

**CONEMAUGH MEMORIAL MEDICAL CENTER
GRADUATE MEDICAL EDUCATION POLICY**

DISCIPLINARY ACTION POLICY

Purpose

To establish standardized criteria for disciplinary procedures for resident/fellow if a resident's or fellow's training fails to meet academic expectations and/or engages in misconduct.

Applies To

All Conemaugh Memorial Medical Center Graduate Medical Education training programs.

Policy

Graduate Medical Education (GME) programs will use the following criteria for dismissal from a program; non-promotion to the next PGY level; nonrenewal of a resident's/fellow's agreement; suspension; probation; and not recommended for Board certification for training completed.

If the cause for suspension or dismissal is a legal issue, the applicable statute supersedes GME policy. If the cause for suspension or dismissal is a Human Resources policy the applicable statute supersedes GME policy.

Definitions

Academic Deficiency: The resident/fellow is not meeting one or more of the ACGME Core Competencies, as revised from time to time, which may include: patient care and procedural skills, medical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and system-based practice. Examples of academic deficiencies, include, but are not limited to: a. Issues involving knowledge, skills, job performance or scholarship; b. Failure to achieve acceptable exam scores within the time limits identified by the training program; c. Unprofessional conduct; d. Professional incompetence including conduct that could prove detrimental to Conemaugh Memorial Medical Center's (CMMC) patients, employees, staff, volunteers, visitors or operations.

Misconduct: Conduct by a resident/fellow that violates workplace rules or policies, applicable law, or widely accepted societal norms. Examples of misconduct include, but are not limited to: a. Unethical conduct, such as falsification of records; b. Illegal conduct (regardless of filing of criminal charges or criminal conviction); c. Sexual misconduct or sexual harassment; d. Workplace violence; e. Unauthorized use or disclosure of patient information; f. Violation of CMMC or other applicable policies or procedures, including without limitation the Code of Conduct; g. Scientific misconduct.

Disciplinary Action: Any of the following actions taken in response to a resident's/fellow's Misconduct or Academic Deficiency: dismissal from a program; non-promotion to the next PGY level; nonrenewal of a resident's/fellow's agreement; suspension; probation; not recommended for Board certification for training completed

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Procedure

A. Administrative Leave Pending Investigation

1. The Program Director and the Designated Institutional Official (DIO) (or their designees) determine that immediate action is required prior to completion of a review or investigation of possible Misconduct or Academic Deficiency, in order to protect the health and safety of patients, staff or other persons, or the interests of CMMC, the resident/fellow may be placed on immediate administrative leave, with or without pay as appropriate depending on the circumstances. In this event, legal counsel and Human Resources should be alerted. This action is not disciplinary in nature and therefore cannot be appealed pursuant to the Appeal of Disciplinary Action Policy. This type of leave is intended to be a short term measure to allow for a review of the underlying concern and determination as to whether Disciplinary Action is warranted.

B. Disciplinary Action

1. Disciplinary Action is issued to a resident/fellow as the result of Academic Deficiency or Misconduct.
2. A program is not required to issue a resident/fellow any form of non-disciplinary, remedial action as a prerequisite to recommending or taking Disciplinary Action. Serious Academic Deficiencies and/or Misconduct may warrant Disciplinary Action, up to and including dismissal, regardless of whether a Resident ever received or was subject to any prior form of remedial action.
3. **Types of Disciplinary Actions:**
 - a. **Dismissal:** A permanent separation of the resident/fellow from the program.
 - b. **Non-Promotion to the Next PGY Level:** A lack of promotion of the Resident to the next level of training unless or until residents/fellow's performance improves to the required level.
 - c. **Non-Renewal:** Non-renewal of a resident/fellow contract for the next academic year.
 - d. **Probation:** A temporary modification of a resident's/fellow's participation in or responsibilities within the training program; these modifications are designed to facilitate the resident's/fellow's accomplishment of program requirements. Generally, a resident/fellow will continue to fulfill training program requirements while on probation, subject to the specific terms of the probation. The Program Director shall have the authority to place the resident/fellow on probation (and shall identify the resident's status as "on probation") pursuant to this policy and have wide discretion based on his/her professional judgment to determine the terms of probation. Probation may include, but is not limited to, special requirements or alterations in scheduling a resident's/fellow's responsibilities, a reduction or limitation in clinical responsibilities, or enhanced supervision of a resident's/fellow's activities.

