Policy: Remediation and Disciplinary Action Policy

In this document, “Resident” refers to both specialty Residents and subspecialty Fellows.

Policy
The purpose of the policy is to describe the Graduate Medical Education guidelines to address any remediation and disciplinary action (probation, suspension, renewal without promotion, non-renewal or termination). The Program Director, Department Chair or Division Head and the Resident should attempt to resolve problems with a Resident’s performance and/or behavior on an informal basis prior to invoking the procedure set forth below.

I. Remediation:

Focused Review:

a. Focused Review is used as remediation tool to provide a written constructive plan when ongoing and/or significant deficiencies in a Resident’s performance or behavior are noted.
b. Focused Review allows the Resident to remain in Good Standing and continue active participation in the program while addressing the concerns and deficiencies identified in the written notice of focused review.
c. A remediation plan will be issued to strengthen the Resident’s performance deficiencies that may cause disruption to a Resident’s progression or continuation within the program.
d. Focused Review is intended as an unofficial remedial action. However, if the University is asked by an outside entity as part of licensing or credentialing request information related to the Focused Review status may need to be disclosed.
e. Neither the placement on, or the failure of Focused Review is grievable under the Grievance Policy.

II. Administrative and Academic Disciplinary Actions:

Probation:

a. Probation is used when ongoing and/or significant deficiencies in a Resident’s performance or behavior are noted. The following items require that a housestaff member be put on probation unless the Associate Dean for GME grants an exception:

1. Drug or alcohol abuse
2. Conviction of a felony. Conviction means the entry of a plea of guilty or nolo contendere or the imposition of a deferred sentence. This would not prohibit the program from placing a person on probation if they have been charged.
3. Engaging in a sexual or romantic relationship with a current patient or a patient that has received care from the housestaff member anytime in the previous 6 months
4. Falsifying records related to care provided to a patient including but not limited to medical records or other documents arising from the providing of medical care
5. Engaging in conduct that places a patient’s safety at risk and is found to have resulted from a conscious disregard of patient risk by willfully ignoring safety steps
University of Colorado School of Medicine
Graduate Medical Education

6. Having been found to have intentionally violated the Health Insurance Portability and Accountability Act (HIPAA)
7. Having been found to have engaged in sexual misconduct or harassment
8. Having been found to engaged in scientific misconduct
9. Having been found to have engaged in acts of workplace violence

b. Probation allows the Resident to continue active participation in the program while addressing the concerns and deficiencies identified in the written notice of probation.
c. A remediation plan will be issued to strengthen the Resident’s performance deficiencies that may cause disruption to a Resident’s progression or continuation within the program.
d. Probation is the period of critical evaluation of remediation designated by the faculty during which substandard performance may be cause for immediate termination from the program.
e. Time spent on probation may or may not be used for credit toward the completion of the training program at the Program Director’s discretion. The period of probation shall be specified and normally should be a period of time appropriate to achieve the necessary performance or behavioral improvements. However, there may be instances where it is appropriate for the period to be as long as 12 months.
f. The placing of a Resident on Probation is not grievable under the Grievance Policy.
g. While on Probation a resident is not in good standing.

Immediate Suspension from Clinical Responsibilities:

a. Immediate suspension from clinical responsibilities involves removal from clinical responsibilities for an indefinite period of time, usually not to exceed 30 days, without prior notice or the probationary/remedial period described above due to significant performance deficiencies related to patient safety.
b. Immediate Suspension from Clinical Responsibilities may be imposed at the discretion of the Program Director, Department Chair or Associate Dean for GME.
c. Short-term paid administrative leave can be granted by the Associate Dean for GME during preliminary verification of the allegation(s).
d. Immediate Suspension from Clinical Responsibilities is not grievable.

Suspension from the Program:

a. Suspension from the program involves removal from the program for an indefinite period of time without prior notice due to serious deficiencies in knowledge, performance, or behavior.
b. The decision to suspend a Resident from the program may be made at the discretion of the Program Director and the Department Chair with the prior approval of the Associate Dean for GME.
c. During the period of suspension from the program, usually not to exceed 30 days, the Program Director, Department Chair and Associate Dean for GME must determine whether the Resident should be reinstated to the Program or terminated.
d. Suspension from the Program is grievable under the Grievance Policy and Procedure.

Renewal without Promotion:

a. Renewal without promotion means the Resident will not be promoted to the subsequent PGY-year at the completion of the current year of training.
b. Renewal without promotion should be used when a Resident has not been able to clearly demonstrate the knowledge, skills, or behaviors required to advance to the next level of training and responsibility.
c. Renewal Without Promotion is grievable under the Grievance Policy and Procedure.

