



Impaired Physician/House Staff/Medical Student Policy

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POLICY STATEMENT

The Texas Tech University Health Sciences Center (TTUHSC) Paul L. Foster School of Medicine (PLFSOM) recognizes that its physicians, house staff (resident physicians) and medical students must conduct patient care activities as fully in control of their manual dexterity and skills, mental facilities, and judgment as possible. Reductions in control, generally termed impairment, may be due to physical, psychiatric, or behavioral disorders. Such impairments can jeopardize the health of the provider and affect the quality of care and safety of their patients.

It is the intent of this policy to provide a means to recognize and address impairment in a fair, confidential, and effective manner, while preserving the practitioner's dignity and the patient's right to safe and effective health care.

Actions taken under this policy shall be in accordance with policies established by the TTUHSC Board of Regents, the PLFSOM Professional Staff Bylaws, the PLFSOM Faculty Handbook, PLFSOM House staff Policies and Procedures and the PLFSOM Student Handbook, and state laws and regulations including V.T.C.A. Article 4495b, Medical Practice Act.

This policy shall be reviewed in even number years by the Academic Council with comment from the Faculty Council.

SCOPE

This policy applies to all part-time and full-time physician faculty, house staff members (resident physicians), and medical students at TTUHSC El Paso.

Physicians, house staff, and medical students become subject to the procedures and consequences of this policy if and when there is reason to conclude that the individual is impaired or if the individual is exhibiting a behavior pattern suggestive of impairment regardless of the etiology of the impairment. Direct observation of chemical substance abuse or observation of aberrations in job performance and/or behavior may be cause for such conclusions.

If a contract or volunteer physician appears to be impaired, the appropriate

academic department shall cancel his/her contract if applicable and refer the matter to the El Paso County Medical Society. In the event of concerns of impairment in a visiting faculty, resident or medical student, the physician or medical student shall be removed from the clinical setting and the concerns reported to the learner's home program.

DEFINITIONS

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.

House staff (Resident Physicians) includes medical school graduates in a residency training or fellowship program sponsored by the PLFSOM.

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.

Medical students include students matriculated into the Paul L. Foster School of Medicine.

Physician(s) includes medical doctors and doctors of osteopathy who have completed training, are licensed to practice in the state of Texas, and are employed or contracted by the PLFSOM.

Reasonable suspicion is defined as a good faith belief based on specific, contemporaneous, and articulable observations.

Supervisor: As used in this document, the individual's supervisor shall be:

- Medical students: the Associate Dean for Student Affairs
- Residents: the Associate Dean for GME
- Faculty: their Department Chair
- Chairs and Associate Deans: the Dean of PLFSOM

Symptoms of impairment may 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.

PHYSICIAN WELL BEING COMMITTEE (PWBC)

The Physician Well Being Committee (PWBC) 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. Its charge is to assist physicians, house staff, and medical students who have physical impairments, mental and emotional difficulties, or chemical or substance abuse problems that may affect clinical skill and judgment.

The PWBC is a permanent committee as described in the Faculty or Ambulatory Clinic Bylaws whose members are appointed by the Dean of PLFSOM. The PLFSOM PWBC shall consist of a panel of not less than five (5) full time members of the faculty who shall serve three year terms. No faculty member except the chair may serve more than three (3) consecutive 3 year terms. The Chair of the committee shall be a psychiatrist or medical doctor with experience in the treatment of psychiatric and substance abuse disorders.

Student and resident representatives shall serve as ad hoc members of the committee. Three students across the four classes and three residents will be appointed by their respective deans (Associate Dean for Student Affairs and Associate Dean for Graduate Medical Education) to serve two-years terms. The student and resident representatives will attend training with the rest of the committee and be available for committee work related to their peer group.

Each referral to the PWBC shall be managed by a subgroup of three individuals appointed by the Chair from the committee pool. In the event the affected individual is a resident or medical student, one of the members shall be from their peer subgroup on the committee. The subgroup shall appoint one of the members to

serve as the tracking member who receives reports from external evaluation sources and provides guidance to the supervisor regarding the individual's compliance and response to treatment. The medical student / GME member may not serve as the tracking member.

The role of the PLFSOM PWBC shall be to:

1. Serve as a resource to the PLFSOM for education and awareness training on issues related to provider impairment and the evaluation and rehabilitation resources available to affected individuals.
2. Verify, investigate and resolve reports of potential impairment.
3. Make a determination as to whether an impairment is due to a physical, psychiatric, or behavioral disorder.
4. Make the appropriate recommendations and arrangements for diagnosis and treatment.
5. Serve as the PLFSOM's central repository for receiving reports/evaluations of potential impairment, the individual's compliance with and response to recommended therapies, and opinions from treating providers and facilities regarding the affected individual's fitness for duty.

