



## **GME Policy - Academic and Professional Actions Policy**

### **PURPOSE**

To providing high-quality Graduate Medical Education (GME) by outlining the process by which residents within CHI Franciscan Health's St. Joseph Medical Center are notified of corrective actions and explaining the process by which these actions may be reviewed at the institutional level.

### **PROCEDURE**

#### **I. Interns/Residents:**

- a. are first and foremost learners;
- b. are expected to pursue the acquisition of competencies that will qualify them for careers in their chosen field;
- c. are expected to adhere to standards of professional conduct appropriate to level of training.

II. Due process refers to an individual's right to be adequately notified of charges or proceedings against that individual and the opportunity to respond to these actions.

III. Program appointment, advancement, and completion are not assured or guaranteed to the resident but are contingent upon the resident's satisfactory demonstration of progressive advancement in scholarship and continued professional growth. Unsatisfactory resident evaluation can result in required remedial activities, temporary suspension from duties, non-promotion, non-renewal of appointment, or termination of appointment and residency education.

IV. The policies and procedures described in this document are designed to ensure that actions which might adversely affect a resident's status are fully reviewed and affirmed by neutral parties while at the same time ensuring patient safety, quality of care, and the orderly conduct of training programs.

V. The policies and procedures described in this section are the exclusive means of review of academic actions within GME programs sponsored by CHI Franciscan Health's St. Joseph Medical Center.

VI. Academic Actions Not Subject to Review. The following academic actions are not reviewable, meaning there is no opportunity for a resident to seek external evaluation of the program's decision/action.

- a. *Resident Evaluations:*

- i. The Accreditation Council for Graduate Medical Education requires programs to conduct formal performance reviews with residents at least once every six months.
- ii. Evaluation of resident performance includes assessment of clinical competence, professional behavior, and humane qualities. In situations where residents exhibit sub-standard performance, the program director may provide notice to, or request assistance for, a remediation from the faculty advisor, residency training committee, and/or the entire departmental or divisional faculty or an appropriate mental health specialist.
- iii. Upon notification of a problem in cognitive or interpersonal performance, the program director will decide whether the problem can be addressed through the normal evaluation processes or requires a formal intervention and remediation program. Residents may submit written responses to their evaluations within thirty (30) calendar days. These written responses will be retained in the resident's program file; but such responses are for informational/explanatory purposes only.

b. *Program Letter of Warning:*

- i. The Program Letter of Warning is documentation describing serious issue(s) of resident performance or behavior that requires remediation. A Program Letter of Warning shall include recommended actions or remediation the resident should follow to resolve any issue(s) described in the letter. Failure to adequately address areas of concern or repeated undesirable behaviors may lead to progressive discipline including probation, suspension, non-renewal of appointment, or termination.
- ii. The Program Letter of Warning will be given to the individual and will not normally be considered part of the resident's program file or reported by program directors as negative evaluations if the recommended actions or remediation are completed within the required time frame. Program Letters of Warning can be made part of the file at the discretion of the program director if complete remediation is not achieved. A resident may request the Program Letter of Warning be removed from the individual's program file; but the Program Director remains the ultimate authority regarding removal of Program Letters of Warning in such circumstances. The Program Director will confirm with the resident that this removal has taken place or provide an explanation why it has not occurred

c. *Removal from Patient Care Activities*

- i. A resident will automatically be removed from patient care activities for any of the reasons listed below following notification in writing. The period of removal will extend until the deficiency described is resolved to the

satisfaction of the Program Director. Residents may be assigned to non-clinical duties, vacation, or other status at the discretion of the Program Director. If assignment to another activity is not practical, the removal from patient care may result in an unpaid status.

1. Lack of an unrestricted physician or physician-in-training license in the State of Washington;
2. Failure to obtain or maintain credentials required for the clinical practice, such as Drug Enforcement Administration license;
3. Failure to complete required orientation and/or annual training requirements;
4. Failure to comply with the Program's Moonlighting Policy;
5. Failure to maintain compliance with the St. Joseph Medical Center or other training site immunization requirements; and
6. Failure to maintain proper immigration status for legal employment.
7. Residents who become ineligible for employment due to changes in their immigration status will be removed from the active payroll and may not work in any capacity. They will be placed on inactive, unpaid status until their work eligibility status is resolved.

#### VII. 4. Actions by Non-GME Agencies

- a. If a resident violates policies and procedures outside the control of the GME program, the resident may not appeal the action through the GME Academic Action Review Procedures. The resident is, however, free to exercise due process procedures as may be available from the agency taking the action.

**Reviewable Academic Corrective Actions:** The following academic actions are reviewable, affording opportunity for a resident to seek external evaluation of the program's decision.

