Name of Policy: **GME: Inadequate Resident Performance and Due Process** for Appeal of Corrective **Actions Policy Number:** 3364-86-008-00 Revision/Reviewed date: **Approving Officer:** Dean, College of Medicine and Life Original effective date: 05/1997 Sciences Responsible Agent:— Director, Graduate Medical Education **Scope**:— UT College of Medicine Residents New policy proposal Minor/technical revision of existing policy Major revision of existing policy X Reaffirmation of existing policy

#### **POLICY**

The University of Toledo must provide residents with fair, reasonable, and readily available written institutional policies and procedures for due process for appeal of corrective actions. The policy and procedures minimize conflict of interest by adjudicating parties in addressing:

- 1. Corrective actions taken against residents that could result in dismissal, non-renewal of a resident's agreement, non-promotion of a resident to the next level of training or being placed on probation.
- Providing Program Directors with procedures for implementing appropriate processes and guidelines for remediation and corrective actions for residents based on Academic and Non-Academic Deficiencies.

#### **DEFINITIONS**

Corrective Action: Any or all actions intended to improve the resident's academic, behavioral, and/or professional performance necessary in order to ensure patient safety and expected academic and clinical development.

Academic Deficiency: Such deficiencies include but are not limited to (a) insufficient fund of medical knowledge; (b) an inability to use medical knowledge effectively in patient care; (c) lack of appropriate technical skills; (d) any other deficiency which materially bears on an individual's academic clinical performance.

Non-Academic Deficiency: Such deficiencies include but are not limited to a violation of professional responsibility, humanism, collegiality, dishonesty, risks to patient care or a violation of University standards, rules or law.

Corrective Actions eligible for Appeal:

- 1. Dismissal from the residency program.
- 2. Non-renewal of resident agreement.
- 3. Renewal of resident agreement, but without promotion to the next level.
- 4. Probation from the residency program.

#### **PROCEDURE**

#### **Corrective Actions**

- 1. When corrective actions for <u>Academic or Non-Academic Deficiency</u> becomes necessary the Program Director will first discuss the matter with the Associate Dean for Graduate Medical Education (GME) before proceeding to any of the following steps. The remedial or disciplinary action must be approved by the Associate Dean of GME.
- 2. Corrective Action(s) for Warning Status for Academic Deficiency or Non-Academic Deficiency:

If the Program Director deems a minimal correction sufficient, the procedure is as follows:

- a. Schedule an appointment with the Resident to discuss the Resident's performance.
- b. Review with the Resident the written performance evaluations and concerns of the program.
- c. State clearly to the Resident what action is to be taken by the program.
- d. State clearly to the Resident what is expected of him/her for remediation and that he/she is placed on "Warning Status".
- e. Give the Resident a time-frame schedule for the suggested remediation for a minimum period of 60 days.
- f. Schedule a meeting(s) with the Resident during the period of Warning.
- g. Complete a Remediation Report (appendix A) and review with the resident.
- h. Provide the Resident a copy of the completed Remediation Report outlining the content of the meeting that informs the Resident that he/she is on "Warning Status", a clear listing of the remediation requirements, the date of the follow-up meeting, and a copy of this policy. A copy of the letter will be sent to the Graduate Medical Education Office (GME).
- i. If the resident cannot be located, or otherwise fails or refuses to meet with the Program Director, the Program or Sponsoring Institution will notify the resident in writing about the Corrective Action by any available means designed to reach the resident which will be deemed sufficient notice. Certified mail will be used as the preferred method of communication when an in-person meeting is not possible.
- 3. Corrective Actions for Probationary Status for Academic or Non-Academic Deficiency.