Non-Renewal:

G:\Policies and Procedures, GME\Current Policies\Previous Versions 2015-2016\Remediation and Disciplinary Action Policy Track Chx 12.2015.doc
a. Non-Renewal means the training program has decided not to offer a contract to the Resident for the next academic year or training period.
b. The Resident will receive credit for successfully completing training as determined by the Program Director.
c. Non-Renewal is grievable under the Grievance Policy and Procedure.

Termination:
a. Termination involves immediate and permanent removal of the Resident from the educational program for failing to maintain academic and/or other professional standards required to progress in or complete the program, by the Program Director, Department Chair and the Associate Dean for GME.
b. Termination is typically preceded by probation with sufficient notice to the Resident that there are significant deficiencies in the knowledge, performance, or behaviors and potentially by previous disciplinary actions.
c. There may be instances where immediate suspension or termination from the program without probation or remediation will occur.
d. Termination can occur at any point other than the end of the academic year or end of the stated contract period, at which time it is defined as non-renewal.
e. Termination from the program is not grievable if the action directly related to suspension from the program and the Resident invoked the grievance procedure for the suspension action.
f. Termination from the program for other actions is grievable under the Grievance Policy and Procedure.

Disciplinary Procedure
1. Program Directors have the primary responsibility to monitor the Resident’s progress and take appropriate academic and administrative disciplinary actions based on the Resident’s performance in accordance with all ACGME core competencies.
2. The Program Director, after consultation with the Associate Dean for Graduate Medical Education may proceed under this policy to address deficiencies in Resident performance.
3. All written notices of Focused Review or Disciplinary Action (probation, suspension, renewal without promotion, non-renewal or termination) given to a Resident must be reviewed by the Associate Dean for GME in consultation with University Counsel.
4. Referrals to CPHP require measured consideration and should not be mandated solely because a resident is being placed on focused review or Probation
   a. It is suggested that a program director consult with GME prior to referring an individual to CPHP
   b. If the Program Director believes that a resident could benefit from the services of CPHP but the situation does not warrant mandating a visit to CPHP such as interpersonal or professionalism skills the Program Director can recommend a resident seek the services of CPHP.
   c. Mandatory referral to CPHP – A referral to CPHP should be mandatory in instances where the resident may have a drug or alcohol problem or if the program director believes that CPHP will provide assistance in addressing the issues confronting the resident.
5. In cases of 1) immediate suspension without probation or remediation, 2) non-renewal without probation, 3) renewal without promotion if there had been no probation and 4) termination with or

G:\Policies and Procedures, GME\Current Policies\Previous Versions 2015-2016\Remediation and Disciplinary Action Policy Track Chx 12.2015.doc
without prior probation, the Program Director must first obtain the approval of the Department Chair and Associate Dean for GME.

6. In instances where a training agreement will not be renewed, or when a Resident will not be promoted to the next level of training, the Program Director must provide the Resident with a written notice of intent no later than four months (typically March 1st) prior to the end of the Resident’s current agreement. If the primary reason(s) for the non-renewal or non-promotion occurs within the four months prior to the end of the agreement, the program must provide the Resident(s) with as much written notice of the intent not to renew or not to promote as circumstances will reasonably allow, prior to the end of the current agreement.

7. The Resident will be placed on probation for a specified period of time. The probationary and remedial period together should not be less than 30 days in length and may last as long as 12 months if appropriate (such as in the case of academic probation for yearly board exams, etc.). A Resident placed on probation is required to meet with the Associate Dean for GME. For ethical misconduct or substance abuse, a Resident may be placed on probation indefinitely through the remainder of the training program. The mentor and Program Director shall meet with the Resident regularly during the probationary period to formally review the Resident’s progress. (Meetings may be held more frequently if deemed necessary.)

8. While on probation, all moonlighting privileges and out-of-town electives for the Resident will be suspended.

9. During and at the end of the probationary period, the program director will review the Resident’s progress and determine whether satisfactory improvement has been made based on information obtained from various sources and results relating to terms of remediation outlined in the Letter of Probation, which may be solicited from faculty, staff and peers of the Resident. If improvement has been unsatisfactory during the probation period, the Resident may be (1) continued on probation for a specific period of time not to exceed an additional six months or (2) terminated. Any Resident who is placed on probation for a third time for any reason may be continued on probation indefinitely, through the remainder of the training program, or terminated without further notice.

