chair.
- (6) ***“PPE Specialists”*** means the clinical and non-clinical staff who support the professional practice evaluation (“PPE”) process generally and the process described in this Policy for the review of Health Issues. This may include,

but is not limited to, staff from the quality department, Medical Staff office, human resources, and/or patient safety department.

- (7) ***“Practitioner”*** means any individual who has been granted clinical privileges and/or membership by the Board, including, but not limited to, members of the Medical Staff and Advance Practice Professionals.

Adopted by the Medical Executive Committee on December 8, 2020.

Approved by the Board on December 16, 2020.

APPENDIX A

FLOWCHART OF REVIEW PROCESS FOR PRACTITIONER HEALTH ISSUES

[insert flowchart]