If the Resident does not achieve remediation during the Warning Status period, or if the Program deems the deficiency too severe to be remedied by "Warning Status", the program may place the resident on "Probationary Status". The procedure is as follows:

- a. Schedule an appointment with the Resident to discuss the Resident's performance.
- b. Review with the resident the written performance evaluations and concerns of the program.
- c. State clearly to the Resident he/she has been placed on Probationary Status.
- d. Complete a Remediation Report and review with the resident.
- e. After the Resident is informed, the Program Director shall give written notice and a copy of the Remediation Report to the resident. A copy shall also be provided to the GME Office.
- f. The Probationary Status period will begin with the date of the notice and shall be a minimal period of sixty (60) days.
- g. Written suggestions for improvement, as outlined in the Remediation Report, of the Resident's performance shall be given to the Resident along with a copy of this policy.
- h. During the probationary period, efforts shall be made to advise, tutor, and otherwise aid the Resident to correct deficiencies with the acknowledged goal of keeping him/her in the program. It shall, however, remain the Resident's responsibility to correct the deficiencies.
- i. Schedule a meeting(s) with the Resident during the period of probation.
- j. If the Resident's performance continues to be deficient at the end of the probationary status period, he/she shall be given written notice, from the Program Director of the deficiency; and

- a follow-up Remediation Report will be completed, reviewed and provided to the resident. A copy shall also be provided to the GME Office.
- k. After the Resident receives this notice, within 1 week he/she may respond, in writing or in person, and provide his/her explanation for such deficiency.
- 1. If the resident cannot be located, or otherwise fails or refuses to meet with the Program Director, the Program or Sponsoring Institution will notify the resident in writing about the Corrective Action by any available means designed to reach the resident which will be deemed sufficient notice when an in-person meeting is not possible.
- m. After the Resident has responded or failed to respond, the Program Director may take the following actions:
  - Remove the Resident from Probationary Status
  - Extend the Probationary Status period
  - Recommend non-promotion, dismissal, or non-renewal of the Resident from the training program

The Program Director shall inform the Associate Dean for GME of the decision.

### 4. Non-Renewal/Dismissal for Academic and Non-Academic Deficiency

- a. If the Program Director recommends Non-renewal or Dismissal of a Resident, either because the Resident has not benefited adequately from a Warning or Probationary Status or because the Program Director deems the deficiency so grave as to warrant Non-Renewal or Dismissal the Associate Dean for GME must approve the decision of the Program Director for Non-Renewal or Dismissal.
- b. The notice to the Resident must include a description of the basis upon which the decision for Non-Renewal or Dismissal was made and the process for lodging an appeal. The Program Director will complete a Remediation Report and review with the resident. A copy of the Remediation Report will be provided to the resident and GME office. The resident will also receive a copy of this policy.

#### **Appeal Process for all Eligible Corrective Actions**

- The Resident will have five calendar days from the date of the meeting with the Program Director and receipt of the Remediation Report in which to appeal the Corrective Action decision and request a hearing to-review of the case. This request is to be sentmust be submitted to the Associate Dean for GME. After five calendar days the right to appeal is waived and the decision of the Program is final. The following steps for requests for Appeal Review of Corrective Action shall occur:
  - <u>a.</u> The <u>Resident will request an appeal by emailing the Associate Dean for GME. will review the Corrective Action and the response of the Resident.</u>
  - a.b. After submitting the appeal request, the Resident has seven (7) calendar days to provide additional documentation supporting their case to the Associate Dean for GME.
  - b.—The Associate Dean for GME or his/her designee will appoint an ad hoc panel from the Graduate Medical Education Committee, composed of at least five (5) individuals consisting of a minimum of three (3) Program Directors, a minimum of two (2) residents, or any other appropriate personnel. Other University faculty or staff may be appointed to the committee at the discretion of the Associate Dean or their designee. One of the Program Directors will be designated to chair the panel, as determined by the panel members. No panel member shall come from the appealing resident's program. The panel will review the documentation supporting the eligible Corrective Action. The Resident will have the right to address the committee in writing, in person, or both.
  - c. Reasonable efforts to schedule the meeting at a mutually agreeable time. The panel will then convene a meeting on the scheduled date/time to consider the program's and resident's documentation and presentation of information submitted to it.review the information provided on the Corrective Action and the response from the Resident.

