

# **VCU Health System**

## **Graduate Medical Education Policy**

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### **THE ASSESSMENT, PROMOTION, DISCIPLINE AND DISMISSAL OF RESIDENTS IN GRADUATE MEDICAL EDUCATION PROGRAMS**

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#### **I. BACKGROUND**

The responsibility for judging the competence and professionalism of residents in medical, dental, and psychology graduate education programs rests principally with department chairs and program directors. These educators are guided in their judgment of resident performance by the Accreditation Council for Graduate Medical Education (ACGME) and its Residency Review Committees, the American Dental Association Council on Dental Education or the Committee on Accreditation of the American Psychological Association, by certifying and licensing Boards, by ethical standards for their specialties and the medical and dental professions, and by applicable policies of Virginia Commonwealth University and the Medical College of Virginia Hospitals. Residents are graduate (medical, dental or psychology) students and their relationship with the Institution is an education and training relationship. Residents are compensated as employees of the Medical College of Virginia Hospitals, the teaching hospital of Virginia Commonwealth University, but the resident's employment relationship with the Medical College of Virginia Hospital is derivative of and dependent upon the resident's continued enrollment as a graduate (medical, dental or psychology) student of the University.

The following policies and procedures for the Assessment, Promotion, Discipline and Dismissal of Residents in Graduate Medical Education (hereinafter Assessment Policy) apply to all residents enrolled in graduate medical, dental, and clinical psychology education programs at the Virginia Commonwealth University and Virginia Commonwealth University Health Systems. The Assessment Policy governs the qualification of residents to remain in training as well as their completion of residency certification requirements, and its provisions apply in all instances in which such qualification and/or certification is at issue.

#### **II. RESIDENCY PROGRAM ASSESSMENT STRUCTURE AND PLAN**

The program director for each residency program has primary responsibility for monitoring the competence and professionalism of program residents, for recommending promotion and certification, and for initial counseling, probation or other remedial or adverse action. Residents will be evaluated on individual specialty requirements, program requirements, and compliance with University and Hospital policies. A faculty education committee may assist the program director in these functions. Where circumstances warrant, the membership of an education committee may be altered to avoid a potential conflict of interest, or to protect the privacy of the resident. The chair of a department may exercise the option to become a member of the education committee or to serve as the final departmental decision-maker in response to

the committee or program director's recommendations. Each program's assessment structure and plan must be in writing.

### **III. PERFORMANCE REVIEWS**

Each department must provide written summary performance reviews to residents at regular intervals, preferably in person. The ACGME Residency Review Committee for each specialty usually specifies the desirable frequency of such reviews. At a minimum, a semi-annual, written summary performance review must be provided to each resident in all programs. It is recommended that a review of the resident's experience and competence in performing clinical procedures be included in these summaries when appropriate. Summary performance reviews may be written by program directors, designated faculty members, or members of a program's education committee consistent with the assessment plan of the program. It is also recommended that the resident acknowledge receipt of each summary performance review in writing.

### **IV. PROMOTION**

Those residents judged by a program to have satisfactorily completed the requirements for a specific level of training will be promoted to the next higher level of responsibility unless the resident is enrolled in a training track of limited duration, not designed to achieve full certification (e.g., a one-year preliminary position). Except for shared residency positions, no resident may remain at the same level of training for more than 24 months, exclusive of leave. A resident whose performance is judged to be satisfactory will advance until the completion of the program/certification requirements.

It is the expectation that individuals entering graduate medical education programs will be promoted. However, the program has the right to refuse to offer a contract renewal for the next academic year to residents.

Residents commencing their post graduate medical education in 2009 and beyond must pass Step 3 of the USMLE or NBOME in order to be promoted to the PGY 3 level.

