

**MARSHALL UNIVESITY  
JOAN C. EDWARDS SCHOOL OF MEDICINE  
GRADUATE MEDICAL EDUCATION**

**POLICY ON PRE-TRAINING PHYSICAL EXAMINATION,  
CRIMINAL BACKGROUND CHECKS, AND ALCOHOL/DRUG SCREENING  
FOR RESIDENT/FELLOW POSITIONS**

This policy applies to all Resident/Fellow appointees entering a graduate medical education program at the Marshall University Joan C. Edwards School of Medicine. The policy also establishes subsequent testing for Residents/Fellows if a reasonable, good-faith, and objective suspicion that the Resident/Fellow is under the influence of prohibited alcohol/drugs.

**SECTION 1. PURPOSE AND SCOPE OF POLICY**

- 1.1. The Marshall University School of Medicine and the Marshall Health (Dba University Physicians and Surgeons) require that a pre-training physical and screening examination of all new employees and Resident/Fellows be conducted. The pre-training physical examination will include a criminal activity background, and alcohol/drug screening.
- 1.2. The formal background check will be conducted by a firm under contract with the Marshall Health, which will include criminal history, sex and violent offender registries. The Graduate Medical Education Committee and the Office of Graduate Medical Education shall generally adhere to the Marshall Health established background check policy for all Resident/Fellows with the exception of the established procedures and provisions below.
- 1.3. The Office of Compliance and Risk Management is the authorized School of Medicine's recipient of the background check results and is the designated office for storage, preservation, and retention of background checking records related to Resident/Fellows and Fellows. The Office of Compliance and Risk Management will exercise care to preserve the confidential nature of such materials.
- 1.4. All pre-employment physicals/alcohol and drug screenings will be conducted at or coordinated by University Family Medicine. University Family Medicine Division of Occupational Health will maintain records of all physical examinations and alcohol/drug screening results.
- 1.5. This policy also establishes subsequent alcohol/drug screening should a trainee be objectively suspected of being under the influence.

## **SECTION 2. SCOPE OF POLICY**

- 2.1. It must be clearly understood that no new Resident/Fellow Notice of Appointment (Training Agreement) will be considered validated until an alcohol/drug screening and criminal background check has been completed and the results have been considered at the program and school levels. Thus, no Resident/Fellow can begin training until this process has been completed.
- 2.2. All initial Notice of Appointment offers with the School of Medicine are conditional upon the results of the physical/screenings/checks. Residents/Fellows who refuse to consent to the physical/screening/checks will have the Graduate Medical Education Training Affiliation offer revoked and will not be eligible for any other positions at the School of Medicine/Marshall Health for a period of one year.
- 2.3. Checks on the education, employment, previous training and licensure of an applicant will continue to be the responsibility of the training program.
- 2.4. The University, the School of Medicine, and Marshall Health recognize alcohol/drug usage as a potential health, safety, and security problem. Therefore, this policy also establishes subsequent alcohol/drug testing procedures for any trainee, during any year of postgraduate medical education, if reasonable, good-faith, and objective suspicion that the employee is under the influence of alcohol or prohibited drugs.

## **SECTION 3. DEFINITIONS**

For the purpose of this policy, the term “prohibited drugs” includes alcohol; any drug prohibited by federal law; any prescribed drug consumed by the individual, but not prescribed to the individual; any drug that is not legally obtainable; and/or any drug that is legally obtainable, but, is not being used for the prescribed purpose or is not being taken according to the prescribed dosages.

## **SECTION 4. BACKGROUND CHECK PROCEDURE**

- 4.1. Upon receipt of a signed Training Agreement and prior to New Resident Orientation if possible, the Office of Graduate Medical Education will initiate the background check process in collaboration with the Office of Compliance and Risk Management. The Office of Compliance and Risk Management will receive the initial background report and share the results with the Designated Institutional Official (DIO).
- 4.2. If the background check request is returned with no negative information, the DIO will inform the Program Director. This information should be forwarded to the individual along with a confirmation of the Resident/Fellow position. At this time the Training Agreement will become valid.

- 4.3. If the background check request is returned with any negative information, the DIO will inform both the Program Director and the Resident/Fellow applicant of the specific information.
- 4.4. Any decision to accept or reject a Resident/Fellow with a conviction is solely at the discretion of the Training Program, the Senior Associate Dean for GME, the DIO, and the School of Medicine. The existence of a conviction will not necessarily immediately disqualify a Resident/Fellow from training at the School of Medicine.
- 4.5. If acknowledged convictions are confirmed or are self-disclosed, the Resident/Fellow may be informed and given the opportunity to discuss the results of the criminal history check. The Program Director, the DIO, the Senior Associate Dean for Graduate Medical Education, and University Counsel will jointly evaluate any conviction, including any additional information solicited from the candidate, before the Training Agreement is validated.
- 4.6. The School reserves the rights to withdraw or to rescind any offer of a position based on failure to fully and truthfully disclose information or, if in the judgment of the School, information developed in the course of the background check so warrants.
- 4.7. A criminal conviction will not necessarily disqualify the individual from consideration. However, if an individual fails to fully and truthfully disclose information, then the School will have the right to immediately deny or terminate the Training Agreement.
- 4.8. Residents/Fellows who have been terminated or who have had a position offer withdrawn under the provisions of this procedure are not eligible for a future position with the School of Medicine.