- d. The <u>Associate Dean for GME panel</u> will render a summary decision regarding the matter. The <u>panel's</u> decision will be sent in writing to the resident, with feedback to the appealing resident's program.
- e. The panel's summary decision from the Associate Dean for GME will be one of two forms:
  - Support of the Program's decision as it pertains to the eligible Corrective Action
  - Non-support of the Program's decision as it pertains to the eligible Corrective Action
- e.f. The Associate Dean for GME's panel's decision will be final, and the resident shall have no further right of appeal.
- f.g. Thise meeting is not a formal legal hearing and rules of evidence will not apply. The Resident is not entitled to legal or other representation. at the panel meeting. Prior to the appeal meeting, an appealing the Rresident will be given copies of applicable and significant materials. provided to the panel members. However, an appealing resident shall not have the right to discovery of non-relevant, privileged or confidential records, nor documents containing private and protected health information of patients.

### **Pendency of Action**

Generally, implementation of disciplinary action will be suspended until all appeals made by the resident have been exhausted. However, the Associate Dean for GME, Dean of the College of Medicine, or their designee may, at their discretion, impose interim suspensions or restrictions on the Resident if they reasonably believe that the alleged conduct represents a threat to the safety of any person.

#### Resignation

#### 1. Resignation

- a. Except as provided in subsection (d) below, a Resident may waive their rights to appeal and resign from the program.
- b. If the resident chooses to resign once placed on Non-Renewal or Dismissal Status the resident's file will indicate he/she "resigned in lieu of Non-Renewal or Dismissal"
- c. If the resident chooses to resign once placed on Probation, the resident's file will indicate he/she "resigned while on Probation"
- d. The University reserves the right to not accept a resignation in lieu of Non-Renewal or Dismissal status if the reason for Non-Renewal or Dismissal involves, but is not limited to, conviction of a criminal activity, suspected criminal conduct, act of moral turpitude, forgery, alteration or misuse of University documents, and/or misuse of controlled substances; in this case the resident's file will reflect a Non-Renewal of contract or Dismissal from the program.

Approved by:	Policies Superseded by this policy:
	None
	Initial effective date: 05/1997
Chairman, Graduate Medical	
Education Committee	Review/revision date: Reviewed 5/99,
	Revised 4/01, Reviewed 4/03, Reviewed 4/05,
	Revised 6/05, Revised 2/6/07, Review 2/3/09,
Dean, College of Medicine and Life Sciences	Revised 7/6/10, Revised 6/7/11, Revised
-	6/4/13, Revised 6/3/14, Revised 4/14/15,
Review/Revision Completed by:	Revised 8/6/19, Reviewed 8/3/21, Reviewed
Graduate Medical Education Committee	8/25/23
	Next review date:

Note: The printed copy of this policy may not be the most current version; therefore, please refer to the policy website (<a href="http://utoledo.edu/policies">http://utoledo.edu/policies</a>) for the most current copy.

### REMEDIATION REPORT

<del>Date:</del>	Program Director:
Resident	Name:
Resident	Tvanic.
Narrative	e Summary:
Resident	Status:
Resident	Status.
	Warning Status for Academic Deficiency as in accordance with GME Policy 3364-86-008-00. Please note, when on Warning Status Due Process does not apply and the remediation
	report does not remain as part of the resident's permanent file.
	Warning Status for Non-Academic Deficiency as in accordance with GME Policy 3364-86-008-00. Please note, when on Warning Status Due Process does not apply and the remediation report does not remain as part of the resident's permanent file.
	Probationary Status for Academic Deficiency as in accordance with GME Policy 3364-86-008-00. Please note, when on Probationary Status Due Process does apply and the remediation report will remain as part of the resident's permanent file.
	Probationary Status for Non-Academic Deficiency as in accordance with GME Policy 3364-86-008-00. Please note, when on Probationary Status Due Process does apply and the remediation report will remain as part of the resident's permanent file.
	Non-Promotion as in accordance with GME Policy 3364-86-008-00. Please note, when on Non-Promotion Statues, Due Process does apply and the remediation report will remain as part of the resident's permanent file.
	Non-Renewal/Dismissal Status for Academic Deficiency as in accordance with GME Policy 3364-86-008-00. Please note, when on Non-Renewal or Dismissal Status Due Process does apply and the remediation report will remain as part of the resident's permanent file.
	Non-Renewal/Dismissal Status for Non-Academic Deficiency as in accordance with GME Policy 3364-86-008-00. Please note, when on Non-Renewal or Dismissal Status Due Process does apply and the remediation report will remain as part of the resident's permanent file.
Compete [ [	Procies Involved in this Remediation:  Medical Knowledge Patient Care Interpersonal and Communication Skills
[	Professionalism Practice Based Learning System Based Practice