In instances where a resident's agreement is not going to be renewed, the VCU Health System requires that GME programs provide the resident(s) with a written notice of intent not to renew a resident's agreement no later than four months prior to the end of the resident's current agreement. However, if the primary reason(s) for the non-renewal occurs within the four months prior to the end of the agreement, the VCU Health System requires that its ACGME-accredited programs provide the resident(s) with as much written notice of the intent not to renew as the circumstances will reasonably allow, prior to the end of the agreement.

Resident(s) are allowed to implement the institution's GME appeals process (described below) if they receive written notice of intent not to renew their agreements.

### **V. DISCIPLINE/DISMISSAL FOR ACADEMIC REASONS**

#### **A. Grounds**

As students, residents/fellows are required to maintain satisfactory academic performance. Academic performance that is below satisfactory is grounds for discipline and/or dismissal. Below satisfactory academic performance is defined as a failed rotation; relevant exam scores below program requirements; and/or marginal or unsatisfactory performance, as evidenced by faculty evaluations, in the areas of clinical diagnosis and judgment, medical knowledge, technical abilities, interpretation of data, patient management, communication skills, interactions with patients and other healthcare professionals, professional appearance and demeanor, and/or motivation and initiative.

## **B. Procedures**

Before dismissing or not renewing the contract of a resident/fellow for academic reasons, the program must give the resident/fellow:

1. Notice of performance deficiencies;
2. An opportunity to remedy the deficiencies; and
3. Notice of the possibility of dismissal or non-renewal if the deficiencies are not corrected.

Residents disciplined and/or dismissed for academic reasons may appeal the action via the GME Appeals process described in Section IX (below).

## **VI. Discipline/Dismissal for Non-Academic Reasons**

### **A. Grounds**

Grounds for discipline and/or dismissal of a resident/fellow for non-academic reasons include, but are not limited to, the following:

1. Failure to comply with the bylaws, policies, rules, or regulations of the University and the Health System, affiliated hospitals, medical staff, department, or with the terms and conditions of this document.
2. Commission by the resident/fellow of an offense under federal, state, or local laws or ordinances which impacts upon the abilities of the resident/fellow to appropriately perform his/her normal duties in the residency program.
3. Conduct, which violates professional and/or ethical standards; disrupts the operations of the University, its departments, or affiliated hospitals; or disregards the rights or welfare of patients, visitors, or hospital/clinical staff.

### **B. Procedures**

Prior to the imposition of any discipline for non-academic reasons, the resident shall be afforded:

- a. Clear and actual notice by the appropriate University or hospital representative of charges that may result in discipline, including where appropriate, the identification of persons who have made allegations against the resident/fellow and the specific nature of the allegations; and,
- b. An opportunity for the resident/fellow to appear in person to respond to the allegations.

It is preferable that this notification be in writing. On occasion, it may be done verbally. Verbal notification must be followed by written notification within three business days.

Residents disciplined and/or dismissed for non-academic reasons may appeal the action via the GME Appeals process described in Section IX (below).

## VII. PROBATION

A. **Initial Probation:** The program director must document counseling of a resident who is not performing at an adequate level of competence, demonstrates unprofessional or unethical behavior, engages in misconduct, or otherwise fails to fulfill the responsibilities of the program in which he/she is enrolled. If the resident does not demonstrate sufficient improvement following counseling (as defined by the program director or education committee), then the resident may be placed on probation. The program director may place the resident on probation without prior counseling if the lack of competence or behavior is sufficiently severe.

The purpose of probation is to give the resident specific notice of performance deficiencies and an opportunity to correct those deficiencies. Depending on the resident's performance during probation, the possible outcomes of the probationary period are: removal from probation with a return to good academic standing; continued probation with new or remaining deficiencies cited; non-promotion to the next training level with further probationary training required; contract non-renewal; or dismissal.

