

## CHRISTIANA CARE HEALTH SERVICES

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| <b>POLICY:</b>        | <b>Disciplinary Measures and Procedures</b> |
| DEPARTMENT:           | GMEC                                        |
| DATE OF ORIGIN:       | October 2001                                |
| LAST REVISION DATE:   | March 23, 2016                              |
| REGULATORY REFERENCE: | ACGME                                       |

### ***POLICY:***

Residents/Fellows are expected to take on progressively greater responsibility throughout the course of their residency/fellowship, consistent with individual growth in clinical experience, knowledge, skills, and professional behavior. Residents/Fellows who fail to perform or progress satisfactorily may be subject to disciplinary action up to and including termination. The primary responsibility for defining the standards of academic performance and personal professional development rests with individual departments and program directors. These disciplinary measures and procedures are intended to protect the rights of residents/fellows, the safety of patients, and the integrity of the training program.

### ***PURPOSE:***

This policy describes the disciplinary measures. It also describes the appeal process, which is intended to assure fair treatment for all parties.

### ***SCOPE:***

All graduate medical education programs at CCHS.

### **DISCIPLINARY MEASURES:**

**Summary Suspension:** Summary suspension is immediate removal of a resident/fellow from program activities without prior notice. Such an action may be imposed by the department chair, program director or Designated Institutional Official (DIO) to permit investigation or resolution of any situation in which continuation of clinical activities by the resident/fellow may present a danger to self, patients or others; may jeopardize hospital operations; and/or is likely to impair the integrity of the program. Summary suspension is effective immediately. The department chair, program director and DIO shall be informed as soon as possible of the suspension. The resident/fellow shall continue full salary and benefits until the first of the following: the 90th day of the suspension, the resident/fellow's reinstatement to the program, or his/her termination from the program.

**Summary Dismissal:** Summary dismissal is the immediate termination of a resident/fellow's employment. Summary dismissal may be imposed by the DIO in conjunction with the program director, department chair and Departmental Education Committee (DEC) and/or Clinical Competency Committee (CCC). The bases for summary dismissal include but are not limited to: suspension or revocation of the resident/fellow's license or prescriptive authority, incompetence, misconduct, any conduct that has the potential to jeopardize patient safety or the quality of patient care, is disruptive of hospital or program operations, and/or constitutes a violation of law, regulations, and/or hospital or program policies. When the resident/fellow is summarily dismissed, his/her Agreement of Appointment will end immediately. The resident/fellow will receive one month's salary and benefits in lieu of notice. If requested, an Appeal shall be provided after termination.

**Dismissal for Academic Reasons:** A resident/fellow may be dismissed for academic reasons at any time during the academic year by the program director, upon recommendation of the resident/fellow's DEC and/or CCC and after consultation with the department chair, when the resident/fellow fails to correct identified deficiencies in a remediation plan or has failed to cooperate with a remediation plan. The resident/fellow shall be afforded an opportunity to appear before the DEC and/or CCC to request reconsideration of the decision. If the decision is maintained, the resident/fellow shall be offered an Appeal before the decision becomes final.

**Non-Renewal of Agreement of Appointment:** The Non-renewal of a resident/fellow's agreement of appointment applies when it is determined that the resident/fellow will not be able or permitted to continue his/her appointment in the residency program for academic, professional or personal reasons. This measure shall be implemented by the program director, upon recommendation of the resident/fellow's DEC and/or CCC and after consultation with the department chair. The program director shall provide the resident with written notice of intent not to renew the resident's agreement no later than four (4) months prior to the end of the resident's current agreement (which is generally prior to March 1 of the current academic year). If the primary reason(s) for the nonrenewal occurs within the four (4) months prior to the end of the agreement, the program director shall provide the resident with as much advance written notice of the intent not to renew as the circumstances will reasonably allow. The resident/fellow shall be afforded an opportunity to appear before the DEC and/or CCC to request reconsideration of the decision. If the decision is maintained, the resident/fellow shall be offered an Appeal before the decision becomes final.

**Delay of Promotion, Graduation or Completion of a PGY Level:** Delay of promotion, graduation or completion of a PGY level applies under the following circumstances:

- When a resident/fellow fails to demonstrate sufficient progress to warrant promotion to a higher level or graduation although his/her performance indicates that he/she may demonstrate such progress if permitted to remain in the program at the same PGY level for additional time.
- When a resident/fellow needs additional time to correct deficiencies identified during a remediation,
- When a resident/fellow needs additional time to demonstrate correction of professionalism issues or misconduct. or
- When a resident/fellow needs additional time to satisfy academic requirements for completion of a PGY level.

The program director, upon recommendation of the DEC and/or CCC, and after consultation with the department chair, may delay the resident/fellow's promotion, graduation or completion of a PGY level for a reasonable period based on the circumstances. The resident/fellow does not have the right to an Appeal regarding this decision but may request an opportunity to appear before the DEC and/or CCC to request reconsideration of the decision. If the decision is not changed, the resident/fellow may request that the GMEC review the decision of the DEC and/or CCC. The decision of the GMEC is final. *NOTE: A resident/fellow may spend no more than 24 months at any PGY level in any CCHS residency program.*

**Other Disciplinary Measures:** The program director, after consultation with the Clinical Competency Committee, may impose other disciplinary measures to address performance issues. These disciplinary measures may be imposed in association with a remediation or alone. The disciplinary measures shall be consistent with Culture of Responsibility principles. Disciplinary measures may include but are not limited to: suspension, imposition of a probationary period, change of rotation assignments, denial of opportunities to attend conferences, and restitution of vacation time (for improper absences). The imposition of disciplinary action may be noted on the final residency report and reported to subsequent residency and/or fellowship programs.

