



## Stony Brook Medicine Graduate Medical Education

<b>Subject:</b> GME0009 Substandard Resident Performance	<b>Published Date:</b> 05/24/2021
Graduate Medical Education	<b>Next Review Date:</b> 05/24/2024
<b>Scope:</b> SBM Stony Brook Campus	<b>Original Creation Date:</b> 10/16/2006

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### **Responsible Department/Division/Committee:**

Graduate Medical Education Committee

### **Policy:**

All trainees in any resident training program sponsored by Stony Brook Medicine shall conduct themselves in a professional, cooperative and appropriate manner. It is expected that residents treat all staff, colleagues, patients and their families with courtesy and respect, show respect for patient autonomy and maintain confidentiality of patient information.

Substandard resident performance shall be addressed in accordance with this policy.

Prompt identification of substandard resident performance is fundamental to the educational process. The rehabilitation of substandard resident performance should entail counseling and structured remediation in attempt to resolve through collaboration and individualized attention the substandard performance.

### **Definitions:**

None

### **Procedures:**

Stony Brook Medicine residents are required to meet standards of training performance set by the ACGME, their respective specialty board, Stony Brook University Hospital, or the hospital/health facility at which they are training, and the program in which they are training. If a resident is not

meeting these standards, then a remediation procedure is developed and implemented by the program and followed by the resident. The severity and persistence of the actions will determine the actions that may be taken by the program director regarding the continued participation of the resident in the educational program.

- I. The Graduate Medical Education Committee (GMEC) recognizes that substandard performance may be reflected in the following assessments and areas:
  - A. Professionalism
    - i. Rotation evaluation forms addressing professionalism.
    - ii. Composite evaluation forms addressing professionalism.
    - iii. Insufficient interest and/or participation in required rounds and conferences.
    - iv. Attendance-related infractions such as excessive absenteeism or tardiness.
    - v. Failure to meet medical documentation requirements.
    - vi. Failure to participate in credentialing process.
    - vii. Difficulties in functioning as a cooperative team member.
    - viii. Recurrent complaints by patients and/or hospital/clinic staff as reflected by letters or evaluation forms
    - ix. Any misconduct defined as "professional misconduct" under New York State Education Law 6530.
    - x. Any behavior which qualifies as "disruptive resident behavior" as defined in Paragraph G below.
  - B. Medical Knowledge
    - i. Rotation evaluation forms addressing medical knowledge.
    - ii. Composite evaluation forms addressing medical knowledge.
    - iii. Quizzes.
    - iv. Board exams.
    - v. In-training examination
  - C. Patient Care
    - i. Rotation evaluation forms addressing patient care.
    - ii. Composite evaluation forms addressing patient care.
    - iii. Direct observation of resident by faculty, nursing or other healthcare personnel.
  - D. Practice-based learning and improvement
    - i. Rotation evaluation forms addressing practice-based learning and improvement.

- ii. Composite evaluation forms addressing practice-based learning and improvement.
  - iii. Failure to accept or incorporate formative feedback into practice.
  - iv. Failure to utilize evidence from literature and/or accepted guidelines in the care of patients as appropriate to level of training.
  - v. Failure to make changes in patient care based on own practice data.
- E. Systems-based practice
- i. Rotation evaluation forms addressing systems-based practice.
  - ii. Composite evaluation forms addressing systems-based practice (including multi-source evaluation forms).
  - iii. Failure to demonstrate willingness or competence in working in multi-disciplinary teams.
  - iv. Failure to advocate for high quality patient care.
  - v. Failure to learn to identify system problems in care delivery and participating in quality improvement efforts.
- F. Interpersonal and communication skills
- i. Rotation evaluation forms addressing interpersonal and communication skills (including multi-source evaluation forms).
  - ii. Composite evaluation forms addressing interpersonal and communication skills.
  - iii. Recurrent or persistent lapses in medical documentation.
  - iv. Recurrent or persistent lapses in handoff procedure.
  - v. Rude, insolent, condescending or unprofessional/disruptive interactions with patients, families, staff, or other physicians.
  - vi. Ability to accurately and completely relay patient information to patients, families and other caregivers.
  - vii. The acceptance and incorporation of feedback in a non-resistant and non-defensive manner.
  - viii. The ability to address dissatisfaction through appropriate channels
  - ix. Cooperation and communication with all providers displaying regard for their dignity

x. Truthfulness in all written and verbal communication

G. Disruptive resident behavior is any conduct or behavior that demeans, intimidates, frightens or threatens a targeted individual or group or that would be perceived as such by a reasonable person. The following is a non-exhaustive list of examples of disruptive behavior:

