

## Disciplinary Process

### Probation, Suspension, or Dismissal

**Probation:** at trial period in which a resident is permitted to redeem academic performance or behavioral conduct which does not meet the standard of the residency program

**Suspension:** a period of time in which a resident is not allowed to take part in all or some of the activities of the residency program. Time spent on suspension may not be counted toward the completion of residency program requirements.

**Dismissal:** the condition in which a resident is directed to leave the residency program, with no award of credit for the current training year, termination of the resident's appointment, resident agreement, and termination of all association with PrimaryPlus.

The specific actions of probation, suspension, and dismissal must follow the guidelines as follows. The particular administrative action imposed shall be based on individual circumstances and will not necessarily follow the sequential order in which they are described below. A resident involved in any of the actions of probation, suspension, dismissal has the right to a hearing except as otherwise stated.

### Probation

A resident may be placed on probation by residency program director for reasons including, but not limited to any of the following

- Failure to meet the performance standards of an individual rotation
- Failure to meet the performance standards of the residency program
- Failure to comply with policies and procedures of PrimaryPlus, residency program, or participating sites
- Misconduct that infringes on the principles and guidelines set forth by the residency program
- Documented and recurrent failure to complete medical records in a timely and appropriate manner
- Professional misconduct or ethical charges are brought against a resident which bear on his/her fitness to participate in the residency program

When a resident is placed on probation, the residency program director shall notify the resident in writing in a timely manner, usually within a week of the notification of probation. The written statement of probation will include a length of time in which the resident must correct the deficiency or problem, the specific remedial steps and the consequences of non-compliance with the remediation

Based upon a resident's compliance with the remedial steps and other performance during probation, a resident may be:

- Continued on probation
- Removed from probation
- Placed on suspension
- Dismissed from the residency program

### **Suspension**

A resident may be suspended from a residency program for reasons including, but not limited to any of the following:

- Failure to meet the requirements of probation
- Failure to meet the performance standards of the residency program
- Failure to comply with the policies and procedures of PrimaryPlus, residency program, or participating sites
- Misconduct that infringes on the principles and guidelines set forth by the residency program
- Documented and recurrent failure to complete medical records in a timely and appropriate manner
- Professional misconduct or ethical charges are brought against a resident which bear on his/her fitness to participate in the residency program
- When certain legal charges have been brought against a resident which bear on his/her fitness to participate in the residency program
- If a resident is deemed an immediate danger to patients, himself or herself or to others
- If a resident fails to comply with the medical licensure laws of the State of Kentucky

When a resident is suspended, the residency program director shall notify the resident with a written statement of suspension to include”

- Reasons for the action
- Appropriate measures to assure satisfactory resolution of the problem(s)
- Activities of the residency program in which the resident may and may not participate
- The date of the suspension becomes effective
- Consequences of non-compliance with the terms of the suspension
- Whether or not the resident is required to spend additional time in training to compensate for the period of suspension and be eligible for certification for a full training year

A copy of the statement of suspension shall be forwarded to the DIO. During the suspension, the resident will be placed on administrative leave, with or without pay as appropriate depending on the circumstances

At any time during or after the suspension, resident may be:

- Reinstated with no qualifications

- Reinstated on probation
- Continued on suspension
- Dismissed from the program

## **Types of Suspensions**

The following section discusses three different types of suspensions. These suspensions may be imposed on the resident by the residency program director, and who will use the following to help guide them in their decision-making. A disciplinary suspension should be reserved for instances in which a resident has been warned about his/her behavior and ignores these warnings), or if the event or behavior was significant, disciplinary suspension can be instituted without previous warning. The difference between a precautionary suspension and a summary suspension deals with the probability that is opined in good faith by those authorized to levy the suspension based on the information available at the time the decision was made. If imminent harm may occur to patients or the disruption of orderly PrimaryPlus, residency program, or participating site functions and the probability is considered high (as opined in good faith by the program director in the reasonable belief the action is in the furtherance of quality at the time the decision was made), then a summary suspension would be warranted. If there is risk but the probability is lower than high probability then a precautionary summary is reasonable. The decisions between the suspensions are at the discretion of those authorized and the decision, in and of itself, on which one is imposed, does not afford the resident hearing rights.

