

SOUTH DAKOTA STATE MEDICAL ASSOCIATION
POLICY

Subject: Physician and Medical Staff Member Bill of Rights

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POLICY STATEMENT

The organized medical staff, hospital governing body and administration are all integral to delivering quality medical care; providing a safe environment for patients, staff, and visitors; and working continuously to improve patient care and outcomes. Each operates in a distinct, highly expert field to fulfill common goals.

An organized medical staff consists of practicing physicians who not only have medical expertise but also possess a specialized knowledge that can be acquired only through daily experiences at the frontline of patient care. These personal interactions between medical staff physicians and their patients lead to an accountability distinct from that of other stakeholders in the hospital. This accountability requires that physicians remain answerable first and foremost to their patients.

The SDSMA believes medical staff self-governance is vital in protecting the ability of physicians to act in their patients' best interest.

The SDSMA further believes that only within the confines of the principles and processes of self-governance can physicians ultimately ensure that all treatment decisions remain insulated from interference motivated by commercial or other interests that may threaten high-quality patient care.

Fundamental Responsibilities of the Medical Staff

- a) The responsibility to provide for the delivery of high-quality and safe patient care, the provision of which relies on mutual accountability and interdependence with the health care organization's governing body.
- b) The responsibility to provide leadership and work collaboratively with the health care organization's administration and governing body to continuously improve patient care and outcomes.
- c) The responsibility to participate in the health care organization's operational and strategic planning to safeguard the interest of patients, the community, the health care organization, and the medical staff and its members.
- d) The responsibility to establish qualifications for membership and fairly evaluate all members and candidates without the use of economic criteria unrelated to quality, and to identify and manage potential conflicts that could result in unfair evaluation.
- e) The responsibility to establish standards by which to hold members individually and collectively accountable for quality, safety, and professional conduct.

- f) The responsibility to make appropriate recommendations to the health care organization's governing body regarding membership, privileging, patient care, and peer review.

Fundamental Rights of the Medical Staff

- a. The right to be self-governed, which includes but is not limited to (i) initiating, developing, and approving or disapproving of medical staff bylaws, rules, and regulations, (ii) selecting and removing medical staff leaders, (iii) controlling the use of medical staff funds, (iv) being advised by independent legal counsel, and (v) establishing and defining, in accordance with applicable law, medical staff membership categories, including categories for non-physician members
- b. The right to advocate for its members and their patients without fear of retaliation by the health care organization's administration or governing body.
- c. The right to be provided with the resources necessary to continuously improve patient care and outcomes.
- d. The right to be well informed and share in the decision-making of the health care organization's operational and strategic planning, including involvement in decisions to grant exclusive contracts or close medical staff departments.
- e. The right to be represented and heard, with or without vote, at all meetings of the health care organization's governing body.
- f. The right to engage the health care organization's administration and governing body on professional matters involving their own interests.

Fundamental Responsibilities of Individual Medical Staff Members, Regardless of Employment or Contractual Status

- a) The responsibility to work collaboratively with other members and with the health care organization's administration to improve quality and safety.
- b) The responsibility to provide patient care that meets the professional standards established by the medical staff.
- c) The responsibility to conduct all professional activities in accordance with the bylaws, rules, and regulations of the medical staff.
- d) The responsibility to advocate for the best interest of patients, even when such interest may conflict with the interests of other members, the medical staff, or the health care organization.
- e) The responsibility to participate and encourage others to play an active role in the governance and other activities of the medical staff.
- f) The responsibility to participate in peer review activities, including submitting to review, contributing as a reviewer, and supporting member improvement.

Fundamental Rights Apply to Individual Medical Staff Members, Regardless of Employment, Contractual, or Independent Status

- a) The right to exercise fully the prerogatives of medical staff membership afforded by the medical staff bylaws.
- b) The right to make treatment decisions, including referrals, based on the best interest of the patient, subject to review only by peers.
- c) The right to exercise personal and professional judgment in voting, speaking, and advocating on any matter regarding patient care or medical staff matters, without fear of retaliation by the medical staff or the health care organization's administration or governing body.
- d) The right to be evaluated fairly, without the use of economic criteria, by unbiased peers who are actively practicing physicians in the community and in the same specialty.

- e) The right to full due process before the medical staff or health care organization takes adverse action affecting membership or privileges, including any attempt to abridge membership or privileges through the granting of exclusive contracts or closing of medical staff departments.
- f) The right to immunity from civil damages, injunctive or equitable relief, criminal liability, and protection from any retaliatory actions, when participating in good faith peer review activities.

AUTHORITY

South Dakota State Medical Association Policy Council, 11/5/2021; South Dakota State Medical Association Board of Directors, 11/8/2021.