



TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER™
School of Medicine

Policy and Procedure

PHYSICIAN IMPAIRMENT

PURPOSE: The purpose of this School of Medicine (SOM) Graduate Medical Education (GME) Policy and Procedure is to establish a policy concerning physician impairment.

REVIEW: This SOM Policy and Procedure will be reviewed on [September 1](#) of each even numbered year by the Lubbock GME office, with recommendations for revision forwarded to the GME Coordinating Council by [September 30](#).

POLICY/PROCEDURE:

The SOM GME shall adopt the SOM Faculty Affairs Policy for Evaluation and Treatment of Impaired Physicians or House Staff (*see Attachment A*).

APPENDIX A

POLICY FOR EVALUATION AND TREATMENT OF IMPAIRED PHYSICIANS OR HOUSE STAFF

I. PREAMBLE

The Texas Tech University Health Sciences Center (TTUHSC) recognizes that its *Physicians* and *House Staff* (resident physicians) who are impaired are individuals who need professional help. Additionally, the medical staff realizes that an impaired physician can prevent the University from meeting its commitments to provide for high quality patient care in a safe environment. The University's employees and trainees at all campuses are expected to conduct their activities in this highly complex healthcare environment in full control of their manual dexterity and skills, mental faculties, and judgment.

II. POLICY

TTUHSC regards the misuse or abuse of drugs or alcohol by a physician as conduct subject to disciplinary action, which may include the immediate suspension of all or any portion of the clinical privileges granted to a member of the medical staff and eventual termination of employment. In addition, other neuropsychiatric and general medical illnesses may produce impairment covered under this policy. Actions taken under this policy shall be in accordance with the discipline policies established by the TTUHSC Board of Regents, the Professional Staff Bylaws, the TTUHSC SOM Faculty Handbook, and the House Staff Guidelines, and state laws and regulations including V.T.C.A. Article 4495b, Medical Practice Act. Referrals to an appropriate treatment program and follow-up in a supervised rehabilitation program are among the ways physicians may be assisted in returning to professional activities.

This policy applies to all *Physicians* and *House Staff* (resident physicians) employed, appointed, affiliated, or under contract with TTUHSC. *Physicians* and *House Staff* (resident physicians) become subject to this policy if, and when, there is a reason to conclude that the individual is impaired or is exhibiting a behavior pattern suggestive of impairment. The direct observation of chemical substance abuse or observations of aberrations in job performance and/or behavior may be cause for this conclusion.

III. DEFINITIONS

The following are definitions, explanations, qualifications, or stipulations regarding certain terms used in this policy:

- *Physician(s)* as used throughout this policy includes medical doctors, doctors of osteopathy, *and doctors of dentistry* who have completed training and are licensed to practice in the state of Texas, and includes physicians providing services in correctional facilities.
- *House Staff (Resident Physicians)* as used throughout this policy includes medical school graduates who participate in a residency training or fellowship program at TTUHSC, which has been approved by the Accreditation Council for Graduate Medical Education.

- ***Chemical substance abuse*** is the personal use of any chemical substance that is specifically proscribed by law or by regulation pursuant to legal authority (e.g., Schedule 1 drugs); the personal misuse of any legally controlled substance; or the personal misuse of any normally legal chemical substance (e.g., alcohol) in a manner that produces the likelihood of the development of impairment.
- ***Chemical substance misuse*** is the self administration of any chemical substance for any reason other than its intended use.
- ***Emergency situation*** is one in which there may be an imminent or potential adverse effect on a TTUHSC patient, employee, student, or other persons.
- ***Impairment by substance abuse or misuse*** refers to any condition, resulting from substance abuse that interferes with the individual's ability to function at work as normally expected.
- ***Impairment for other neuropsychiatric illnesses or medical reasons*** refers to any other categories of impairment including major debilitating illnesses, depression, dementia, or other psychopathology or disruptive behavior that may interfere with the individual's ability to function at work as normally expected.
- ***Symptoms of impairment*** may also include declining work performance as manifested by unavailability, missed appointments, lapses in judgment, incomplete medical records, poorly communicated nocturnal phone orders, mood swings, unexplained absences, embarrassing behavior, signs of intoxication or self-medication, and/or withdrawal from hospital or other professional activities. Family problems and change in character or personality are further accompaniments of impairment.¹
- ***TTUHSC Physician Health and Rehabilitation Committee (PHR Committee)*** is a medical peer review committee, as defined in the Texas Medical Practice Act, Article 4495b, V.A.C.S., or as may be amended, to assist physicians with physical impairments, chemical or substance abuse problems, or mental and emotional difficulties that may affect clinical skill and judgment.
 - i. The **PHR Committee** shall be a standing subcommittee of the MPIP Policy Committee at each campus.
 - ii. The **PHR Committee** members shall be appointed by each Regional Policy Committee pursuant to the MPIP Bylaws, Article 3.
 - iii. Each campus PHR Committee shall consist of five (5) members, one of which shall be a psychiatrist or psychologist, and one of whom shall be House Staff.

