

## **RESIDENT/FELLOW DUE PROCESS:**

### **ASSURANCE OF DUE PROCESS**

A trainee shall be notified in writing anytime that his/her performance is such that the Program Director is concerned that he/she may not be advanced to the next year or is in danger of not being re-appointed. A copy of such notification must be forwarded to the Office of Graduate Medical Education. The program director will attempt to provide four months notification if a contract will not be offered for the next year. However, if the reason(s) for non-renewal occur(s) within the last four months of training, the program will provide as much notice as circumstances dictate.

Trainees may be placed on administrative probation or academic remediation by the Program Director according to the circumstances. There shall be no dismissal or demotion of any trainee until there has been a review of the trainee's performance by a departmental review committee, except in the case of immediate dismissal. The action taken and the reasons therefore shall be forwarded in writing to the trainee with a copy sent to the Office of Graduate Medical Education.

### **EVALUATIONS**

Written evaluations must be discussed and reviewed with trainees on a regular basis but not less than biannually or otherwise in accordance with RRC requirements. It is strongly advised that unsatisfactory evaluations which raise concerns about a trainee's performance be discussed in a timely manner with the trainee and be documented.

Any actions taken as a result of such an evaluation (e.g., repeat of rotation) and remediation needed to correct deficiencies must be presented to the trainee in writing. The trainee should sign this document. This signature does not mean the trainee necessarily agrees with the evaluation; only that the information has been presented and the trainee understands the possible consequences should unsatisfactory performance continue. Should the trainee refuse to sign, a witness will be asked to sign verifying the trainee was presented a copy of the document outlining the corrective measures. Evaluations may lead to either of the following two actions.

#### **I. Academic remediation**

Academic remediation applies in cases where the trainee demonstrates a lack of progress in achieving attainment of General Competencies or deficiencies on other academic parameters as defined by the respective Program Director. This judgment must be communicated to the trainee in writing by the department Program Director. A written plan outlining remediation goals and objectives and length of remediation must be provided to the trainee and the trainee should sign acknowledging receipt of the plan. Arrangements, methodology and duration of

remediation are left to the discretion of the Program Director. It is advisable that a faculty member be assigned to advise the trainee during the remediation period. Academic remediation should be for a length of time sufficient to assess adequate performance and should be monitored by regular reviews. The Program Director must provide periodic written feedback to the trainee regarding whether remedial efforts are effective. Failure to demonstrate improvement by the end of the remediation period(s) would constitute grounds for administrative probation or non-renewal of contract.

## **II. Administrative probation (non-academic)**

Administrative probation applies when the trainee fails to meet or satisfactorily remediate academic, clinical or other responsibilities deemed required and appropriate by the affiliated hospitals or by the trainee's Program Director. A written plan outlining corrective measures and objectives must be provided to the trainee and the trainee should sign acknowledging receipt of the plan. Recurrent failure to successfully complete program requirements by the end of the administrative probationary period could constitute grounds for dismissal or non-renewal of contract. In the case of a resident placed on administrative probation the affiliated institutions must be notified of the trainee's status according to the policy outlined under the section on Notification and Reporting.

### **Dismissal of trainees**

Failure to perform the normal duties of the residency or fellowship, comply with JCESOM policies and procedures, departmental rules and regulations, conduct oneself in a professional manner or to comply with rules and regulations of affiliated institutions, constitute sufficient cause for disciplinary action, which may include dismissal.

If a resident is dismissed from a residency program they will be removed from the payroll effective as of the date of the letter. If the resident appeals the dismissal and is reinstated they will be entitled to back pay for the period involved.

### **Immediate dismissal**

Immediate dismissal of a trainee, without a probationary period, may occur when any of the following are involved:

- 1) Criminal activity,
- 2) Consistent failure to comply with policies and procedures,
- 3) A distinct threat to patient care
- 4) Unethical conduct
- 5) Violation of terms of contract.

A determination of this kind must be immediately reported to the Medical Directors or their designees at affiliated institutions on a confidential basis as indicated below. Notification must also be made to the medical school's Office of Risk Management.

### **Notification: reporting**

In an effort to balance the proper interests of the affiliated institution(s), the training program and the trainee, the policy outlined below is to be followed. If a Program Director determines that performance of a trainee does not jeopardize the safety of patients, family members, visitors or staff, and does not impair quality of care, reporting to the institution(s) to which the trainee is assigned is not required.

### **Institutional Reporting**

Administrative probations must be promptly reported confidentially and in writing to the Medical Director of each affiliated institution.

Further, whether the threshold for administrative probation is reached or not, if at any time a trainee's performance causes or is likely to cause harm to patients, family members, visitors or staff, the Program Director shall provide prompt written, confidential notification of such to the Senior Associate Dean for Graduate Medical Education, the Designated Institutional Officer and each hospital Medical Director using the following guideline:

A brief statement of the trainee's inability to:

1. Function within a hospital setting;
2. Perform the expected clinical duties in a safe manner;

The notification should also specify any other limitations as determined by the Program Director and outline the general plan for correction and the anticipated length of time involved.

Upon receipt of a report to the medical directors, the institutions assume the responsibility to treat the information confidentially, prudently, sensitively and in a manner which is neither prejudicial to the trainee nor detrimental to the program's attempts to resolve the problem(s). To the extent possible, institutions will support the program's actions in ways that Program Directors regard as likely to be helpful. When the performance problem is corrected, the Program Director will promptly report to the institutions and the Senior Associate Dean for Graduate Medical Education. Documentation is essential.

### **State Board Reporting**

The importance of protecting the public by ensuring high standards of medical practice and professional conduct are matters deserving of everyone's serious attention. With some

exceptions, state boards of medicine are increasingly authorizing (requesting) Program Directors to report “disciplinary actions” taken against residents.

After surveying contemporary practices and procedures in this regard and following consultation with officials at the West Virginia Board of Medicine, the Federation of State Medical Boards and administrative staff at affiliated institutions, the Graduate Medical Education Committee of the Joan C. Edwards School of Medicine has determined that defining what constitutes reportable “disciplinary actions” is essential and would be helpful to Program Directors.

While the reporting of disciplinary actions taken on residents unlicensed in West Virginia is not required by the West Virginia Board of Medicine, it is the position of the Graduate Medical Education Committee that a determination on reporting to the Board should be made using the following unambiguous distinctions. The report should be timely and would be the responsibility of Program Directors with consultation(s) as they deem appropriate using forms provided by the State.

Academic Remediation – nonreportable if deficiencies are corrected to the satisfaction of the Program Director e.g. time added to a rotation for remediation; academic deficiencies; medical record incompleteness (unless recurrent and refractory to corrective action).

Administrative (non-academic) Probation – reportable to the WV State Board of Medicine (or other States if requested). It could also be reported to the National Practitioner Data Bank upon due consideration of the circumstances by the Risk Management Office of the School of Medicine if involving:

- A. a threat to public health, safety or welfare
- B. a felony-level sexual assault
- C. proven boundary violation(s) involving documented sexual misconduct
- D. multiple similar incidents refractory to corrective interventions
- E. documented non-therapeutic prescribing
- F. dismissal from the program for reasons related to A, B, C, D or E or for other reasons which in the judgment of the Program Director indicate the necessity for involuntary termination of training.

Other States to which a resident may apply for licensure might stipulate additional criteria for mandatory reporting. If this situation arises, consultation by the Program Director is encouraged if a conflict or problem is thought to exist.

Appeal Policy Separated, Revised and Approved by GMEC: July 16, 2013

Revisions Approved by DIO: July 17, 2013

Original Policy approved and effective February 27, 2007