All residents and PrimaryPlus faculty and employees have the duty to cooperate in enforcing suspensions

### **Precautionary suspension**

The program director has the authority to suspend all or any portion of a resident's educational training whenever a serious question or concern has been raised and failure to take such action may potentially result in adverse consequences related to patient care or a resident's disruptive behavior interferes with the effective, orderly operation of PrimaryPlus, residency program, or participating site. Precautionary suspension may also be instituted if there is no specifically known concern or immediate threat to patients or staff, but there is a need to carefully consider an event, suspicion, or issue, such as resident impairment, clinical quality, patient safety, or resident behavior. Precautionary suspension is a precautionary measure to protect patients while the review inquiry, or investigation is conducted to determine if the clinical problem, resident behavior, or other concern, in fact, requires action or other recommendations. A precautionary suspension may be of all educational training if the concern is a broad one of clinical judgement or behavior or of just certain educational training if the concern is a narrow one of competence or behavior. The program directors are charged with the responsibility of not allowing a situation to continue which might potentially harm subsequent patients or staff while review, inquiry, or investigation of a serious concern occurs.

The resident may, at the discretion of the program director, be given an opportunity to refrain voluntarily from continuing educational training pending an inquiry or review of the concerns raised and thus avoid a precautionary suspension. The imposition of a precautionary suspension only requires that danger may potentially result if the suspension is not imposed, even if the concerns, issues, etc. are later determined not to be valid.

A precautionary suspension is an interim step in the professional review activity, but is not a complete professional review action in and of itself. It shall not imply any final finding of responsibility nor imply guilt, of the situation that caused the suspension. The precautionary suspension is neutral, not done in punishment, but is a precaution to protect patients, or staff, or to prevent disruption of PrimaryPlus, residency program, or participating sites while a review, inquiry, or investigation is conducted. This gives time for the program director to review the issue.

A precautionary suspension shall become effective immediately upon imposition, shall immediately be reported in writing to the DIO/CEO and shall remain in effect, unless modified by the PD or DIO.

It is highly recommended that the program director contact the DIO to discuss the situation before instituting a precautionary suspension.

The DIO shall review the matter or concern resulting in a precautionary suspension as soon as reasonably possible and determine whether there is sufficient information to warrant this precautionary suspension. The goal of the program director is to complete the review within thirty (30) days unless outside review or information is necessary. When outside review or information is necessary, the program director shall make a reasonable effort to complete the review within thirty (30) days of receiving the results from the outside review or information. These timeframes are intended to serve as guidelines and, as such, shall not be deemed to create any right for a resident to have a review completed within such time periods. In the event the program director is unable to complete this matter within these timeframes, it shall inform the resident of the reasons for the delay and approximate date he/she expects to complete the matter. If the matter takes longer than thirty (30) days and the resident believes the program director is not progressing forward in good faith effort to resolve the matter, it will become the burden of the resident to prove that the program director is not moving forward in good faith effort. The resident may then request a meeting with the DIO to consider the matter and to advise or make recommendation to the program director on the timeframe deemed appropriate under the circumstances.

The suspended resident may request a meeting with the DIO to discuss the circumstances leading to the suspension and provide his/her input to determine if there is possibly a less restrictive alternative which would still serve the need to protect patient safety and/or PrimaryPlus, residency program, or participating site operations. At such meeting, the DIO

shall consider any comments or evidence presented by the affected resident. The DIO and residency program director will then discuss the matter.

