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Owner Cheryl Carpenter:
Medical Staff
Services Director
Area Administration
Applicability Erie County
Medical Center
References ADM-026

Professionalism Policy.

1. PURPOSE

This policy governing professional conduct reflects the core values of Erie County Medical Center Corporation ("ECMCC") and its Medical/Dental Staff, including integrity, community, respect, compassion, stewardship, excellence, and service. Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment.

STANDARDS OF PROFESSIONAL CONDUCT

- Treat all patients, families, visitors, professional and medical center staff, students and trainees with respect;
- Contribute to an environment that is respectful and civil;
- Act with honesty and integrity in all professional matters;
- Refrain from behavior that is inappropriate, disruptive, or harassing;
- Respect patient confidentiality and adhere to established policies for protected health information;
- Work collaboratively with colleagues and staff to provide optimal patient care;
- Be receptive to critical feedback: respect differences in clinical opinion on the part of all members of the clinical team, realizing that critical input is essential to good patient care and patient safety;
- Respond in a timely manner to patient care requirements;
- Act with integrity in dealing with adverse outcomes and medical errors.
- Show commitment to disclosure of information to patients and family consistent with ECMCC's policy (Disclosure of Unanticipated Outcomes, PAT-014) and to collaborating fully

- with efforts to learn from adverse events to improve quality of care at ECMCC,;
- Share in the responsibility to ensure competent and safe care of patients by all Providers and staff at ECMCC;
 - Address directly and respectfully transgressions to this policy on the part of colleagues;
 - Participate in and respect processes of remediation and discipline duly enacted in response to problem behaviors;
 - Manage conflicts of interest with integrity;
 - Recognize, disclose and manage with integrity conflicts of interest involving the pursuit of personal gain or organizational gain with the primary goal of patient welfare;
 - Self-refer any physical, mental, psychological or substance abuse issues that may be contributing to inappropriate or disruptive behavior, or to the potential thereof. (See policy MS.06 Provider Health and Wellness)

POLICY TERMS

1. "**Appropriate Behavior**" means any reasonable conduct to advocate for patients, to recommend improvements in patient care, to participate in the operations, leadership or activities of the organized medical staff, or to engage in professional practice including practice that may be in competition with the hospital. (See Appendix A).
2. "**Collegial Meetings**" are any meetings held between the Provider who is the subject of the Report and those tasked with reviewing and/or resolving that concern within the scope of the confidential Practice Improvement Process.
3. "**Disruptive Behavior**" means any verbal or non-verbal conduct including sexual or other forms of harassment, discrimination or retaliation, or other forms of conduct that harms or intimidates others such that quality of care or patient safety could be compromised or creates an intimidating, hostile or abusive work environment. (See Appendix A).
4. "**Harassment**" means unwelcome conduct that is based on membership in a protected class, such as a person's sex, sexual orientation, race, creed, color, religion, military status, gender, national origin, age, disability status, sexual orientation, gender identify, political status, military service, familial status, statue as a victim of domestic violence, arrest or conviction record or predisposing genetic characteristics and/or any other status or characteristic protected by applicable federal, state or local law, rule or regulation. Harassment becomes unlawful where (1) enduring offensive conduct becomes a condition of continued employment or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive. (See HR-025: Harassment).
5. "**Inappropriate Behavior**" means conduct that is unwarranted and is reasonably interpreted to be demeaning or offensive. Persistent, repeated inappropriate behavior can become a form of harassment and thereby become disruptive, and subject to treatment as "disruptive behavior." (See Appendix A).
6. "**Leadership Council**" means a standing committee of the Medical/Dental Staff as defined in the Rules & Regulations, Part II, that provides guidance and assists in the resolution of complex clinical and administrative issues including Provider professionalism, health and wellness, quality assurance and performance improvement, education, communication and leadership development. It is the goal of the Leadership Council to act in a collegial manner,

utilizing a progressive steps continuum. The Leadership Council has no disciplinary authority and acts within the confidential Practice Improvement Process.