Neither the PWB committee nor any of its members shall:

1. Perform a definitive medical or psychiatric evaluation to determine the presence, severity and etiology of impairment;
2. Provide therapeutic treatment services to an impaired individual;
3. Place individuals on medical or any other form of leave or authorize absences from the workplace; or
4. Serve any function (including review, testimony and / or appeals) within the faculty disciplinary and/ or grievance processes, or the medical staff corrective action process that a provider may be subject to as a result of behaviors related to impairment.

PROCEDURE

A. Identification/Suspicion of Impairment

Physicians, house staff, and medical students are encouraged to self-report to the PWBC, their supervisor, or to the Texas Medical Board, 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, house staff or medical student from self-reporting to Texas Medical Board to obtain a protective Board order, or from obtaining support through the TTUHSC Employee Assistance Program (EAP) or Resident Assistance Program (RAP) services.

If an impaired physician does not self-report, it is the responsibility of all TTUHSC faculty, house staff, medical students, and clinic employees to contemporaneously report observations of impairment or abuse of drugs to at least one of the following:

- Immediate supervisor of the physician, house staff member, or medical student;
- The Chair of the PWB Committee or one of its members;
- The Chair of the department to which a faculty member is primarily assigned ;
- The Associate Dean for Student Affairs or Graduate Medical Education if the involved individual is a medical student or resident respectively .

In each case, the individual receiving any such report must then report the issue to the Chair of the PWB committee or his/her designee.

Referral to the PWB committee does not prevent the institution's exercise of any administrative processes to address substandard or dangerous behavior by its employees.

In situations in which a physician's performance has deteriorated for other than identifiable job-related circumstances, a supervisor may also refer the individual to the Employee Assistance Program. (TTUHSC OP 70.38 or as may be amended).

Reports of impairment shall be based on reasonable suspicion. Any 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)

B. Intervention

The Chair of the PWBC or his/her designee, shall perform an initial evaluation of any report of potential impairment within 2 business days and determine whether the report of impairment can or cannot be substantiated and if further evaluation is warranted.

If further evaluation is warranted, a 3-member panel drawn from the PWBC membership by the PWBC chair shall perform further evaluation. Within 8 business days, they will report whether impairment has or has not been substantiated or if impairment cannot be ruled out. Their report shall provide initial guidance to the affected individual's supervisor regarding any appropriate limitations of the individual's activities pending a definitive evaluation by an external provider.

In addition, the panel will assist referred individuals in identifying mental health or other appropriate resources (such as local practitioners or the local branch of the Texas Medical Association, usually the County Medical Society) and, if appropriate, in the steps of self-referral to the Texas Medical Board. Referrals to an appropriate treatment program and follow-up in a supervised rehabilitation program are among the options for returning individuals to professional activities.

If the panel has concluded that impairment is present, the affected individual **MUST** provide written authorization allowing the panel to contact treating provider(s), including a personal physician, in order to provide them with background on the observed behaviors that led to the referral as well as any ongoing or new behaviors that have raised concerns. Failure of the individual to provide this consent or to maintain this authorization may result in a referral for disciplinary action.

The panel will also receive reports from the treating provider(s) indicating whether the individual is or is not compliant with recommended treatment and able to function at a level consistent with their position in the institution.

They will provide information to the supervisor of the referred individual regarding the individual's fitness for duty or recommended limitations of duty as determined by the external treating provider(s).

When appropriate, the panel will devise a reintegration plan as described below.

Reporting to the Texas Medical Board (TMB)

Texas law requires that TTUHSC report to the TMB any physician who is or may be unable to practice medicine with reasonable skill and safety. The PWBC will make all reports required by law.

Other possible actions

The PWBC may also recommend:

- referral to the PLFSOM Grading and Promotion committee for medical students
- corrective action in accordance with PLFSOM Ambulatory Clinic Bylaws;
- action under the House staff Policies and Procedures;
- action under TTUHSC Operating Policy and Procedures for non-faculty personnel

C. Testing Guidelines

Screening for alcohol and controlled substances

If the PWBC concludes that there is evidence of substance abuse/misuse, screening shall be performed as follows.

- Any physician, house staff member or medical student being evaluated for a reported condition or impairment or who is demonstrating behavior consistent with 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, house staff member, or medical student refuses testing, this information will be communicated immediately to the individual's supervisor.