The resident must be informed in person of probation decisions and must be provided with a probation document that includes the following

1. A statement of the grounds for probation, including identified deficiencies or problem behaviors;
2. The duration of probation which, ordinarily, will be at least three months;
3. A plan for remediation and criteria by which successful remediation will be judged;
4. Notice that failure to meet the conditions of probation could result in extended probation, additional training time, and/or suspension or dismissal from the program during or at the conclusion of the probationary period, and
5. Written acknowledgment by the resident of the receipt of the probation document

B. **Extended Probation:** The status of a resident on probation should be evaluated periodically, preferably every three months, but at a minimum, every six months. If, at the end of the initial period of probation, the resident's performance remains unsatisfactory, probation either may be extended in accordance with the above guidelines (VII.A.1-5) or the resident may be suspended or dismissed from the program. Probationary actions must be reported to the Graduate Medical

Education (GME) Office, and probation documents must be forwarded to the GME Office for review before they are issued.

## VIII. SUSPENSION AND DISMISSAL

- A. **Suspension and Dismissal**: A resident may be suspended from clinical activities by his or her program director, department chair, or by the faculty director of the clinical area to which the resident is assigned. This action may be taken in any situation in which continuation of clinical activities by the resident is deemed potentially detrimental or threatening to patient safety or the quality of patient care. Unless otherwise directed, a resident suspended from clinical activities may participate in other program activities. A decision involving suspension of clinical activities of a resident must be reviewed within three working days by the department chair (or his or her designee) to determine if the resident may return to clinical activities, and/or whether further actions is warranted (including, but not limited to, counseling, probation, fitness for duty evaluation, or summary dismissal).
- B. **Program Suspension**: A resident may be suspended from all program activities and duties by his or her program director, department chair, the Associate Dean for Clinical Activities or Graduate Medical Education, or the Dean of the School of Medicine or Dentistry. Program suspension may be imposed for conduct that is deemed to be grossly unprofessional, incompetent, erratic, potentially criminal, or threatening to the well-being of patients, staff, or the resident. A decision involving program suspension of a resident must be reviewed within three working days by the department chair (or his or her designee) to determine if the resident may return to some or all program activities and duties and/or whether further action is warranted (including, but not limited to, counseling, probation, fitness for duty evaluation, or summary dismissal).
- C. **Dismissal During or at the Conclusion of Probation**: Probationary status in a residency program constitutes notification to the resident that dismissal from the program can occur at anytime (i.e., during or at the conclusion of probation). Dismissal prior to the conclusion of a probationary period may occur if conduct, which gave rise to probation, is repeated or if grounds for Program Suspension or Summary Dismissal exist. Dismissal at the end of a probationary period may occur if the resident's performance remains unsatisfactory or for any of the foregoing reasons. The GME office must be notified prior to the dismissal of any resident during or at the conclusion of a probationary period.
- D. **Summary Dismissal**: For serious acts of incompetence, impairment, or unprofessional behavior, a department chair may immediately suspend a resident from all program activities and duties for a minimum of three days and, concurrently, issue a notice of dismissal effective at the end of the suspension period. The resident does not need to be on probation, nor at the end of a probationary period, for this action to be taken. The resident must be notified in

writing of the reason for suspension and dismissal, have an opportunity to respond to the action before the dismissal is effective and be given a copy of the GME Appeals Process. The GME office must be notified of the dismissal plan.

## **IX. GME APPEALS PROCESS**

In the event a resident is not promoted, is dismissed from a program, or is the subject of any adverse action that is reported to the State Board of Medicine or Dentistry or a relevant specialty board, the resident may appeal such non-promotion, dismissal, or adverse action as follows:

