

Section 8	Health & Safety Policies	04/01/98 -Originated
Subject 8.1	Preventive, Occupational, and Environmental Medicine	06/23/00 -Reviewed w/ changes -Reviewed w/o changes
Policy 8.1.7	Evaluation and Treatment of Impaired Physicians	Health & Safety Services -Author

Evaluation and Treatment of Impaired Physicians

Audience

This policy applies to all physicians and resident physicians employed, appointed, affiliated, or in a training capacity with UTMB. Physicians and 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 performance and/or behavior may be cause for this conclusion.

Definitions

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

- ***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 a potential adverse effect on a UTMB patient or employee.
- ***Impaired Physician Committee*** is a medical peer review committee, as defined in the Texas Medical Practice Act, Occupations Code, Section 151 et.seq., to assist physicians with physical handicaps, chemical or substance abuse problems, or mental and emotional difficulties that may affect clinical skill and judgment. The committee members will be appointed by, and report to, the Chief of the Medical Staff
- ***Impairment by substance abuse*** refers to any condition, resulting from substance abuse that interferes with the individual's ability to function at work as normally expected.

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Definitions (cont'd)

- ***Impairment for other reasons*** refers to other categories of impairment including major debilitating illnesses, depression, dementia, or other psychopathology that may interfere with the individual's ability to function at work as normally expected.

- ***Physician*** as used throughout this policy includes medical doctors, doctors of osteopathy, and dentists.

- Major symptoms of alcohol and drug abuse 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 a substance abuse disorder.

- Physicians requested to evaluate a physician or resident physician under this policy will act as the agent Chief of the Medical Staff. If there is a conflict in obligation, the responsibility to the Institution takes precedence over the responsibility to the impaired employee.

Policy

The University of Texas Medical Branch at Galveston (UTMB) recognizes that its physicians and resident physicians who are impaired are individuals who need 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 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. The University 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, subject to the discipline policies established by the Board of Regents for The University of

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Policy, continued

Texas System. In addition, for those physicians who are appointed to and are members of the Medical Staff, any action taken under this policy shall be in accordance with the procedures set forth in the *Bylaws and Rules and Regulations of the Medical Staff*. 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.

It is the responsibility of all UTMB employees to report observations leading to the above conclusions to the physician's or resident physician's supervisor (clinical department chair or division head), the Impaired Physician Committee or the Chief of the Medical Staff.

Authority

The authority of the University over members of the physician faculty extends to termination of employment as well as to the appointment and retention of faculty status and clinical privileges at UTMB.

The authority of UTMB over resident physicians at UTMB extends at least to restricting their access to UTMB patients and, if necessary, discharging them from the training program, and reporting the individual to the Texas State Board of Medical Examiners (TSBME) for endangering the lives of patients and posing a continuing threat to the public welfare. The authority also includes reporting the restriction and the reasons for it to the associate dean for Graduate Medical Education. The resident physician may be prohibited from participating in any clinical activities at the University if found to be impaired and not involved in an ongoing monitored rehabilitation program.

The TSBME 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.

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 TSBME regarding any

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**Authority
(cont'd)**

physician who is a continuing threat to the public welfare is immune from any civil liability arising from such an act. (Occupations Code, §§151.002, 164.056, 160.010 “Medical Practice Act.”)

**Roles and
Responsibilities**

Clinical Department Chair or Division Head

Upon receiving information from the physician’s or resident physician’s co-workers or other UTMB employees, patients, or visitors, or upon making personal observations regarding the physician’s or resident physician’s fitness for duty, the clinical department chair or division head has the responsibility to act to ensure the safety of all patients. This may include the following:

- Verify the accuracy of the observations suggesting impairment.
- Explain to the individual in question that these observations have been made.

Report to the Chief of the Medical Staff or his/her designee any physician’s or resident physician’s conduct that requires that immediate action be taken to protect the life of any 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.