¹ Behaviors or actions, which are illegal or improper, shall also be referred for resolution under appropriate policies such as the Sexual Harassment policy or Affirmative Action/Equal Employment Opportunity policy, or other applicable laws or regulation.

The House Staff member shall be an officer, or elected by the House Staff Association. The **PHR Committee** shall exclude participation of the House Staff member in a faculty impairment situation.

- iv. Each member's term shall be a minimum of three years, with the exception of the House Staff member whose term shall be for one year. Original start-up appointments may be staggered for shorter periods of time. No member may serve more than three (3) consecutive three-year terms.
- v. Each campus committee shall adopt bylaws consistent with other campuses to guide the fulfillment of duties under this policy.

IV. REPORTING REQUIREMENTS

It is the responsibility of all TTUHSC employees, or other persons to contemporaneously report observations of impairment to at least one of the following:

- immediate supervisor of the *Physician* or *House Staff*,
- immediate supervisor of the work area where the Physician or House Staff is providing health care services,
- the **PHR Committee**,
- the Associate Dean-Clinical Practice at Lubbock or Regional Dean at Amarillo, El Paso or Odessa, or,
- the Medical Director Managed Health Care.

Reports of impairment shall be based on "reasonable suspicion" defined as a good faith belief, based on specific, contemporaneous, and articulable observations.

The *Physician* or *House Staff* are also encouraged to self-report and shall have an opportunity to voluntarily relinquish duties and privileges that cannot safely be performed and cooperate in the development of activity restrictions which may be imposed. This policy does not preclude a *Physician* or *House Staff* from self-reporting to TMB to obtain a protective Board order, or obtaining support through the TTUHSC Employee Assistance Program (EAP) services.

In situations in which an employee's performance has deteriorated for other than identifiable job-related circumstances, a supervisor may also implement the steps for supervisory referral to the Employee Assistance Program. ([TTUHSC OP 70.38](#) or as may be amended.)

V. DOCUMENTATION

Written documentation of the report of impairment or behavior suggestive of impairment, medical and psychiatric evaluation reports, and other correspondence pertaining to these events and the treatment and rehabilitation of any Physician or House Staff will be treated as confidential.

All such documentation shall be labeled “CONFIDENTIAL – PEER REVIEW.”

Documentation is the responsibility of and is under the control of the **PHR Committee** and shall be maintained in a secure location as the **PHR Committee** may designate.

The contents of the file will be released by TTUHSC only upon written authorization of the affected *Physician* or *House Staff*, except as required by state and federal law.

Activity restrictions imposed as a result of actions under this policy will be communicated to individuals or entities (e.g., residency program director, hospital quality assurance or similar committee, liability risk manager, other supervisory personnel) ONLY on a need-to-know basis, commensurate with the level of risk. The overriding consideration will be the safety of patients, any other employees, or persons at TTUHSC, and the affected *Physician* or *House Staff*.

VI. AUTHORITY

TTUHSC's authority over *Physicians* who are employed, appointed, affiliated, or under contract with TTUHSC extends to termination of relationship, as well as to the appointment and retention of faculty status and clinical privileges at TTUHSC.

TTUHSC's authority over *House Staff* (resident physicians) extends to restricting residents' access to patients and, if necessary, discharging residents from the training program, and reporting the individual to the Texas State board of Medical Examiners (TMB) for endangering the lives of patients and posing a continuing threat to the public welfare. Other action may include reporting the restriction and the reasons for it to the Graduate Medical Education office at each campus. The resident physician may be prohibited from participating in any clinical activities at TTUHSC if found to be impaired and not already subject to an ongoing monitored rehabilitation program.