- i. Use of vile, loud, profane, offensive or abusive language
- ii. Behavior that is degrading or racially/ethnically/religiously offensive in any professional setting.
- iii. Acting in a rude, insolent, demeaning or disrespectful manner
- iv. Uncooperative attitudes, condescending language or voice intonation, impatience with questions
- v. Verbal or physical threats, intimidation or harassment
- vi. Physical abuse or unwanted touching
- vii. Lack of cooperation or unavailability to other staff members for exchange of pertinent patient information or resolution of patient care issues
- viii. Failure to return phone calls, pages, or emails
- ix. Deliberate destruction or damage of property
- x. Obscene gestures or physical throwing of objects
- xi. Sexual or other forms of harassment, including unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature
- xii. Intentional disruption of SBUH department or committee meetings or activities
- xiii. Inappropriate entries in patient medical records which have the primary purpose or effect of attacking or belittling other providers, imputing incompetence of other providers, or impugning the quality of care of other providers
- xiv. Willful failure to abide by GMEC and program policies, hospital policy and procedures, or directives, including refusal to comply with required duties or assignments

Merely expressing contrary opinions is not disruptive behavior, nor is expressing constructive criticism, if it is done in good faith and with the aim of improving the environment of care rather than personally attacking any individual.

- H. Other areas of performance which qualify as substandard resident performance:
  - i. Failure to demonstrate adequate progress and achievement of expected milestones in a time concordant with level of training.
  - ii. Chronic failure to achieve satisfactory performance or failure to improve in performance.
  - iii. Lack of interest in educational process.
- II. Residents identified as not meeting standards of training performance may be at risk for the following actions:
  - a) Letter of warning
  - b) Probation
  - c) Non-promotion to next level of training/lack of credit to specialty board for training year
  - d) Non-renewal of contract for subsequent year
  - e) Suspension
  - f) Termination
  - g) Many programs utilize other interventions before a Letter of Warning, such as a Letter of Concern. This and other counseling of individual residents are considered part of the normal educational counseling and advising process, and do not constitute part of the process of substandard resident performance remediation.
- III. Any written or oral report of alleged substandard behavior must be sent to the program director, DIO, or DIO designee, who shall
  - a) Review the allegation and if appropriate, make a determination as to the appropriate action that should be taken; or
  - b) If the allegations involve alleged disruptive behavior or if otherwise appropriate, initiate an investigation into the allegation of substandard performance; or
  - c) Refer the matter to the Stony Brook University Office of Equity and Access (OEA) for investigation, if the allegations relate to sexual or other types of discrimination. If an allegation is reported to the Office of Equity and Access that office's investigation must take place prior to any investigation by the program's director, and may also serve as the program director's investigation. At the conclusion of the OEA investigation the issue will go back to the Program Director for actions as outlined in Section II as appropriate.