Time Frame Not Applicable for Non-	Renewal and Dismissal Status
Mentor for this Remediation:	
Fit for Duty Evaluation:	☐ Mandatory ☐ Optional ☐ Not Recommended
Employee Assistance Program:	Referred
Resident:	Program Director:

# REMEDIATION FOLLOW-UP REPORT

Resident Date of 0	Name: Date of Follow-up:  Original Remediation:			
Narrative	Narrative Summary of Remediation:			
Outcome	e of Remediation:			
	Remediation satisfactorily completed, resident returned to regular status. No further follow up planned unless further concerns arise.			
	Remediation satisfactorily completed, resident returned to regular status. Surveillance of this issue will continue through the remainder of training, with future concern leading to repeat Warning or Probation.			
	Improvement noted but concern remains. Remediation is extended for another month(s).			
	Unsatisfactory achievement in the Remediation plan. The resident will be placed on Probation and a Probation Plan is attached.			
	Unsatisfactory achievement in the Remediation plan. The resident will not be promoted.			
	Unsatisfactory achievement in the Remediation plan. The resident's agreement will not be renewed.			
	Unsatisfactory achievement in the Remediation Plan. The resident is dismissed from the program.			
l-				
Resident	: Program Director:			
Date:	Date:			

Medical Knowledge			
Component	Remediation Plan	Goals to resolve Remediation	
Investigatory and Analytical Thinking	Review basic Research Techniques Learning Disability Testing / Evaluation	Demonstrate effective Analytical Thinking skills to the satisfaction of the Program Director	
Knowledge and Application of Basic Sciences	Develop reading plan with mentor Board Review course recommended	Pass USMLE Step III Score above a pre-set minimum score on an exam testing level appropriate Medical Knowledge Satisfactory improvement in evaluation metrics in this area.	
Summary			

PATIENT CARE				
Component	Remediation Plan	Goals to resolve Remediation		
Caring and respectful behaviors	Communication Counseling Journaling Solicit feedback from coworkers and colleagues regarding this issue	No further reports of concern in this regard over the period of this remediation.  Satisfactory improvement of evaluation metrics in this area		
Interviewing	Communication Counseling Full CEX examinations Monitored outpatient interviewing during continuity clinic (video)	Satisfactory completion of structured CEX's Satisfactory improvement of evaluation metrics in this area		
Management Plans	Review old M&M cases Chart reviews of own cases ACP Cases	Completion of essay type level appropriate ease scenarios to the Program Director's satisfaction.  Demonstrate ability to deliver clinical care with level appropriate supervision, to the Program Director's satisfaction.  Satisfactory improvement of evaluation metrics in this area		
Counseling Patients & Families	Practice counseling sessions with mentor.	Demonstrate satisfactory counseling skills (avoiding jargon, explaining clearly, answering questions appropriately) in a mock counseling exercise.		
Physical Exam	Review textbook of Physical Exam Skills CEX examinations focusing on physical exam skills	Score above a pre-set minimum score on an exam testing Physical Exam findings.  Demonstrate satisfactory physical exam skills in CEX's  Demonstrate ability to complete a physical exam to the Program Director's satisfaction		
Procedures	Review textbook of procedure indications, techniques, and complications.  CEX examinations focusing on procedure skills.	Score above a pre-set minimum score on an exam testing procedure indications, techniques, and complications.  Demonstrate ability to perform procedures in a clinical setting to the Program Director's satisfaction.		
Accurate Notes	Chart review of notes in various settings, noting extraneous information, omissions, inaccuracies, legibility, etc. (Self or Mentor) Chart review of notes to determine whether care delivered is reflected in the documentation (Self or Mentor) Full CEX, with review of documentation	Demonstrate accurate documentation skills in a CEX to the Program Director's satisfaction. Demonstrate accurate documentation skills in random chart review of notes to the Program Director's satisfaction.		
Signouts	Chart review of signouts, noting extraneous information, omissions, inaccuracies, legibility, etc (Self or Mentor) Review with mentor the indications for reporting cross cover issues to the primary team.	Chart review of signouts by Program Director. Demonstrate accurate signout and cross cover documentation skills to the Program Director's satisfaction		
Work within a team	<ul> <li>□ Written self reflection on difficulties         with team dynamics         □ Communications Counseling         □ Work with Mentor regarding team         participation.</li> </ul>	Satisfactory improvement of evaluation metrics in this area Demonstrate teamwork skills to the Program Director's satisfaction.		
Summary				