##### 1. Non-Reappointment

- a. A decision on non-reappointment of a resident will be made by the established Clinical Competency Committee. The resident will be notified of non-reappointment by April 15th, or at least two months prior to the normal termination date of the resident's existing appointment if the date of appointment is any date other than June 30th. The notification will be by letter to the resident and will contain the reasons for the non-reappointment.

- b. The program at its sole discretion may revisit any non-reappointment decision at a later date and may rescind the non-reappointment notice and offer reappointment at that time.

## 2. Non-Promotion

- a. The established Clinical Competency Committee within a program may determine a resident has not performed to a level that would allow the resident to progress to the next year of their training program. The program may in that case ask the resident to repeat the year at the same R-level. A resident will be notified of nonpromotion by April 15th, or at least two months prior to the normal termination date of the resident's existing appointment if the date of appointment is any date other than June 30th. The notification will be by letter to the resident and will contain a summary of the resident's performance that necessitates the non-promotion action.
- b. In some cases, residents will be required to make up partial-year rotations or assignments due to performance problems or absence following medical or personal leave. If the program delays the resident's commencement of the next level of training but issues a new agreement at the R-level for which the resident would have otherwise been eligible, then the resident may not seek review.
- c. When a resident at the end of their training must make up less than a full year of rotations due to repeating rotations or because of medical or personal leave, those extensions to the resident's current agreement or new agreements will not be subject to review. In such cases, the agreement extension will include stipends and benefits at the current level for the resident until they have completed all required assignments.

## 3. Probation

- a. Probation is a serious academic action that is taken in response to continued documented substandard performance or behavioral issues, violations of educational standards or policy, or inability to remediate according to requirements outlined in a Program Letter of Warning. The Program Director will notify residents in writing of their probationary status, the reasons for the probationary status, the expectations that must be satisfied to remediate the probationary status, and the time limit for satisfactory remediation.
- b. Documentation of probation will become part of the resident's program file and will be disclosed upon request to other agencies or persons when the individual seeks hospital privileges or licensure, or if the individual continues training in a different program.

- c. The program director will notify the resident in writing when a probationary status has been successfully remediated. This letter will be retained in the resident's program file.
- d. The resident's failure to successfully correct the behavior or deficit giving rise to the probationary designation may result in extension of probation, suspension, nonrenewal of appointment, or termination.

#### 4. Suspension

- a. A program may suspend a resident from some or all activities related to their education in response to the resident's inability to provide safe patient care, or for failure to meet other obligations of the educational program or the Residency Position Appointment. Bases for suspension may include, but are not limited to, the following:
  - i. Unprofessional behavior;
  - ii. Egregious violation of patient privacy rules, including but not limited to HIPAA regulations;
  - iii. Unexcused absence without reporting to the program director;
  - iv. Any action that is illegal, unethical, or in conflict with St. Joseph Medical Center's professional conduct code;
  - v. Performing resident duties while in an impaired physical or mental state;
  - vi. Failure to comply with conditions of probation or other progressive corrective action;
  - vii. Academic deficiencies warranting removal of the resident from patient care.
- b. The duration of the suspension should be appropriate to address the reasons underlying the suspension. A suspension may be indefinite in length if it requires the action of the resident, for instance in obtaining proper credentials. Suspension may be paid or unpaid depending on the circumstances and the judgment of the program director.

#### 5. Termination for Cause

- a. A resident's appointment may be terminated for cause if the resident fails to meet standards of performance expected at the resident's level of training, fails to fulfill the conditions of appointment to the program, or fails to meet the requirements of the hospital or clinic to which the resident is assigned. The overall academic performance and professional behavior of the resident shall be considered in decisions to terminate for cause.

### **Academic and Professional Action Review Process**

The process outlined below is the exclusive means of review or appeal of academic actions within St. Joseph Medical Center Sponsored GME Programs:

1. The purpose of this procedure is to allow secondary review of the program's actions based on the assessment of the resident's academic and professional performance.
2. The review procedure is not an adversarial legal proceeding but is instead the exercise of academic and professional judgment by GME faculty and officials on whether the resident has the necessary ability to uphold the academic and professional standards of the St. Joseph Medical Center GME program and to perform adequately as a physician.