## **SECTION 5. FOREIGN NATIONAL**

- 5.1. A foreign national who has been offered a Residency/Fellowship position will be subject to the following provisions:
  - 5.1.1. A criminal history check covering time in the United States if the period of time that the individual has worked in the United States exceeds one year.
  - 5.1.2. A criminal history check in the individual's prior countries of residence will be required only if the individual's visa and/or authorization to work in the United States was issued before implementation of the Patriot Act on October 24, 2001. The School of Medicine will not require that a criminal history check be conducted in the individual's prior countries of residence if the visa or authorization to work was issued or renewed under the Provisions of the Patriot Act.

**SECTION 6. PROCEDURE FOR ALCOHOL/DRUGSCREENING**

- 6.1. With regard to the alcohol/drug screening, the report should indicate the following:
  - 6.1.a. The screening indicates the applicant is not in violation of the prohibited alcohol/drug policy;
  - 6.1.b. There is information in the screening that is cautionary in nature; or
  - 6.1.c. The results of the screening impacts graduate medical education training.
- 6.2. Should a trainee receive results falling in 6.1.b. or 6.1.c. above, the DIO will discuss the results with the Program Director, the Office of Compliance & Risk Management and the University counsel prior to taking action.
  - 6.2.a. Action may include, but is not limited to,
    - 6.2.a.1. Delaying the start of training; or,
    - 6.2.a.2. Revoking the Training Agreement offer.
- 6.3. Those individuals subject to the screening policy have the right to know the results of the tests, to request confirmatory tests, and the opportunity to challenge the results afforded. Confirmatory tests may be conducted at the individual's expense by a provider approved by Marshall Health.

**SECTION 7. SUBSEQUENT CHARGES OR CRIMINAL CONVICTIONS**

- 7.1. After the initial Background Check has been issued, the Resident/Fellow has a continuing obligation to immediately report to the Program Director and DIO any of the following subsequent charges or convictions:
  - 7.1.a. Any charge or conviction of any felony.
  - 7.1.b. Any charge or conviction of any misdemeanor, including but not limited to,
    - 7.1.b.1. Driving under the Influence (DUI), or other alcohol or drug related offenses which impacts upon the abilities of the Resident/Fellow to appropriately perform his/her normal duties in the residency program; and/or,
    - 7.1.b.2. Any action that violates the School of Medicine institutional behavioral standards.

- 7.2. For purposes of this policy, a plea of no contest (nolo contendere) is considered the same as a conviction.

## **SECTION 8. SUBSEQUENT ALCOHOL/DRUG SCREENING**

- 8.1 All Residents and Fellows are subject to this alcohol/drug screening policy when a Program and/or the Office of Graduate Medical Education (GME) has a reasonable, good-faith, and objective suspicion that the trainee is under the influence of prohibited alcohol/drugs.
- 8.2 Under such circumstances, the Office of GME reserves the right to request a Resident/Fellow to submit to alcohol/drug screening. Residents/Fellows who refuse to submit to alcohol/drug screening or who test positive for prohibited alcohol/drugs may be disciplined up to and including the termination of their training with the School of Medicine.
- 8.3 Those individuals subject to the alcohol/drug screening policy have the right to know the results of the tests, to request confirmatory tests, and the opportunity to challenge the results afforded. Confirmatory tests may be conducted at the individual's expense by a provider approved by the Office of GME.
- 8.4. The School of Medicine, the Office of GME, Marshall Health and/or its authorized medical provider will collect appropriate samples (urine, breath, blood, hair, etc. as directed by Marshall Health policy) in such a fashion as to avoid unreasonable intrusion into individual's privacy rights while maintaining the integrity of the testing result.
- 8.5. The Office of GME and Marshall Health administration will also undertake to protect the individual's confidentiality rights, except as reasonably necessary or appropriate to communicate within the School of Medicine, Marshall Health, or as required by law.
- 8.6. The Office of Graduate Medical Education may invoke the provisions of the Resident/Fellow Impairment Policy as deemed necessary and appropriate.

Effective October 1, 2013

Approved by the GMEC - September 17, 2013

Approved by DIO - September 18, 2013