INTERPERSONAL AND COMMUNICATION SKILLS			
Component	Remediation Plan	Goals to resolve Remediation	
Creation of therapeutic relationship with patients	Solicit patient evaluations focusing on communication skills.  CEX in various settings focusing on communication skills.	No further reports of concern in this regard over the period of this remediation.  Demonstration of satisfactory communication skills in a CEX to the Program Director's satisfaction.	
Team Leadership	Review this concern with Mentor Written self review of difficulties with team leadership, and a plan- for improvement. Communications Counseling Discuss this issue with supervising faculty or residents at the beginning of a block to enhance feedback.	Satisfactory improvement of evaluation metrics in this area No further reports of concern in this regard over the period of this remediation. Demonstrate team leadership skills to the Program Director's satisfaction.	
Nursing/CRC/SW-communication	Review this concern with Mentor Written self review of difficulties with support service communication, and a plan for improvement. Communications Counseling	Satisfactory improvement of evaluation metrics in this area.  No further reports of concern in this regard over the period of this remediation.	
Presentation Skills	Review this concern with Mentor Written self review of difficulties with support service communication, and a plan for improvement. Communications Counseling Practice mock presentations with Mentor, counselor, or CMR	Satisfactory improvement of evaluation metrics in this area. Demonstrate satisfactory completion of a mock presentation. Demonstrate satisfactory completion of a real presentation.	
Handoff skills	Chart review of signouts, noting extraneous information, omissions, inaccuracies, legibility, etc. (Self or Mentor) Review with mentor the indications for reporting cross cover issues to the primary team.	Chart review of signouts by Program Director. Demonstrate accurate signout and cross cover documentation skills to the Program Director's satisfaction	
Listening Skills / receiving feedback	Communication Counseling Written self review of difficulties with receiving feedback, and a plan for improvement.	No further reports of concern in this regard over the period of this remediation.	
Summary			

<b>Professionalism</b>				
Con	nponent	Remediation Plan	Goals to resolve Remediation	
Code of Professional Conduct	Respect for persons Respect for patient confidentiality Honesty, Integrity Responsibility for patient care Awareness of limitations, Professional growth Deportment as a professional Avoiding conflicts of interest Responsibility for peer behavior Respect for personal ethics Respect for property and laws Integrity in research Clinical Virtues Conscientiousness Collegiality Personal Health Objectivity Responsibility to Society	Review ACP Professionalism Charter with Mentor Written self review of difficulties with professionalism Make amends with those injured by unprofessional behavior Fit for Duty evaluation Mandatory psychological counseling	No further reports of concern in this regard over the period of this remediation.  Satisfactory improvement of evaluation metrics in this area.	
	<del>endance</del>	Written self evaluation of poor attendance at required conferences	Maintain an attendance rate of % for the remainder of training	
Sun	<del>nmary</del>			