7. **"Practice Improvement Process"** or **"PI Process"** means the confidential Medical/Dental Staff Performance Improvement Plan, as defined in the Medical/Dental Staff Bylaws, allowing for the measurement, assessment and improvement of the quality and efficiency of medical care provided at ECMCC.
8. **"Provider"** means a duly licensed physician, dentist, oral surgeon, podiatrist or allied health professional, such as a clinical psychologist, certified nurse midwife, chiropractor, nurse practitioner, physician assistant, certified registered nurse anesthetist, or surgical first assist, who is member of the ECMCC Medical/Dental Staff or who has temporary, telemedicine, disaster or training clinical privileges.
9. **"Quality Assurance/Quality Improvement Process"** or **"QA/QI process"** refers to functions to improve the quality of care provided to patients as required by the Public Health Law and the Education Law of New York.
10. **"Report"** means an expression of a problem, concern, or opinion of Unprofessional Behavior, which is made via the methods set forth in Section 1(C) of this policy.
11. **"Retaliation"** means any adverse action against an individual because of the individual's good faith report or participation in any process resulting from a report of alleged wrongdoing, including but not limited to Unprofessional Behavior, corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority.
12. **"Sexual Harassment"** is a form of discrimination and includes harassment on the basis of sex, sexual orientation, gender identity and transgender status. Sexual harassment includes unwelcome conduct which is either of a sexual nature or which is directed at an individual because of an individual's sex, sexual orientation, gender identity and transgender status when:
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the Reporting individual is not the intended target of the sexual harassment;
 - Such conduct is made either explicitly or implicitly a term or condition of employment; or
 - Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment. (See HR-025: Harassment)
13. **"Unprofessional Behavior"** shall mean collectively, the terms "Disruptive Behavior," "Harassment," "Inappropriate Behavior," "Retaliation" and "Sexual Harassment."

POLICY

ECMCC requires that all employees, Medical/Dental Staff members, and other contracted individuals conduct themselves in a professional and cooperative manner within ECMCC's facilities, and that all Providers agree to honor this Professionalism policy via written attestation at initial appointment/privileging and minimally at each re-appointment thereafter.

ECMCC and the Medical/Dental Staff will take prompt and appropriate action in accordance with this

policy to address Reports of Unprofessional Behavior by any member of the Medical/Dental Staff. Any actions taken by the Medical/Dental Staff in accordance with this policy with respect to any member of the Medical/Dental Staff who also is an employee of ECMCC shall be in addition to any actions that may be taken by ECMCC as an employer in accordance with applicable policies of the ECMCC Department of Human Resources. This policy will be enforced in a firm, fair and equitable manner. Issues related to professionalism, conduct and behavior will be addressed by the Leadership Council through the PI Process. The PI Process is a progressive steps continuum. Any disciplinary actions will be handled by the Medical Executive Committee ("MEC") in accordance with this policy and the Bylaws, Rules & Regulations of the ECMCC Medical/Dental Staff.

Behavior that suggests that a Medical/Dental staff member may suffer from substance abuse, a physical, mental or emotional condition will be referred to the Leadership Council and will be addressed in accordance with the Medical/Dental Staff Bylaws, Rules & Regulations.

ECMCC and the Medical/Dental Staff will strive to maintain the confidentiality of Reports and Report investigations to the extent appropriate under the circumstances and as permitted by law.

ECMCC and the Medical/Dental Staff will not permit retaliation against anyone who makes a Report, assists in the investigation or cooperates in an investigation involving Unprofessional Behavior. (See HR-025: Harassment).

This policy outlines collegial intervention that can be taken in an attempt to resolve Reports about Unprofessional Behavior exhibited by members of the Medical/Dental Staff. However, there may be a single incident or a continuation of Unprofessional Behavior that is so unacceptable as to make such collegial intervention inappropriate and requires immediate disciplinary action. Therefore, nothing in this policy precludes immediate referral to the MEC, Chief Executive Officer, or Board of Directors, or the elimination of any particular step in the policy when addressing a Report about Unprofessional Behavior.

PROCEDURE

I. REPORTING

To promote patient safety and the safety of family members, visitors and other health care team members, threats, assaults, or other criminal behavior that requires immediate attention by law enforcement must be reported first to ECMCC Police at 716-898-3132, or to 911 for an emergency response.