The Texas State Board of Medical Examiners (TMB) is authorized under the laws of Texas to refuse to admit persons to examination and to refuse to issue licenses or to renew licenses to practice medicine to physicians who are considered a continuing threat to the public welfare as a result of their impaired status or of the intemperate use of alcohol or drugs that could endanger the lives of patients. This also includes those who are unable to practice medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or impairment.

A person, healthcare entity, or medical peer review committee that, without malice, furnishes records, information, or assistance to a medical peer review committee or to the TMB regarding any physician who is a continuing threat to the public welfare is immune from any civil liability arising from such an act. (Title 71, Article 4495b, 1.03(3), 3.08(16), and 5.06(m), Vernon's Ann. Civ. St., Medical Practice Act)

Physicians or *House Staff* who assist in evaluation of an impaired *Physician* or *House Staff* under this policy will be considered agents of the **PHR Committee**, a peer review committee. If there is a conflict in obligation, the responsibility to the Institution takes precedence over the responsibility to the impaired employee.

VII. ROLES AND RESPONSIBILITIES

TTUHSC is responsible for the health and safety of its patients, employees or other persons present. TTUHSC, through its administration, must act upon personal observations of or reports of symptoms of impairment about a *Physician* or *House Staff* that may endanger the life of a patient or may increase the likelihood of immediate injury or damage to health or safety.

A.

Associate Dean - Clinical Practice, Lubbock Regional Deans, Amarillo, El Paso, Odessa

If a report of impairment is received by the Associate Dean-Clinical Practice or Regional Deans, he/she may consult with the clinical department chair, and may direct the matter to the **PHR Committee** for resolution. Recommendations from the TTUHSC Credentials Committee and the department Chair or Regional Chair to which the affected *Physician* or *House Staff* reports may be considered in resolving an impairment situation.

If the affected *Physician* is a department Chair, the Associate Dean-Clinical Practice or Regional Dean shall identify a physician within that department who shall act in place of the Chair for purposes of this policy.

Actions MAY include the following:

- Arrange for immediate medical leave for evaluation and treatment if needed.
- Immediately suspend all or any portion of clinical privileges or require an immediate withdrawal from any and all clinical duties. [NOTE: Actions that adversely affect clinical privileges for more than 30 days are reportable to state and national regulatory bodies.]
- Immediately notify the affected *Physician* or *House Staff* of the medical leave or suspension, with confirmation by certified, return receipt requested.
- Immediately notify the Chair of the Credentials Committee.
- Immediately notify the appropriate department chair of the medical leave or suspension so that patient care responsibilities may be reassigned for those patients whose treatment has been interrupted by the action.
- In the case of *House Staff*, notify the Graduate Medical Education office and Residency Director within two working days of action taken.

- Reporting the individual to the Board of Medical Examiners.

B.
Chair, Regional Chair
and/or Program Director

If a report of impairment is received by the Chair, Regional Chair, and/or Program Director, he/she may consult with the Associate Dean-Clinical Practice, the Regional Dean, and may direct the matter to the **PHR Committee** for resolution. Actions taken MAY include those listed above as well as the following:

- Initial verification of the accuracy of the observations suggesting impairment.
- Explain to the individual in question that these observations have been made.
- Report to the Associate Dean-Clinical Practice or Regional Dean (or his/her designee) any *Physician* or *House Staff* conduct that requires that immediate action be taken to protect the life of a patient or to reduce the substantial likelihood of immediate injury or damage to the health or safety of any patient, employee, or other person in the hospital.
- Take steps to have the *Physician* or *House Staff* escorted directly to nearest Emergency Room (ER) to be seen for medical evaluation by the Medical Director or staff physician on duty, including a request for laboratory testing for the presence of illegal drugs or alcohol in body fluids. In addition, a psychiatric evaluation by the staff psychiatrist may also be sought, particularly if there appears to be a need for immediate intervention or for the personal safety of the impaired person. In such instances, an Emergency Detention or Order of Protective Custody may be considered. Testing for drugs or alcohol is voluntary. In the event that the ER staff physician or on-call staff psychiatrist is unavailable, the Associate Dean-Clinical Practice or Regional Dean, or his/her designee, will assign a physician to medically evaluate the fitness for duty of the reported *Physician* or *House Staff*.