- Ensure that the physician or resident physician is escorted directly to the Employee Health Services (if between 8:00 a.m. - 5:00 p.m.) or to the Emergency Room (ER) (evenings, weekends, and holidays) to be seen for medical evaluation by the Medical Director (in the ER by the staff physician on duty), including a request for laboratory testing for the presence of illegal drugs or alcohol in body fluids, in addition to a mandatory psychiatric evaluation by the on-call staff psychiatrist (available 24 hours a day). Any testing for drugs or alcohol is voluntary. In the absence of either of these individuals, the Chief of the Medical Staff will designate a physician to medically evaluate the fitness for duty of the reported physician or resident physician.
- Arrange for any physician or resident physician deemed to be impaired by drugs or alcohol to be escorted by a physician colleague to a treatment facility or home. If the physician or resident physician refuses assistance, the UTMB Police Department must be contracted to prevent the individual in

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Roles and Responsibilities (cont'd)

question from operating a motor vehicle while in an impaired condition.

Chief of the Medical Staff

Upon receipt of information from the supervising clinical department chair or division head or other employee of the other indications of impairment of a physician or resident physician that may endanger the life of a patient or may increase the likelihood of immediate injury or damage to the health or safety of any patient, employee, or other person present in the hospital, it is the responsibility of the Chief of the Medical Staff, in conjunction with the recommendations of the Chair of the Credentials Committee, the division head, and the chair of the department in which the affected physician or resident physician belongs, to act to ensure the safety of all patients. This may include the following:

- Arrange for immediate medical leave for evaluation and treatment.
- Immediately suspend all or any portion of the clinical privileges of a UTMB physician faculty member or, in the case of other UTMB physicians or a resident physician, require an immediate withdrawal from any and all clinical duties.
- Immediately notify the affected medical staff member, other UTMB physician, or resident physician of the medical leave or suspension, with confirmation by certified mail, return receipt requested.
- Immediately notify the Chair of the Credentials Committee and the appropriate department chairman and division head of the medical leave or suspension so that they may reassign patient care responsibilities for those patients whose treatment has been interrupted by the suspension.
- In the case of a resident physician, the Chief of the Medical Staff will notify the dean of medicine (DOM) of the impairment problem. The DOM will notify the clinical chairman of the program in which the resident physician is participating and the associate dean of Graduate Medical Education.
- Consider reporting the individual to the Board of Medical Examiners.

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Roles and Responsibilities (cont'd)

Medical Director, Employee Health Services

Upon the arrival of the physician or resident physician in Employee Health Services, the medical director or the medical director's physician associate will perform a fitness-for-duty evaluation of the person alleged to be impaired. Note: If the evaluation is to be performed after 5:00 p.m. or on a weekend or holiday when the Employee Health Services office is closed, the evaluation will be performed in the ER by the staff physician on duty.

If the medical director receives significant information about a UTMB physician or resident physician regarding chemical substance abuse or impairment, the medical director will inform the Chief of the Medical Staff and the appropriate department chair or division head.

In an emergency situation, the medical director, as part of his/her responsibility for dealing with employee welfare, may temporarily remove the physician or resident physician from work assignments pending a medical evaluation and consultation with the Chief of the Medical Staff.

Physician Health and Rehabilitation Committee

Anyone with knowledge of or reason to believe that a physician or resident physician is impaired may contact any member of the Physician Health and Rehabilitation Committee to refer the case for committee action, in lieu of an initial referral to the supervising clinical department chair or division head.

The committee will investigate all cases referred to it with the strictest confidentiality possible. If the 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 committee will take the steps previously outlined in this policy for the department chair or division head.

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Testing Guidelines

Testing for drugs and alcohol

Any physician or resident physician being evaluated for a reported condition or impairment may be asked to undergo 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 resident physician refuses, this information will be communicated immediately to the Chief of the Medical Staff.

- 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.
- 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 the University.
- 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 individual.

Testing for other than drugs or alcohol

Any physician or resident physician 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 resident physician refuses, this information will be communicated immediately to the Chief of the Medical Staff.

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**Testing
Guidelines,
continued**

- 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 UTMB.
 - The cost of future testing or treatment involved with the rehabilitation of an impaired physician will be borne by the individual.
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Failure to Report

Failure of a physician or resident physician to report to the Employee Assistance Program within 48 hours of a mandatory referral by the Director of Employee Health Services, or failure to comply with other requirements for medical treatment, may result in involuntary separation.

Documentation

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 UTMB physician or resident physician will be treated as confidential.

The contents of the file will be released by UTMB only upon written authorization of the affected physician or resident physician, 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, student preceptor, hospital quality assurance or similar committee, liability risk manager, other supervisory personnel) ONLY on a need-to-know basis. The overriding consideration will be the safety of our patients, any other employees or persons at UTMB, and the affected physician or resident physician.