- A. Any Provider, employee, patient, or visitor may identify and communicate Unprofessional Behavior as set forth below. Documentation of such behavior is critical, as it is ordinarily not one incident that justifies disciplinary action, but rather a pattern of conduct.
- B. Reports may be made:
 - 1. Online using the Electronic Occurrence Reporting System; or
 - 2. Utilizing the chain of command (e.g., department administrator, vice president, or Chief of Service). Reports received through the chain of command are entered by the applicable vice president, Chief of Service, or Chief Medical Officer ("CMO") into the Electronic Occurrence Reporting System.
 - 3. Reports from patients and visitors are referred promptly to ECMCC's Patient Experience Team or ECMCC Administration, in accordance with ECMCC policy, and

are then entered into Electronic Occurrence Reporting System. (See ADM-033 Occurrence Reporting).

- C. All Reports must be made in good faith, without malice, and, if possible, should include:
1. the date, time, and location of the alleged Unprofessional Behavior;
 2. the name of the perpetrator of the alleged Unprofessional Behavior;
 3. if the behavior affected or involved a patient in any way, the name of the patient;
 4. a description of the Unprofessional Behavior, limited to factual, objective language as much as possible;
 5. the immediate consequences, if any, to patient care or personnel or hospital operations;
 6. a record of any action taken to remedy the situation including date, time, place, action and name(s) of those intervening; and
 7. a list of all known witnesses to the event(s).

II. REVIEW, INVESTIGATION, AND RESPONSE

See Appendix B for detailed flow chart of Practice Improvement Process.

- A. All Reports of alleged Unprofessional Behavior concerning a member of the Medical/Dental Staff shall be reviewed by the office of ECMCC's CMO.
- B. If, upon review, the CMO determines that the alleged Unprofessional Behavior, even if accepted as true, does not constitute Unprofessional Behavior, the Report shall be closed and the individual initiating the Report may be informed, at the discretion of the CMO, of the closure.
- C. If, upon review, the CMO determines that the alleged Unprofessional Behavior may constitute Unprofessional Behavior in violation of this policy, then the following action shall be taken:
1. **Referral to the Practice Improvement Process.** Information will be provided to the PI Specialist who will log the Report in a confidential database that is used as part of the QA/QI process.
 2. **Notice to Person Making the Report.** The person initiating the Report should be notified that the Report was received and that it will be investigated and acted upon according to this policy.
 3. **Minor Concern.** If the Report includes a minor concern and there is no pattern of behavior, no fact-finding is necessary. The Report may be closed following notification to the Provider by the CMO, President of the Medical/Dental Staff or the Department Chair. Additionally, the CMO, President of the Medical/Dental Staff or the Department Chair shall provide notification to the PI Coordinator for inclusion in a detailed report to Leadership Council as part of the QA/QI process.
 4. **Significant Concern or Existence of Pattern.** If a Report includes a significant concern or a pattern exists, the following process shall be utilized:
 - a. The CMO, President of the Medical/Dental Staff or the Department Chair shall provide the Provider with preliminary notification and advise that more information from the Provider may be needed.