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- e. **Suspension:** A period of time in which the resident/fellow is not allowed to take part in all or some of the activities of the program. Time spent on suspension may not be counted towards the completion of program requirements. During the suspension the resident/fellow will be placed on administrative leave with, or without, or with pro-rated pay as appropriate depending on the circumstances.
- f. **Board Recommendation:** When a resident/fellow is not recommended for Board certification for training completed.

C. Recommending Disciplinary Action:

- 1. When a Program Director has determined that disciplinary action is warranted, the Program Director should consult with his/her Clinical Competence Committee and Department Chair and alert the DIO of his/her intended actions. In making a determination of what disciplinary action to recommend, the Program Director should consider the totality of circumstances as then known, including but not limited to, the severity of the resident's/fellow's behavior, potential for patient harm, prior attempts at behavior modification and the results of these attempts, and the Program Director's experience and judgment on resident knowledge, skill, and professionalism progression.
 - a. The Program Director will prepare a written notice of recommendation of Disciplinary Action. This notice must include:
 - A recommendation of the specific Disciplinary Action to be taken
 - A description of the Academic Deficiency(ies) and/or incident(s) of Misconduct that are the basis for the Disciplinary Action
 - The specific remedial action or improvement that is required, unless the Corrective Action is dismissal or non-renewal;
 - A defined period of time with a start and end date for improvement (if applicable)
 - Notice of the right to appeal, along with a copy of the Appeal of Disciplinary Action Policy.
 - b. The Disciplinary Action notice of recommendation should be signed by the Program Director and delivered by the Program Director to the resident/fellow in person, if possible. The resident/fellow should be requested to co-sign the notice to acknowledge receipt. If hand delivery is not possible, the notice of recommendation will be delivered to the resident's/fellow's residence by certified mail/return receipt requested or by national overnight courier service.
 - c. A copy of the signed Disciplinary Action notice of recommendation must be placed in the resident's/fellow's file and forwarded to the GME Office.

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D. Pending Final Decision:

1. The Program Director may remove the resident/fellow from participation in the program pending expiration of the time frame to request appeal and final resolution of the appeal. In making a determination as to whether to remove the resident/fellow from the program pending final resolution, the Program Director should take into account whether the resident's/fellow's continued participation could endanger the health or wellbeing of patients, staff, or others. The Program Director should also consider the nature of the underlying concern giving rise to the Disciplinary Action (i.e., and allegation of serious misconduct tends to weigh in favor of removal from participation pending resolution). The resident/fellow shall continue to be paid his or her stipend until there is a final decision on the Disciplinary Action and the appeal if invoked by the resident/fellow) is final.
2. Residents/fellows may appeal a Disciplinary Action pursuant to the Appeal of Disciplinary Action Policy. No report of Disciplinary Action to any outside entity, including but not limited to any certifying body, professional association, or other training program, may be made until the appeal process has concluded or any appeal rights have expired (unless any such disclosure is authorized in writing by the resident/fellow or disclosed pursuant to compulsory legal process, in which case legal counsel should be consulted prior to such disclosure). The foregoing shall not prevent the Program or GME Office from notifying necessary persons or entities that the resident/fellow is on leave for purposes of ensuring appropriate patient coverage.

E. Finalization of Disciplinary Action:

1. The recommended Disciplinary Action will become final at such time as: the time frame for requesting an appeal expires and the resident/fellow has not submitted a request for an appeal; the resident/fellow withdraws an appeal; or the appeal process concludes and the hearing panel upholds or modifies the recommended Disciplinary Action, pursuant to the Appeal of Disciplinary Action Policy.

F. Reporting to the Pennsylvania Board of Medicine

1. Under Pennsylvania law, certain actions involving physician discipline or adverse action must be reported to the Board of Medicine. In addition, behavior incompatible with the role of a physician including illegal, immoral or unethical behavior must also be reported to the Board of Medicine. Required reports shall be made by CMMC following the conclusion of the appeal process, if invoked by the resident/fellow, or following conclusion of the time period for the resident/fellow to request an appeal (pursuant to the Appeal of Disciplinary Action Policy). The DIO is designated as the CMMC representative who will make required reports in connection with GME matters to the Pennsylvania Board of Medicine. The DIO is encouraged to consult with legal counsel for guidance in making required reports.

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References

IR: IV.C. (Promotion/Appointment Renewal/Dismissal)

GMEC Review: 3/2018

GMEC Revision: 12/2017