Systems Based Practice			
Component	Remediation Plan	Goals to resolve Remediation	
Understand interaction of individual practice with the larger system	<ul> <li>Written self evaluation of difficulties working with RN / CRC / MSW and plan for improvement</li> <li>Review this concern with Mentor Elective with RN / CRC / MSW to improve skills</li> </ul>	Satisfactory improvement of evaluation metrics in this area No further reports of concern in this regard over the period of this remediation.	
Practice Cost Effective	Chart reviews, including costs of care Review this concern with mentor Written summary of cost effectiveness of evaluation / treatment options for various problems Review cost effectiveness of old M	No further reports of concern in this regard over the period of this remediation.	
Advocate for patients within the health care system	& M cases  Written self summary of failure to advocate for patients and plan for improvement  Make amends with those injured by personal actions or inactions  Review this issue with mentor Fit for duty evaluation	No further reports of concern in this regard over the period of this remediation.	
Computing and IT for patient care Summary	Computer training	Demonstrate clinical computer skills to the satisfaction of the Program Director	

PRACTICE BASED LEARNING			
Component	Remediation Plan	Goals to resolve Remediation	
Analyze own practice for needed improvements	Written self reflection on deficiencies, and plan for improvement Fit for duty evaluation	Demonstrate acceptance of constructive criticism, and an effective plan to improve deficiencies	
Use of evidence from	Written summary of evidence regarding clinical questions Textbook review of EBM Written summary of evidence regarding clinical questions	Written summary of evidence regarding—clinical questions Regular use of EBM throughout the remainder of training Satisfactory improvement in	
Application of research and statistical methods	Textbook review of research methods and techniques	Score above a pre-set minimum score on an exam testing research methods and techniques.	
Use of information technology for learning	Library courses regarding computing for learning and search techniques.	Demonstrate computing skills for learning to the Program Director's satisfaction.	
Facilitate learning of Others	Written self reflection on difficulties in this area, and plan for improvement Communication counseling Fit for duty evaluation	Satisfactory improvement in evaluation metrics in this area.	
Summary			

## **FORMAL REMEDIATION REPORT**

Resident Name: Program Director:		Remediation Start Date: Remediation End Date:	Fit for Duty Evaluation (Y/N): Referred to EAP (Y/N):		
resident	Warning Status for Academic Deficiency - Due Process does not apply and the remediation report does not remain as part of the resident's permanent file.  Warning Status for Non-Academic Deficiency - Due Process does not apply and the remediation report does not remain as part of the sident's permanent file.				
	<b>Probationary Status for Academic Defic</b> permanent file.	iency - Due Process applies and the reme	ediation report will remain as part of the resident's		
resident	Probationary Status for Non-Academic Deficiency - Due Process applies and the remediation report will remain as part of the resident's permanent file.				
	Non-Promotion - Due Process applies and the remediation report will remain as part of the resident's permanent file.				
	Non-Renewal/Dismissal Status for Academic Deficiency - When on Non-Renewal or Dismissal status Due Process does apply and the remediation report will remain as part of the resident's permanent file.				
	Non-renewal/Dismissal Status for Non-Academic Deficiency - When on Non-Renewal or Dismissal status Due Process does apply and the remediation report will remain as part of the resident's permanent file.				
COMPETENCIES INVOLVED IN THIS REMEDIATION					
	Medical Knowledge Patient Care	Professionalism System-Based Practice	Practice-Based Learning Interpersonal & Communication Skills		

	DESCRIPTION OF EVENT (Lapse/Performance Issue)		
	GOAL (Behavior/Performance Change)		
			_
	PLAN		
	(Education, Monitoring, Mentor, Meeting Fr	equency)	
Program Director Name	Program Director Signature	Date	_
Resident/Fellow I have read and understood the contents successfully complete it.	nt and terms of this remediation plan. I understand w	hat is expected of me and what I need to ac	complish in order t
Resident/Fellow Name	Resident/Fellow Signature		