- b. Additional fact-finding shall be conducted, including but not limited to interviews with witnesses and others.
- c. The Provider's employer may be notified, if information sharing provisions have been established.
- d. Once the Provider has been notified and fact-finding has been completed, the Medical/Dental Staff President or the Chief of Service and the CMO will decide whether further review is required.
 - i. If no further review is required, the matter will be closed and logged with notice to the Provider and to the Leadership Council, as part of the QA/QI process, to allow for oversight of the process and consistency.
 - ii. If further review is required, additional information may be necessary from the Provider as set forth in subsection (e) below. A summary should be prepared for review by the Leadership Council as part of the QA/QI process.
- e. **Input Permitted but Not Required.** Practitioners are not required to provide any input, verbal or written, during the PI Process, but they are permitted to do so consistent with the collegial and educational objectives of the PI Process. Practitioners will be given the opportunity to provide input prior to an educational letter, collegial counseling, voluntary improvement plan, or other methodology being used. Providers may be requested to sign an acknowledgement of receipt of a confidentiality and non-retaliation letter.
- f. **Referral to the Leadership Council.** The initial Report and any additional information generated after the initial Report will be forwarded to the Leadership Council for further review, and investigation will be conducted as needed by the Leadership Council, CMO, Chief of Service or other appropriate individual, as part of the QA/QI process. Responses available to the Leadership Council include:
 - i. Closure of the Report without action;
 - ii. An education letter generated by action of the Leadership Council and placed in the Provider's confidential quality file for OPPE review,
 - iii. Collegial counseling initiated by action of the Leadership Council, documentation of which will be placed in the Provider's confidential quality file for OPPE review.
 - iv. Initiation of a voluntary improvement plan ("VIP"), which has been:
 - Developed by action of the Leadership Council, with voluntary participation of the Chief of Service, and placed in the Provider's confidential quality file for OPPE;
 - Monitored by the Leadership Council for compliance, with notification to the Chief of Service and satisfactory completion of the VIP documented in the Provider's confidential quality file for OPPE review;

- Non-compliance with the VIP will result in referral to the MEC;
- v. Referral to the Provider's employer for disposition, after consultation with the Provider's employer; and
- vi. Referral to MEC.

1. No Legal Counsel or Recordings during Collegial Meetings.

- a. To promote the collegial and educational objectives of this policy, all discussions and meetings with a Provider shall generally involve only the Provider and the appropriate Medical/Dental Staff leaders and ECMCC personnel. No counsel representing the Provider or the Medical/Dental Staff or ECMCC shall attend any of these meetings. In their discretion, Medical/Dental Staff leaders may permit a Provider to invite another Provider as a guest to the meeting. In such case, the invited guest Provider: (1) may not participate in the discussion or in any way serve as an advocate for the Provider under review; (2) must sign a confidentiality agreement; and (3) may be required to leave the meeting at any time upon the request of the Leadership Council.
- b. Practitioners may not create an audio or video recording of a meeting. In their discretion, Medical/Dental Staff leaders may require that smart phones, iPads, and similar devices be left outside the meeting room.

1. **Report to MEC.** The President of the Medical/Dental Staff and/or CMO shall inform the MEC of the applicable Report(s) as part of the QA/QI process at the next scheduled meeting of the MEC on a regular basis or at least quarterly.

2. **Recommendations by MEC.** With respect to any Report of Unprofessional Behavior, or in the case of a Provider's refusal to comply or with or successful completion of a VIP for conduct concerns (not clinical concerns), the MEC may make a recommendation to address the behavior, including but not limited to the following:

- a. require the Provider to meet with the Chair of the Board of Directors;
- b. require the Provider to meet with the full MEC;
- c. require the Provider to obtain a psychiatric evaluation to determine the Provider's ability to fulfill the obligations of Medical/Dental Staff membership, which evaluation shall be conducted by a physician chosen by the MEC;
- d. referral of the Provider to the Medical Society of the State of New York Committee for Physician Health;
- e. impose an individualized code of conduct on the Provider and make continued appointment and clinical privileges contingent on the Provider's adherence to it;
- f. initiate an investigation as set forth in Part II, Article II of the Medical/Dental Staff Bylaws;
- g. impose an Administrative Time Out as set forth in Part II, Article III, Section 3.3 of the Medical/Dental Staff Bylaws.

1. **Additional Action by MEC.** With respect to any Report of Unprofessional Behavior, the MEC may:

- a. Make a recommendation regarding the Provider's continued appointment and clinical privileges in compliance with Part II of the Medical/Dental Staff Bylaws;
 - b. Advise that an event has occurred, which initiates automatic relinquishment or voluntary resignation of clinical privileges and/or Medical/Dental Staff membership as set forth in Part II, Article III, Section 3.1 of the Medical/Dental Staff Bylaws.
 - c. Refer the matter to the Board of Directors without a recommendation. If the matter is referred to the Board of Directors, any further action, including any hearing or appeal, shall be conducted under the direction of the Board of Directors.
1. **Privacy.** The need for privacy during the PI Process should be respected. Conversations should be in an appropriate, private location on the ECMCC campus or conducted virtually. .
 2. **Compliance with Medical/Dental Staff Bylaws.** All actions taken in response to a Report of Unprofessional Behavior shall be in accordance with this policy, as well as any other applicable ECMCC policies, and also Part II of the Medical/Dental Staff Bylaws as applicable.