- A. **Departmental Appeal:** A resident may initiate a departmental appeal by submitting a written notice of appeal to the program director (with a copy to the GME office) within ten (10) working days of the date of the appealable action (hereinafter 'adverse action'). A faculty committee will hear the department review, which ordinarily will be the same faculty committee, which initiated the adverse action. If a faculty committee did not initiate the adverse action, the chair will appoint a departmental review committee. A departmental review hearing will be held within thirty (30) days following receipt of the notice of appeal. The resident may select a faculty advocate to appear and participate on the resident's behalf at the hearing. It is the responsibility of the resident to secure the participation of the faculty advisor. Prior to the hearing, the resident must notify the program director of the number of witnesses (if any) the resident expects to call and whether the resident will be accompanied by a faculty advocate and/or legal counsel. At the departmental review hearing, the program director (or his or her designee) will present a statement in support of the adverse action and may present any relevant records, witnesses, or other evidence. The resident will have the right to present evidence, call and questions witnesses, and make statements in defense of his or her own position. Legal counsel may be present on behalf of the resident and the department but counsel will not be permitted to participate in the proceeding. A record of the hearing will be kept by a court stenographer. After presentation of evidence and arguments by both sides, the departmental reviews committee will meet in closed session to consider the adverse action. The committee may uphold or reject the adverse action or may impose alternative action that may be more or less severe than the initial action. The committee's decision must be submitted to the resident within ten (10) working dates of the close of the hearing.
  
- B. **Appeal to the Associate Dean for Graduate Medical Education:** If the adverse action is upheld by the departmental review committee, or if the committee recommends alternative action that still is not acceptable to the resident, the resident may appeal the departmental committee's decision by submitting a notice of appeal to the Associate Dean for Graduate Medical Education within ten (10) working days of the departmental committee's decision. A written appeal must be delivered to the Associate Dean within ten (10) working days of receipt of the

notification of the action of the Departmental Appeals Committee. The resident must state as clearly and as fully as possible the reasons for seeking modification of the decision. The Associate Dean will review the resident's training file, evidence presented during the departmental appeals hearing, and any other relevant materials. The Associate Dean's responsibilities are to:

1. Determine whether applicable university, school, department, and/or hospital policies were fairly and appropriately applied; and
2. Determine whether there is sufficient evidence to support the adverse action or other action recommended by departmental appeals committee. The Associate Dean may uphold or reject the adverse action, may uphold or reject other action recommended by the departmental appeals committee, or may recommend to the Dean and the department chair that another course of action be pursued to include return of the case to the departmental committee for further consideration. The Associate Dean's decision will be submitted to the resident within thirty (30) working days of the notice of appeal.

C. **Appeal to the Dean:** Either the resident or the department chair may, within ten (10) working days of the decision by the Associate Dean, appeal the decision of the Associate Dean to the Dean of the Medical School or School of Dentistry (or their respective designee) by written notice to the GME Office. The GME Office will notify the appropriate Dean (or designee) who will appoint an Appeals Committee composed of faculty members from other departments. The Appeals Committee will review the record submitted to it by the GME Office and may consider any other written material or oral testimony it deems relevant. The Appeals Committee will submit a written recommendation regarding the matter to the Dean within fifteen (15) working days of the closure of the Committee's review. The Dean will review the recommendation of the Appeals Committee and accept or reject it within ten (10) working days. The Dean's decision is final within Virginia Commonwealth University.

## **X. OTHER CONSIDERATIONS**

External rules, regulations or law governs mandatory reporting of problematic behavior or performance to licensing agencies or professional boards. The fact that such a report is made is not a matter which may give rise to the appeal process, only the adverse action as specified by Section VII of this document is appealable. Where mandatory reporting of problematic behavior or performance occurs, external agencies will be notified of the status of any internal appeal regarding the matter reported and its outcome. Residents should be aware that participation in the GME Appeals Process does not preclude investigation or action on the part of external entities.

The stipend of the resident shall be continued until the termination date of the resident's contract or the expiration of the appeals process that results in the dismissal of the resident, whichever occurs first.

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Approved by General Counsel, February 7, 1997  
Approved by Executive Committee, MCV Hospitals, March 12, 1997  
Review, Program Directors Council, February 4, 1999  
Review, Graduate Medical Education Committee, February 9, 1999  
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