

| Memorial Hospital at Gulfport | | | |
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| Policy/Procedure Title | Resident Due Process | Manual Location | |
| Policy/Procedure # | 500.46 | Effective | GME Page 1 of 4 |
| Department Generating Policy | Graduate Medical Education | | |
| Prepared By | Gretchen Holmes, Ph.D | Dept/Title | GME/DIO |
| Dept / Committee Approval (If Applicable) | Graduate Medical Education Committee | Date/Title | |
| Medical Staff Approval (If Applicable) | | Date/Title | |
| Board Approval (If Applicable) | | Date/Title | |
| Standard ACGME | IV.C, IV.C.1.a, IV.C.1.b | | |

Purpose

Memorial Hospital at Gulfport (MHG) has adopted the following policy to address due process in regard to resident suspension, nonrenewal, non-promotion, or dismissal.

This policy addresses ACGME Institutional Requirements IV.C. Promotion, Appointment Renewal and Dismissal: IV.C.1.a) The Sponsoring Institution must ensure that each of its programs provides a resident/fellow with a written notice of intent when that resident's/fellow's agreement will not be renewed, when that resident/fellow will not be promoted to the next level of training, or when that resident/fellow will be dismissed. IV.C.1.b) The Sponsoring Institution must have a policy that provides residents/fellows with due process relating to the following actions regardless of when the action is taken during the appointment period: suspension, non-renewal, non-promotion; or dismissal.

Definitions

Suspension: a recommendation from the Program Director or the Clinical Competency Committee (CCC) for removal of a resident physician from normal duty. During this time, the resident may attend educational conferences but is not allowed to participate in clinical care.

Non-renewal: a recommendation from the Clinical Competency Committee to not renew the resident's contract at the end of the current term. This action would take place prior to a resident's completion of the residency program.

Non-promotion: the lack of adequate academic performance that leads to a recommendation from the Clinical Competency Committee for repeating all or some of the training requirements.

Dismissal: a recommendation from the CCC that a resident be dismissed from the residency program. This action would take place prior to the end of the current resident contract term.

Background:

MHG requires that residents be provided a fair and reasonable opportunity for due process and grievance. The following policy and procedure apply to all residents in training and will be followed by all faculty and staff when evaluating residents, for promotion, or for disciplinary actions.

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Graduate Medical Education is based on the principle of graduated and increasing levels of responsibility. As the resident gain's knowledge, clinical competence, and skill it is anticipated that the resident will progress toward greater independence. This process is known as progress responsibility. The ultimate goal of residency training is for the resident to develop into an independent practitioner.

Residents are advanced to the higher levels of responsibility upon successful completion of the program's goals and objectives in the core competencies. These are defined by the ACGME specialty milestones, evaluated by faculty members, and determined by the Clinical Competency Committee for each program. The CCC then reports their recommendations to the Program Director. It is possible that a resident may not agree with the recommendations as to remedial or disciplinary actions.

Policy

The Clinical Competency Committee shall make recommendations on remedial action, non-renewal, disciplinary actions (e.g., suspension) and dismissal to the Program Director. The Program Director will then make disciplinary action decisions based upon the CCC's recommendation. All disciplinary actions must be reported electronically or in writing to the Designated Institutional Officer (DIO) and the Office of GME within five (5) business days of receipt of the CCC's recommendation.

Remediation and remedial actions are not disciplinary and are not considered appealable. Probation, suspension, nonrenewal, non-promotion, and dismissal are disciplinary actions which may be reportable to the Mississippi Composite Medical Board. These actions may result in a notation in a resident's permanent academic file. As such, these actions may be appealed.

PROCEDURE

1. Resident Appeal Process

- 1.1 In cases of disciplinary action (probation, suspension, non-renewal, non-promotion, and dismissal), the Program Director will inform the resident of his/her right to appeal action.
- 1.2 Appeal hearing: a resident who wishes to request an appeal hearing, must do so within five (5) business days after notification of the disciplinary action.
 - 1.2.1 The request for a hearing must be in writing and submitted to the Office of GME and the Program Director or DIO;
 - 1.2.2 The request must state the reason(s) for the appeal with a complete description of the basis for the appeal;
- 1.3 The Appeal Hearing Panel will be comprised of three members as follows:
 - 1.3.1 Two members of the GMEC, appointed by the DIO, one of whom shall also act as the Chairperson of the panel. The members should not be from the appealing resident's program.

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- 1.3.2 One resident member, who has been peer selected to serve on the GMEC, appointed by the DIO with efforts made to avoid conflict of interest. The resident member should not be from the appealing resident's program.
- 1.4 Meeting process: The Chair must hold a meeting of the hearing panel within 10 business days of receipt of the request for a hearing using the guidelines described below.
- 1.4.1 The resident may choose to attend or not to attend the hearing at their option. Failure to request or to attend the hearing will be construed as a waiver of the resident's right to be heard prior to the imposition of disciplinary action. This will also waive the resident's right to any further appeal of the disciplinary action.
- 1.4.2 A member of the MHG Administration, appointed by the DIO, shall serve in ex-officio, non-voting capacity.
- 1.4.3 The resident has the right to a non-participating advisor (not an attorney).
- 1.4.4 The affected Program Director shall designate a person to represent the program.
- 1.4.5 The GME office shall make and maintain a transcript of the appeal hearing.
- 1.5 Conduct of the Hearing:
- 1.5.1 The resident will be apprised of the nature of the disciplinary action, the recommendations from the Clinical Competency Committee, the Program Director, and any supporting evidence.
- 1.5.2 The resident and Program Director may present evidence, including the testimony of voluntary witnesses.
- 1.5.3 Hearing procedures are considered informal and non-adversarial. MHG General Counsel may designate counsel to attend the hearing although outside counsel is not permitted to attend.
- 1.5.4 The recommendation of the panel, regarding the proposed disciplinary action, will be made electronically or in writing within three (3) business days of the hearing date to the DIO.
- 1.5.5 The recommendation of the Appeal Hearing Panel to the DIO shall be deemed advisory in nature, and may be accepted, rejected or modified, in whole or in part, by the DIO.
- 1.6 After receipt of the panel's recommendation:
- 1.6.1 The DIO shall initiate such disciplinary action as he/she deems appropriate and such action shall be communicated in writing to the resident, Program Director and CCC.
- 1.6.2 The resident shall be informed of the right to appeal to the CEO of MHG. A resident will be entitled to appeal any proposed disciplinary action imposed by the DIO, within five (5) days. If such an appeal is not requested within the time indicated, the resident shall be deemed to have waived his/her right to such an appeal and to have accepted the decision of the DIO.

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2. Appeal to the CEO of MHG

2.1 The Chief Executive Officer shall schedule a date for the appeals hearing including a time and place for oral presentation if such has been requested by the resident. The CEO shall notify the resident and the DIO of the date/time. The date of that review shall take place within fourteen business days of the DIO's notification to the resident of his/her acceptance or rejection of the Appeals Hearing Panel's decision.

Note: Failure of the Resident to reduce his/her concerns to writing, failure to meet time allowances, or failure to be present at any of the above steps constitutes a complete waiver of his/her right to appeal. All appeals of employment termination are subject to policies and procedures of the MHG department of human resources.