The *Physician* or *House Staff* shall be advised that communications during the above evaluations may not be confidential and may be used to determine whether the Physician or House Staff has impairment to the extent that he/she cannot safely engage in providing health care.

- Arrange for any *Physician* or *House Staff* deemed to be impaired by drugs or alcohol or impairment for other reasons to be evaluated by the Employee Assistance Program personnel through a supervisory referral and/or escorted to a treatment facility or his/her residence. In this instance, input from the **PHR Committee** should be obtained if possible. If the *Physician* or *House Staff* refuses assistance, the TTUHSC Police Department must be contacted to prevent the individual in question from operating a motor vehicle while in an impaired condition.

C.

Emergency Room - Medical Director

Upon the arrival of the *Physician* or *House Staff* at the Emergency Room (ER), the Medical Director or the staff physician on duty will perform a fitness-for-duty evaluation of the person alleged to be impaired, and may also request the on-call staff psychiatrist to perform a psychiatric evaluation. The evaluations shall be accomplished within one hour of arrival or as expeditiously as possible.

If the evaluations present significant information about a *Physician* or *House Staff* regarding neuropsychiatric impairment, the ER Medical Director or staff physician on duty will inform the Associate Dean-Clinical Practice or Regional Dean, and the appropriate Chair or Regional Chair.

In an emergency situation, the Medical Director of the Emergency Room, the **PHR Committee**, the department Chair or Regional Chair, in conjunction with the on-call staff psychiatrist, may temporarily remove the *Physician* or *House Staff* from work assignments pending a medical evaluation and consultation with the Associate Dean-Clinical Practice or Regional Dean.

D.

TTUHSC Physician Health and Rehabilitation Committee (PHR Committee)

Anyone with knowledge of or reason to believe that a *Physician* or *House Staff* is impaired may contact any member of the **PHR Committee** to refer the individual for committee action, in lieu of an initial referral to the department Chair, Regional Chair, Regional Dean, or Associate Dean-Clinical Practice.

The **PHR Committee** will investigate all cases referred to it with the strictest confidentiality possible. If the **PHR Committee** determines that there is conduct that requires immediate action to protect the life of any patient or to reduce the substantial likelihood or immediate injury or damage to the health or safety of any patient, employee, or other person, the **PHR Committee** may take any of the actions previously outlined in this policy with involvement of appropriate administrative authority as needed. If immediate action is deemed to be unnecessary, the **PHR Committee** may, with the approval of the department Chair, Regional Chair, Regional Dean, or Associate Dean-Clinical Practice, pursue intervention through the Employee Assistance Program's Supervisory Referral and/or the local Texas Medical Association (TMA) Committee for Physician Health and Rehabilitation.

E.

Medical Director - Managed Health Care (Correctional Health)

Anyone with knowledge of or reason to believe that a *Physician*, who is employed by or under contract to TTUHSC to provide health care services at correctional institutions and/or under the supervision of Managed Health Care, is impaired shall report the information to the Medical Director-Managed Health Care (or his designee who shall be a medical doctor). The information may also be reported to the Associate Dean-Clinical Practice or Regional Deans, who shall refer it to the Medical Director-Managed Health Care.

The Medical Director-Managed Health Care will investigate all cases referred with the strictest confidentiality possible. If the Medical Director-Managed Health Care determines that there is conduct that requires immediate action to protect the life of any patient or to reduce the substantial likelihood or immediate injury or damage to the health or safety of any patient, employee, or other person, the Medical Director-Managed Health Care may take any of the actions previously outlined in this policy with involvement of appropriate administrative authority as needed.

If evaluation in an Emergency Room is not available or feasible, the Medical Director-Managed Health Care may arrange for an evaluation at the most appropriate site according to his or her best judgment.

VIII. TESTING GUIDELINES

Testing for drugs and alcohol

Any *Physician* or *House Staff* being evaluated for a reported condition or impairment may be asked to undergo voluntary laboratory testing for the presence of illegal drugs or alcohol in body fluids or breath as a part of the medical evaluation for fitness for duty.