INTERNAL REPORTING REQUIREMENTS

The CMO or his/her designee will report monthly to the Leadership Council on all matters currently being addressed as part of the QA/QI process. The Leadership Council will report monthly via a de-identified aggregate report to the MEC as part of the QA/QI process, and referral, if applicable. Identified issues, handled through the PI Process, will be documented in the Provider's confidential quality file and protected to the extent allowed under NYS Education Law §6527, NY Public Health Law §2805 and other applicable law.

EXTERNAL REPORTING REQUIREMENTS

The MEC handles all disciplinary action in accordance with the associated Bylaws, Rules and Regulations. Reports of disciplinary action will be made to the applicable licensing board and/or enforcement authorities and to the National Practitioner Data Bank in compliance with state and federal law.

REFERENCES:

- A. 2012 AMA Model Medical Staff Code of Conduct
- B. Joint Commission Standards:
 1. LD 03.01.01
 2. MS 01.01.01
 3. MS 08.01.01
 4. MS 08.01.03
- C. ADM-033 Occurrence Reporting
- D. HR-025 Harassment
- E. PAT-014 Disclosure of Unanticipated Outcomes

F. NYS Education Law: §6527

G. NYS Public Health Law: §2805

APPLICABILITY: Erie County Medical Center Corporation: Members of the Medical/Dental Staff and Individuals who have Temporary, Telemedicine, Disaster or Training Clinical Privileges at ECMCC.

Effective Date: 10/1/2006,

Revised: 10/1/2008, 1/28/2013, 06/2020

APPENDIX A

EXAMPLES OF PROFESSIONAL AND UNPROFESSIONAL CONDUCT

AND SEXUAL HARASSMENT/OTHER IDENTITY-BASED HARASSMENT

- A. To aid in both the education of Providers and the enforcement of this policy, examples of Unprofessional Behavior include, but are not limited to:
- a. abusive or threatening language directed at patients, nurses, students, volunteers, visitors, hospital personnel, or Providers (e.g., belittling, berating, or non-constructive criticism that intimidates, undermines confidence, or implies stupidity or incompetence);
 - b. degrading, demeaning, or condescending comments regarding patients, families, nurses, Providers, hospital personnel, or ECMCC;
 - c. refusal or failure to answer questions, or return phone calls or pages in a timely manner as defined in the Medical/Dental Staff Bylaws documents or other applicable policies;
 - d. intentional misrepresentation to ECMCC administration, Medical/Dental Staff leaders, other Providers, or their representatives, in an attempt to gain a personal benefit or to avoid responsibility for an action taken;
 - e. offensive language (which may include profanity or similar language) while at ECMCC or while speaking with patients, nurses, or other Hospital personnel;
 - f. retaliating against any individual who may have reported a quality or behavior concern about a Provider, provided information related to such a matter, or otherwise been involved in the professional practice evaluation/peer review process in any way (this means a Provider may not, under any circumstances, approach and discuss the matter with any such individual, nor may the Provider engage in any other retaliatory or abusive conduct such as confronting, ostracizing, or discriminating against such individual);
 - g. unprofessional physical contact with another individual or other aggressive behavior that is threatening or intimidating;
 - h. throwing an object of any kind, including but not limited to any medical/surgical