### 3. Request for Review

- a. When considering recommending the suspension, non-renewal of appointment, non-promotion, or termination of a resident, the Program Director shall inform the resident of the basis for the consideration of the action and discuss the matter with the resident in a face-to-face conference. A written summary of this meeting shall be prepared and provided to the resident. The matter may be concluded by mutual consent at this point.
  - b. If at any time during the preliminary proceedings described in the paragraph above it appears to the Program Director that mutual resolution is not possible and the Program Director decides that non-renewal of appointment, non-promotion, suspension, or termination for cause is necessary, the Program Director or designee shall submit a letter of recommendation to the Chair of the Graduate Medical Education Committee (GMEC). The recommendation shall include a statement of the grounds for the recommended action.
  - b. The Program Director shall notify the resident in writing of the recommended action, via certified mail. This Notice shall contain:
    - i. A copy of the recommendation
    - ii. A statement informing the resident that if the Chair of GMEC receives a written request for review from the resident within fourteen (14) calendar days of the date of the mailing of the Notice, then the recommendation will be reviewed by the St. Joseph Medical Center Graduate Medical Education Committee.
    - iii. A copy of the current Residency Position Appointment plus a copy of this policy.
4. A written request for review of the recommendation must be received by Chair of GMEC within fourteen (14) calendar days of the date of mailing of the Notice. If no request for review is received within this timeframe, the Program Director's recommendation shall become final and no further review will be available.
  5. Within five (5) working days of receipt of a resident's written request for review, the Chair of the GMEC shall provide the Department chair a copy of the resident's written request for review.

6. The GMEC Chair will convene a closed, special meeting of the GMEC no sooner than thirty (30) calendar days following the forwarding of notice of request for hearing to the Program Director
  - a. A quorum (outlined within the GMEC Charter) must be present to review the Academic Action;
  - b. At least one resident member of the GMEC must be present;
  - c. The DIO or designee must be present;
  - d. The Program Director or designee must be present, but will not vote in proceedings or take part in Committee deliberations;
7. The Program Director, or his/her designee, shall provide the following information to the Review Committee no later than five (5) working days before the hearing date:
  - a. A statement of the matters asserted by the Program Director;
  - b. A list of witnesses who may be presented at the Committee meeting by the Program Director.
  - c. A list of documents to be presented at the Review Committee meeting by the Program Director.
8. All materials, documentation, and exhibits that the resident wishes to submit shall be submitted to the Review Committee during the course of the review meeting. The resident may also submit materials or documentation in advance of the review meeting;
9. Legal discovery, such as but not limited to interviews of parties to the action, requests for records, interrogatories, or depositions, is not available under the GME Academic Action.
10. The resident may be accompanied by an advisor or accompanied by legal counsel at the resident's own expense. The Program Director may request legal counsel from St. Joseph Medical Center. However, legal counsel for either party will not be allowed to speak at the review meeting on behalf of any person or actively participate in the proceedings unless permission is granted by the Chair of the GMEC;
11. The resident and Program Director are entitled to hear all presentations and examine all documents presented at the review meeting. The resident and Program Director or designee may present documents and witnesses in support of their respective positions and may ask questions of any other witnesses;
12. The Chair of the Review Committee shall, within reason, give all parties full opportunity to submit and respond to statements and positions;
13. All components of the review are will be closed to public observation. All components of the review and all associated documents created, collected, or maintained for the review are part of the St. Joseph Medical Center Quality Improvement Plan and Peer

Review Process. The confidentiality and privilege associated with quality improvement and peer review activities therefore applies to the review.

14. All testimony of parties and witnesses shall be made under oath or affirmation;
15. No communications are permitted by the resident, the Program Director, or their respective representatives to the Review Committee members regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process. All other communications regarding the review are to be directed to the Chair of the Committee.
16. Neither the resident nor the Program Director or designee have the right to be present during the deliberations of the Committee;
17. All proceedings of the Review Committee will be conducted with reasonable dispatch and be completed as soon as possible, consistent with fairness to all parties involved.
18. An adequate summary of the proceedings will be documented within GMEC minutes. Such a summary shall include all documents that were considered by the Review Committee and may include a tape recording of the presentations and any other documents related to the hearing.
19. The Committee is charged with responsibility to review the decision of the Program Director and issue a Recommended Outcome. The question before the Committee is whether the Program Director's decision was arbitrary or capricious.
  - a. The burden of proof is on the resident to show that the decision was arbitrary or capricious.
    - i. Arbitrary and capricious action is willful and unreasoning action, without consideration and in disregard of facts or circumstances. Where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration even though it may be believed an erroneous conclusion has been reached.
  - b. The submission of a Recommended Outcome by the Committee shall require a simple majority vote.
  - c. If the Committee is unable to achieve a simple majority vote, the Recommended Outcome(s) of the Committee should reflect the views of each of the eligible committee members.
20. Within thirty (30) calendar days of the Committee's recommendation, the Chair of the GMEC will forward a written final decision to the resident and to the Program Director via certified mail. The final decision shall include a statement of findings and conclusions.

- a. Recommendations from the GMEC are final and there is no process for further appeal.
- b. If the final decision is termination for cause, the termination shall be effective thirty (30) calendar days after the date of the final decision.
- c. The stipend and fringe benefits of the resident shall be continued during the period necessary to assure due process provided that such stipend and fringe benefits shall cease at the expiration of the resident's appointment or the effective date of termination by the GMEC, whichever shall occur first.
- d. Rulings by the Committee that are made in favor of the resident may not include remedies beyond reinstatement and recovery of any stipend and benefits lost as a result of the disciplinary action.