- d) The Program Director may implement an Administrative Suspension pending the Program Director or OEA's investigation, if appropriate.
  - e) During an investigation, the program director, DIO or designee may meet with the resident and may also meet with witnesses. Both the program director and the resident may be accompanied at this meeting by other practitioners that the program director or resident feel are necessary to address the allegations. At the completion of the investigation, the individual undertaking the investigation (program director, DIO, or designee, in consultation with the department chair, if appropriate) will make a determination as to the type of action that will be taken, taking into consideration the seriousness of the performance issue and/or any repeat or unimproved issues.
- IV. Upon completion of the Program Director's review or investigation (if appropriate), if substandard performance is identified, the Program Director will issue a determination, as follows:
- a) Determination that a letter of warning is appropriate. If a resident receives a written warning letter from the program director it serves as an alert that academic and/or professional performance are in need of remediation. Such letter will include:
    - i. Specific reference to area(s) of deficiency, including competency(ies) related to deficiency.
    - ii. Suggestions for improvement, measures of success in improvement efforts, and time frame for which desired improvement is expected.
    - iii. Mechanism of evaluation of deficiency remediation.
    - iv. Consequences of incomplete/unsatisfactory improvement (such as probation, non-renewal, reporting on licensing and verification forms, loss of credit for the academic year) which may adversely affect promotion, graduation, credentialing and licensure.
    - v. Request for acknowledgement of receipt by resident attestation and signature.
  - b) Determination that probation is appropriate: Residents whose performance issues warrant, will be placed on probation and will receive a notice of probationary status. Such notice will include and provide:

- i. Deficiencies for which the individual has been counseled and for which no improvement has been made.
- ii. Explicit remediation plan with time frame for improvement. The time frame should not exceed three (3) months, although in certain circumstances (such as repeat probationary status or a judgement by the program director that persistent substandard performance is likely) that time frame may be extended beyond 3 months. Such extension must be reviewed with the chair of the GMEC.
- iii. A faculty advisor/educator to assist with successful completion of the remediation plan.
- iv. A mechanism of evaluation, which may include but is not limited to:
  - v. 360 degree assessment
  - vi. Global assessment
  - vii. Mini-CEX
  - viii. Direct observation
  - ix. Patient simulations
  - x. Consequences of unsatisfactory improvement which may include termination, non-renewal, loss of credit for the academic year and/or reporting to licensing and credentialing authorities.
- xi. Request for acknowledgement of receipt by resident attestation and signature.

A Notice of Probation will become part of the Resident's permanent summative evaluation and may be part of any verification request including but not limited to licensure, hospital privileges or medical staff appointment.

The chair of the GMEC will be notified, in writing, of all residents placed on probation.

- c) A decision to provide a warning to the resident, place a resident on probation, or implement an administrative suspension is not subject to appeal.
- d) Residents with multiple performance issues or who have not made satisfactory progress despite the above measures may be subject to non-promotion to the next level, non-renewal of appointment or termination under the due process procedure.

- e) In the event that a resident's actions or performance are determined by the Program Director, in consultation with the Department Chair and/or the Chair of the GMEC to be of a nature such that it poses an imminent threat to patient care, the Program Director, Department Chair or Chair of the GMEC may immediately place the resident on an administrative suspension. Such suspension will suspend the resident from patient care activities for a period not to exceed 10 calendar days (excepting in the case of an ongoing OEA investigation as outlined above, in which case the suspension may last up to the completion of the OEA investigation). The resident will be notified immediately in writing of such action and the reason for such action.
- f) If the Program Director (in consultation with the department chair) determines that, given the severity or repeated instances of the behavior, the appropriate action is to terminate or suspend the resident, the Program Director will notify the resident in writing of such determination. The determination will include the following:
  - i. The date and time of the performance issue behavior
  - ii. The circumstances surrounding the performance issue
  - iii. A factual, objective description of the performance issue
  - iv. The consequences of the performance issue for patient care or hospital operations
  - v. The dates, times and participants in any meetings with the resident, staff, etc. about the performance issue
  - vi. A statement of the Program Director's determination that the performance issue warranted the suspension or termination
  - vii. Request for acknowledgement of receipt by resident and signature
- g) A decision to not promote, non-renew, terminate or suspend a resident (excluding an administrative suspension) may be appealed in accordance with the Policy on Termination, Grievance and Due Process.
- V. SBUH prohibits retaliation against those who report substandard resident behavior or cooperate in the investigation of substandard resident behavior.

**Forms: (Ctrl-Click form name to view)**

None



**Policy Cross Reference:** (Ctrl-Click policy name to view)

[GME0037 Termination, Grievance and Due Process](#)

**Relevant Standards/Codes/Rules/Regulations/Statutes:**

ACGME Institutional Requirements – IV.H.

ACGME Common Program Requirements – IV.A.5.e

**References and Resources:**

None