If the resident fails to appear at a meeting with the DIO when requested, and without good cause as determined by the IDO, the DIO will make a decision based on the information available to him/her at that time. The DIO and program director together may decide to, but not limited to:

- Lift the suspension
- Lift the suspension and issue a letter of reprimand, caution, warning, probation, other non-adverse action, non-adverse recommendation
- Propose an adverse recommendation
- Continue the suspension
- Convert to summary suspension

### **Summary Suspension**

The program director shall have the authority, whenever action must be taken immediately in the best interest of patient care at PrimaryPlus, residency program, or training site, and where the failure to take such action in his/her sole discretion and in good faith opine that there is an imminent danger (imminent threat) to the health of any present or future individual, or where the orderly functioning of PrimaryPlus, residency program, or training site is potentially compromised, to suspend summarily all or any portion of the educational training of a resident including any lesser measures of probation and such summary suspension shall become effective immediately upon imposition. The reasons for the suspension shall promptly thereafter be stated in writing and given to the resident via certified receipt requested mail. The resident, at the discretion of the program director who would impose summary suspension, may be given an opportunity to refrain voluntarily from educational training pending and inquiry or a review of the concerns raised, and thus avoid a summary suspension.

The program director should consult with the DIO prior to issuing a summary suspension

### **Meeting with Resident Concerning Summary Suspension**

A resident whose educational training has been summarily suspended shall be entitled to request that the PD and DIO hold a meeting on the suspension within a reasonable time period (but not more than 14 days) thereafter in order that the affected resident might respond to the action and make any requests the resident deems appropriate under the circumstances. At such meeting, the DIO and PD shall consider any comments or evidence presented by the affected resident and may thereafter recommend modification, continuance, or termination of the terms of the summary suspension. The resident will be given written notice of the meeting. If the resident fails to appear without good cause, the matter will be treated as a request for corrective action. Unless the DIO and program director determine to exonerate the resident at this meeting or to lift the suspension and impose any cautions, warnings, or other measures not

constituting adverse action, the matter shall thereafter be treated as an adverse action, and the resident may avail himself/herself to hearing rights.

### **Disciplinary Suspension**

A disciplinary suspension is reserved for instances in which a resident has been warned regarding his or her behavior (including, but not limited to, professional conduct, lapses of call coverage, medical records completion, repetitively violating PrimaryPlus or residency program rules and ignores the warning(s), or if the event or behavior was significant, disciplinary suspension may be instituted without previous warning. This type of suspension is a precaution to assure patient safety or to ensure the smooth operations of PrimaryPlus, residency program, or training site.

The program director has the authority to impose disciplinary suspension.

The disciplinary suspension can be viewed as a “time out” punishment and is meant to deter future problems

A disciplinary suspension is not to exceed fourteen (14) calendar days.

The suspended resident may request a meeting with the DIO to discuss the circumstances leading to the suspension, if the DIO has not already met with the resident prior to levying the suspension. The DIO should meet with the resident as soon as reasonably possible, but not later than seven (7) days after the date of receipt of the request of the resident. A disciplinary suspension does not afford the resident hearing rights, unless it could result in dismissal, non-renewal of a resident agreement, or non-promotion of a resident to the next level of training.

### **Medical Malpractice Insurance**

Any notification of cancellation of professional liability insurance shall automatically terminate appointment and resident agreement

### **State or Federal Insurance Program**

Whenever a resident has involuntary loss, bar, exclusion, preclusion, or sanction in Medicare/Medicaid program (or by another state or federal insurance program), shall automatically terminate appointment and resident agreement

### **Felony or Misdemeanor Conviction**

Whenever resident has been convicted, or plea guilty or nolo contendere to any felony; or any misdemeanor involving:

- Controlled substances
- Illegal drugs
- Medicare, Medicaid, or insurance fraud/abuse
- Violence against another

The resident's educational training shall be automatically relinquished and resident agreement terminated

A criminal arrest, charge, or indictment of a felony or any misdemeanor involving:

- Controlled substances
- Illegal drugs
- Medicare, Medicaid or insurance fraud/abuse
- Violence against another

Will result in the automatic relinquishment of appointment and educational training at the discretion of the program director after consultation with the DIO and upon ratification of the action by the GMEC. The automatic relinquishment will take effect immediately and will continue until the matter is resolved, if applicable. The burden is on the resident to provide whatever information is necessary to resolve doubts about his/her qualifications, professional behavior, and competency.