- instrument or supply;
 - i. repeatedly failing to maintain and renew in a timely manner all credentials required by the Medical/Dental Staff Bylaws;
 - j. derogatory comments about the quality of care being provided by ECMCC, another Provider, or any other individual outside of appropriate Medical/Dental Staff or ECMCC administrative channels;
 - k. unprofessional medical record entries impugning the quality of care being provided by the Hospital, Providers, or any other individual, or criticizing ECMCC or the ECMCC's policies or processes, or accreditation and regulatory requirements;
 - l. altering or falsifying any medical record entry or hospital document (including, but not limited to, incorrectly dating or timing an entry or document to give the impression it was completed prior to when it was actually completed);
 - m. completing medical record entries based on a template without considering the care actually provided to the patient, or using the "copy and paste" or "pull forward" functions of the medical record to populate fields without verifying that the information is accurate for the patient in question;
 - n. refusal or failure to use or use properly documentation technology (e.g., CPOE, EHR, and other approved technology);
 - o. unprofessional access, use, disclosure, or release of confidential patient information;
 - p. audio, video, or digital recording that is not consented to by others present, including patients and other members of the care team;
 - q. use of social media in a manner that involves Unprofessional Behavior as defined in this policy or other Medical/Dental Staff or ECMCC policies;
 - r. disruption of hospital operations, hospital or Medical/Dental Staff committees, or departmental affairs;
 - s. refusal to abide by Medical/Dental Staff requirements as delineated in this policy, the Medical/Dental Staff Bylaws, Rules and Regulations, or other Medical/Dental Staff policies (including, but not limited to, emergency call issues, response times, medical recordkeeping, other patient care responsibilities, failure to participate on assigned committees, failure to cooperate with utilization oversight activities, and an unwillingness to work cooperatively and harmoniously with other members of the Medical/Dental Staff and Hospital employees); and/or
 - t. engaging in Sexual Harassment as described in Section 2 of this Appendix.
- B. Depending on the circumstances, any of the examples of Unprofessional Behavior described in this policy may also qualify as Sexual Harassment. Additional examples include, but are not limited to, the following:
- a. **Verbal:** innuendoes, epithets, derogatory slurs, off-color jokes, propositions, graphic commentaries, threats, and suggestive or insulting sounds;
 - b. **Visual/Non-Verbal:** derogatory posters, cartoons, or drawings; suggestive objects or pictures; leering; and obscene gestures;
 - c. **Physical:** unwanted physical contact, including touching, interference with an

individual's normal work movement, and assault;

- d. **Quid Pro Quo:** suggesting that submission to an unwelcome sexual advance will lead to a positive employment action or avoid a negative employment action; and
- e. **Retaliation:** retaliating or threatening retaliation as a result of an individual's Report regarding harassment.

C. Examples of **Appropriate Behavior** include, but are not limited to, the following:

- a. Criticism communicated in a reasonable manner and offered in good faith with the aim of improving patient care and safety;
- b. Encouraging clear communication;
- c. Expressions of concern about a patient's care and safety;
- d. Expressions of dissatisfaction with policies through appropriate grievance channels or other civil non-personal means of communication;
- e. Use of cooperative approach to problem resolution;
- f. Constructive criticism conveyed in a respectful and professional manner, without blame or shame for adverse outcomes;
- g. Professional comments to any professional, managerial, supervisory, or administrative staff, or members of the Board of Directors about patient care or safety provided by others;
- h. Active participation in medical staff and hospital meetings (i.e., comments made during or resulting from such meetings cannot be used as the basis for a Report under this Code of Conduct, referral to the MEC, economic sanctions, or the filing of an action before a state or federal agency);
- i. Membership on other medical staffs; and
- j. Seeking legal advice or the initiation of legal action for cause.

ECMCC has developed these policies and procedures in conjunction with administrative and clinical departments. These documents were designed to aid the qualified health care team in making clinical decisions about patient care. These policies and procedures should not be construed as dictating exclusive courses of treatment and/or procedures. No health care team member should view these documents and their bibliographic references as a final authority on patient care. Variations from these policies and procedures may be warranted in actual practice based upon individual patient characteristics and clinical judgment in unique care circumstances.

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Attachments

[APPENDIX B FLOWCHART](#)

Approval Signatures

| Step Description | Approver | Date |
|------------------|---|---------|
| | Brian Murray: Chief Medical Officer | 04/2021 |
| | Cheryl Carpenter: Medical Staff Services Director | 04/2021 |
| | Cheryl Carpenter: Medical Staff Services Director | 04/2021 |

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