10. There are limited circumstances where the period of probation may be indefinite and could be imposed for the remainder of the program. These circumstances include, but are not limited to, substance abuse and ethical misconduct. Examples of ethical misconduct include, but are not limited to, sexual harassment, patient abandonment, abuse of prescribing privileges and unlawful discrimination. Certain programs may have stricter standards regarding substance abuse which supersede this policy. Any substance abuse or ethical misconduct will result in mandatory referral of the Resident to the Colorado Physicians Health Program (CPHP). As a condition of probation, the Resident must allow exchange of information between CPHP and the Program Director and Associate Dean for GME. The Resident shall sign a release of information from the CPHP as a condition of probation.

11. If a Resident who has been placed on probation for substance abuse or ethical misconduct, demonstrates a recurrence of unsatisfactory performance due to substance abuse during training, additional disciplinary actions may occur. The Resident may be re-referred to CPHP, or he/she may be terminated without any additional remedial period. If the Resident’s behavior is considered potentially dangerous to patients, himself, herself or other individuals, immediate suspension of clinical responsibilities may be imposed at the discretion of the Program Director and Department Chair without a probationary period.
University of Colorado School of Medicine
Graduate Medical Education

12. If the Resident’s deficiencies are not satisfactorily corrected or if other deficiencies arise during the remedial/probationary period, the program director and Department Chair will notify the Associate Dean for GME of the intent to terminate the Resident from the residency training program. The Associate Dean for GME will review the department’s intended action prior to any notification being sent to the Resident. After such a review, the Program Director, Department Chair and Associate Dean for GME must notify the Resident in writing of the decision to terminate the Resident. (If mailed, certified mail is required.) The letter must identify the deficiencies that have not been adequately corrected.

Notification of State Boards

1. Reporting required for Residents terminated, suspended from the program, or required to repeat the year: Pursuant to the Medical Practice Act, 12-36-122.5(3) C.R.S. “Licensed physicians responsible for the supervision of Interns, Residents, or Fellows in graduate training programs shall promptly report to the board anything concerning a licensee in the graduate training program that would constitute a violation of this article. The physicians shall also report to the board any licensee who has not progressed satisfactorily in the program because the licensee has been terminated, suspended, or placed on probation. The Licensed Physician is also required to report to BME if they are aware that the licensee has engaged in unprofessional conduct as defined in section 12-36-117, unless the conduct has been reported to the peer health assistance program pursuant to section 12-36-123.5.”

   a. Licensed physicians are obligated under CRS 12-36-118(3)(a) to report unprofessional conduct of other licensed physicians to the Colorado Board of Medical Examiners (http://www.dora.state.co.us/medical/Statute.pdf). As defined by the statute, “unprofessional conduct” includes “habitual intemperance or excessive use of any habit-forming drug or any controlled substance...” and “such physical or mental disability as to render the licensee unable to perform medical services with reasonable skill and with safety to the patient.” This obligation to report to BME does not apply to situations where the licensed physician has referred the Resident to CPHP for treatment as part of the probationary process.

2. Probation: Probation is a remedial mechanism utilized by the University in a variety of circumstances. It is designed to improve the academic performance of a Resident. In most instances, Residents placed on probation continue to progress satisfactorily in a program. Reporting of Residents placed on probation to the BME is not required of the University except as set forth above.

3. Referral to Colorado Physicians Health Program (CPHP): As a term of probation a Resident may be referred to CPHP for a variety of reasons. As a condition of probation, the Resident must allow exchange of information between CPHP and the training program/CU SOM GME office. If as a condition of probation a Resident is required to be evaluated and or treated by CPHP for a medical condition or habitual intemperance or excessive use of any habit-forming drug, it will be left to the discretion of CPHP whether or not that person needs to be reported to the BME. In the event the Resident fails to comply with this condition of probation, the Resident either will be suspended or terminated, which would result in a report to the BME by the University. CPHP also has discretion regarding reporting to BME those Residents who have been referred to CPHP through mechanisms other than probation. Residents are encouraged to voluntarily self-refer to the Colorado Physician Health Program for any health condition or concern about a potential health condition. Residents may self-refer at any time, without or prior to any workplace intervention. This service is confidential. Residents and Fellows who self-report and utilize CPHP services for treatment of a mental disability, or drug or alcohol abuse do not have to disclose their...
health conditions when applying for a Colorado license or renewing a license, with the exception of legal charges. See CPHP Safe Haven information at http://www.cphp.org/faq.html#safehaven