**Independent Evaluation:** In order to determine an appropriate plan to address a resident/fellow's performance problem, the program director, in consultation with the resident/fellow's DEC and/or CCC, and department chair, may require an independent evaluation of the resident/fellow when the program director has a reasonable basis to believe that the resident/fellow's performance may be affected by a medical, mental health, or substance abuse issue. The purpose of the evaluation is to determine the resident/fellow's ability to perform his or her clinical duties and responsibilities. If the evaluation determines that the resident/fellow has an issue addressed by another graduate medical education policy (e.g., Policy & Procedure for Residents Who May Have Psychiatric Issues or Substance Abuse, Resident Counseling, or Resident Stress), then the pertinent policy shall apply.

## ***APPEAL:***

**Resident/fellow's Right to Appeal:** A resident/fellow shall be offered the right to appeal only when a decision is reached to impose one of the following disciplinary measures:

- Summary Dismissal
- Dismissal for Academic Reasons
- Non-Renewal of Agreement of Appointment

When a decision is made to impose any of the above disciplinary measures, the resident/fellow will be notified by the DIO, program director, or designee as soon as practicable of the decision and provided with a written explanation as to the reason(s) for the decision and a copy of this Appeal Process .

Within five (5) business days of receipt of such notice, the DIO must receive the resident/fellow's written request for an Appeal. If a resident/fellow does not timely request an Appeal, the Appeal shall be considered to be waived and the decision will be final.

**Appeal Process:** The Appeal Process is an informal peer review hearing in which court rules do not apply.

### **1. Appointment of the Appeal Committee**

- Within ten (10) business days of receipt of a written request for an Appeal, the DIO shall appoint an Academic Appeal Review Committee (Committee). The DIO or his/her designee shall chair the Committee in a nonvoting role. The Committee shall consist of three voting members, the majority of whom shall be members in good standing of the Christiana Care Medical-Dental Staff.
- The resident/fellow or program director may have one opportunity to challenge the appointment of any of the Committee members to the DIO. The challenge must be in writing and received by the DIO within five business days of the appointment. The challenge must specify the reasons that prevent the individual from being objective with respect to the matter involved. If the challenge is deemed valid by the DIO, a substitute shall be appointed to the Committee. The decision of the DIO is final.

### **2. Pre-Appeal Procedure**

- Committee members shall set a hearing date within thirty (30) days of final appointment of the Committee. This date may be changed by mutual agreement of the resident/fellow and program director.
- Copies of all documents and a list of witnesses and a summary of their testimony must be submitted to the Committee by a date determined by the Appeal Committee chair.

Prior to the Appeal, the documents will be distributed to each Committee member and to both parties by the chair. Any documents with protected health information must be de-identified.

### 3. Appeal Procedure

- The personal presence of the resident/fellow and the program (either by the program director or his/her designee) shall be required during the Appeal. Failure of the resident/fellow to appear without good cause (as determined by the DIO) will result in a waiver of his/her rights to the Appeal.
- A faculty member may accompany the resident/fellow to the Appeal not as an active participant, but for the sole purpose of providing support and advice. This is an academic proceeding and the resident/fellow and program director shall not be entitled to legal representation.
- Each party is responsible for securing his/her own witnesses. The parties shall be limited to three witnesses. All witnesses will give a prepared statement and then answer any questions from the committee, resident/fellow or program. Other persons may submit written statements to the Committee prior to the Appeal.
- The chair shall make decisions regarding procedural matters and shall keep order during the Appeal. The decisions of the chair regarding any issues that arise during the Appeal are final and binding on all parties.
- The Appeal is a peer review proceeding. The Committee's deliberations and information presented to the Committee will be kept confidential.
- The program and resident/fellow may each make a statement at the beginning and end of the proceedings.
- Christiana Care may arrange for a stenographer to be present at the Appeal. If provided, Christiana Care will provide one copy of the transcript to the resident/fellow.
- The proceedings shall last no longer than four hours unless the chair or the Committee determines there is sufficient cause to extend the proceedings.

### 4. Post-Appeal Procedure

- The Appeal Committee will meet in executive session to deliberate and to arrive at its decision.
- The Committee shall review the facts of the action to determine:
  1. Whether there is sufficient cause for the proposed disciplinary action; and,
  2. Whether the appropriate procedures were followed.
- The Committee may recommend that the GMEC affirm, reverse, or modify the proposed action. If the Committee decides to recommend reversal or modification of the proposed action, the Committee will provide the basis of this recommendation.
- The Committee will provide the resident/fellow, the program director, and the DIO with its recommendations within ten (10) business days of the proceedings' conclusion.
- The voting members of the GMEC consider the recommendations of the Committee and shall make the final decision.

**SIGNATURES/APPROVALS:**

Dr. Vaughn V. Wright

Revised 1/28/2021