If the *Physician* or *House Staff* refuses testing, this information will be communicated immediately to the Associate Dean-Clinical Practice, Regional Dean, or the Medical Director-Managed Health Care.

NOTICE: Although testing for alcohol or drugs is voluntary, refusal of recommended testing may result in severe disciplinary measures including suspension from duties pending evaluation and investigation of the conduct of comprising the report of symptoms of impairment.

To the extent feasible, requests for laboratory tests shall be sent to a laboratory independent of TTUHSC and affiliated hospitals. A National Institute of Drug Abuse (NIDA) approved laboratory may be considered.

A screening test positive for chemical substances will be confirmed by the best currently available laboratory techniques. If the accuracy of a positive confirmatory test is disputed by the individual, the confirmatory test on a different aliquot of the same sample will be repeated in a qualified laboratory, which may be chosen by the individual with observation of proper chain of custody procedures. If the test result is not disputed or if the additional confirmatory test is positive, the result will be taken as definitive evidence of chemical substance abuse in the case of illegal chemical substance. The entirety of the available evidence will be used to determine the presence or absence of chemical substance abuse if the substance involved is one for which a bona fide medical indication exists.

The cost of chemical substance testing undertaken in the course of investigation for substance abuse and/or impairment will be borne by TTUHSC.

The cost of chemical substance testing performed as part of a treatment program, including maintenance monitoring, will be considered to be part of the cost of the program and will be the responsibility of the affected individual.

Testing for other than drugs or alcohol

Any *Physician* or *House Staff* being evaluated for a reported condition of impairment other than from chemical or substance abuse may be asked to undergo physical or psychiatric evaluation as a part of the medical evaluation for fitness for duty.

If the *Physician* or *House Staff* refuses testing, this information will be communicated immediately to the Associate Dean-Clinical Practice, Regional Deans, or the Medical Director-Managed Health Care.

The testing required will be specifically tailored to each case, and the information sought will be specified.

The cost of such testing undertaken in the course of investigation for other than substance or chemical abuse impairment will be borne by TTUHSC.

The cost of future testing or treatment involved with the rehabilitation of an impaired physician will be borne by the affected individual.

IX. RESOLUTION OF REPORTED IMPAIRMENT

A report of impairment shall be verified, investigated, and evaluated. Resolution may include a recommendation for any of the following:

- corrective action in accordance with Professional Staff Bylaws adopted at each campus, action under the House Staff Guidelines,
- action under TTUHSC Operating Policy and Procedures for non-faculty personnel,
- a Plan for treatment for those impairments subject to rehabilitation, and such Plan shall be the responsibility of the **PHR Committee**.

If the **PHR Committee** recommends a Plan for treatment, each Plan:

- B. shall be prepared on a case-by-case basis by the **PHR Committee** with input from the following as may be appropriate from receipt of the initial report of impairment: Chair, Regional Chair, and/or Program Director, Associate Dean-Clinical Practice, Lubbock, and Regional Deans, Amarillo, El Paso, and Odessa.
- C. shall be completed within 30 days of receipt of a recommendation.
- D. shall contain:
 - standards, work duty restrictions and/or reassignments,

- supervision or any other requirements necessary to accomplish rehabilitation,
 - time deadlines for completion of the intervention steps periodic reviews with Physician to assess progress,
 - on-going, random drug-testing and health evaluation as necessary, other requirements for return to unrestricted practice, and
 - consequences if the Plan is not followed.
- E. Physicians or House Staff shall provide written consent for the PHR Committee to contact any treating physician while monitoring a Plan, including a personal physician.
- Physicians or House Staff who self-report shall have input into the Plan. The PHR Committee may consider input from Physicians or House Staff who are the subject of a report of impairment.
 - The Physician or House Staff shall sign the Plan, and his/her immediate supervisor shall also acknowledge the Plan by signature.

X. FAILURE TO COOPERATE OR REPORT

Failure of a *Physician* or *House Staff* to cooperate with an investigation or report for or follow-through with specified rehabilitation steps shall be deemed to be misconduct under TTUHSC policies and may result in disciplinary action without regard to results obtained from investigation under this policy.