#### **Failure to Provide Requested Information**

Failure to provide, or have provided information pertaining to:

1. A resident's qualifications for appointment or reappointment of resident status
2. A resident's professional and or ethical behavior
3. A resident's interference with smooth clinical/hospital/training site operations
4. A resident's clinical quality
5. A resident's impairment
6. Information needed during inquiry of a complaint in response to a written request from a committee authorized to request sch information

Shall result in the automatic relinquishment of all clinical privileges/resident's status until the information is provided

During the application, reapplication, or request for privileges or resident status procedure, it is the resident's responsibility and burden and the resident must assist in every way possible in gathering the information requested by hospital, credentials committee, CEO, board of directors, GMEC or one of their authorized representatives to assure that all the information on the application or reapplication is complete for proper evaluation of his or her experience, background, and training and for obtaining and providing any additional information to resolve any additional information to resolve any doubts of such qualification, and to answer any questions or concerns that arise during the credentialing or resident status process. This includes but is not limited to all the questions on the application/reapplication form, professional behavior, competency, information on investigations, queries and reviews, physician profiles, resident's admissions, consultations, procedures, clinical volume, letters from nursing directors, additional education, other quality concerns addressed or any

disciplinary or adverse actions from another hospital or healthcare institution, physician office documentation, physical or mental evaluation, issues regarding malpractice, criminal actions, or any other significant concerns that arise during the credentialing or resident status process. If the resident refuses to provide information in his or her possession or refuses permission from another hospital or healthcare facility to provide it, then the application is considered to be incomplete, ceases to be acted upon, and administratively not processed. Additionally, the resident's clinical privileges/resident status shall be considered automatically relinquished until the information is provided. AT the discretion of the credentials committee, the medical executive committee, or board of directors, if, in their sole discretion, reasonable time has passed for sufficient information to be gathered, then the application/reapplication is considered "dead".

### **Dismissal**

Dismissal from a residency program may occur for reasons including, but not limited to, any of the following:

- Failure to meet the performance standards of the residency program
- Failure to comply with the policies and procedures of PrimaryPlus, residency program, or participating sites
- Illegal conduct
- Unethical conduct
- Performance and behavior which compromise the welfare and of patients, self, or others
- Failure to comply with the medical licensure laws of the state of Kentucky
- Inability of the resident to pass the requisite examinations for licensure to practice medicine in the United States

The residency program director shall contact the DIO/CEO and provide written documentation which lead to the proposed action.

When performance or conduct is considered sufficiently unsatisfactory that dismissal is being considered, the residency program director shall notify the resident with a written statement that include:

- Reasons for the proposed action
- The appropriate measures and time frame for satisfactory resolution of the problem(s)

If the situation is not improved within the time frame, the resident will be dismissed.

Immediate dismissal can occur at any time without prior notification in instances of gross misconduct. Examples include, but are not limited to:

- Theft of money or property
- Physical violence directed at an employee, patient, or visitor



- Use of alcohol/drugs while on duty

When a resident is dismissed, the residency program director shall provide the resident with a written letter of dismissal stating the reason for the action and the date the dismissal becomes effective. Written notice of intent not to renew a resident agreement will be provided no later than four months prior to the end of the resident's current agreement. However, if the primary reason(s) for the resident nonrenewal occurs within the four months prior to the end of the agreement, the program will provide the resident with as much written notice of the intent not to renew as the circumstances will reasonably allow, prior to the end of the agreement. A copy of this letter shall be forwarded to the DIO.

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