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

- To the extent feasible, requests for laboratory tests shall be sent to a laboratory independent of TTUHSC and its affiliated hospitals. A National Institute of Drug Abuse (NIDA) approved laboratory may be considered. It is essential that such laboratories have well defined procedures for the rigorous monitoring and documentation of chain of custody. ←
- Any positive screening test for chemical substances must be confirmed by the best currently available laboratory techniques. If the accuracy of a positive confirmatory test is disputed by the individual, another confirmatory test on a different aliquot of the same sample will be repeated by 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 following inferences will be made:

- a. If the presence of an illegal chemical substance is detected or if the presence of a substance for which the individual does not have a valid prescription is found, the result will be taken as definitive evidence of chemical substance abuse;
 - b. In the event the individual has a valid prescription for the detected substance or if the substance detected is not subject to prescription controls (i.e. ETOH), then the entirety of the available evidence will be used to determine the presence or absence of chemical substance abuse.
- The cost of testing for chemical substances undertaken in the course of investigation for substance abuse and/or impairment will be borne by the PLFSOM. ←
 - 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. ←

Screening for impairment not related to substance misuse/abuse

If the PWBC concludes that there is evidence of impairment that is not attributable to substance abuse/misuse, other screening shall be performed as follows:

- Any physician, house staff member, or medical student being evaluated for impairment may be asked to undergo physical or psychiatric evaluation as a part of the medical evaluation for fitness for duty.
- If the physician, house staff or medical student refuses testing, this information will be communicated immediately to the individual's supervisor.
- The testing required will be specifically tailored to each case, and the information sought will be specified to the provider.
- The cost of such testing undertaken in the course of investigation for impairment will be borne by PLFSOM.
- The cost of future testing or treatment involved with the rehabilitation of an impaired physician, resident or medical student will be borne by the affected individual.

D. Resolution of Impairment

The PWBC may recommend a reintegration plan, henceforth referred to as "Plan," for impaired individuals subject to rehabilitation, and the execution of such Plan shall be the responsibility of the PWB Committee. (Reminder: the PWB committee does NOT diagnose or treat impairment).

Physicians, house staff, or medical students who self-report shall have input into the Plan. The PWB Committee may consider input from physicians, house staff, or medical students who have been reported to have an impairment.

The physician, house staff member, or medical student shall sign the Plan, and his/her immediate supervisor shall also acknowledge the Plan by signature. Failure of the individual to sign the Plan may result in a referral for disciplinary action. ←

Each recommended Plan shall:

1. Be personalized by the PWBC with input from the individual's Chair, Program Director, Clerkship Director, Associate Dean for Student Affairs, Associate Dean for GME, or Associate Dean for Clinical Affairs as may be appropriate.
2. Be available for signature within 30 days of reported impairment.
3. Include:
 - 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 impaired physician to assess progress;
 - on-going , random drug-testing and/or health/mental health evaluation as necessary;
 - other requirements for return to unrestricted practice; and
 - consequences if the plan is not followed.

E. Consequences of Failure to Comply/Complete Requirements

Failure of a physician, house staff member, or medical student 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.

Physicians who are employed, or under contract with TTUHSC may be subject to termination of relationship or corrective action as defined within the PLFSOM Ambulatory Clinic Bylaws, as well as to the loss of appointment or faculty status and/or clinical privileges at TTUHSC. ←

For impaired house staff (resident physicians) PLFSOM may restrict residents' access to patients and, if necessary, may discharge a resident from the training program, and report the individual to the Texas Medical Board for endangering the lives of patients and posing a continuing threat to the public welfare. 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. ←

PLFSOM's may restrict impaired medical students' access to patients and clinical opportunities, recommend mandatory leaves of absence or dismissal as described in the PLFSOM student handbook, or other corrective actions as defined in the PLFSOM student handbook.

The Texas Medical Board is authorized under the laws of Texas to refuse to admit persons to examination and to refuse to issue licenses or to renew licenses or to suspend a license 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.

F. Privacy

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, house staff or medical student 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 PWB Committee and shall be maintained in a secure location as the PWB Committee may designate.

The contents of the file will be released by TTUHSC only upon written

authorization of the affected physician, house staff or medical student, except as required by state and federal law.

If the individual fails to comply with or complete the requirements stipulated by the PWBC, a report of noncompliance is permitted for disciplinary action even in the absence of written authorization from the impaired individual.

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, house staff or medical student.

Physicians, house staff or medical students who assist in evaluation of an impaired physician, house staff or medical student under this policy will be considered agents of the PWB Committee, a peer review committee. The PWB Committee may choose to create a subcommittee(s) to assist in this peer assistance and review process. If there is a conflict in obligation, the responsibility to the Institution takes precedence over the responsibility to the impaired employee.

