

Family Practice Residency of Idaho
Boise, Idaho

DISCIPLINARY AND DUE PROCESS POLICY/RESIDENTS

1. PURPOSE

To establish a policy and procedure that is to be used if a Family Practice Resident fails to meet residency program standards in the performance of his/her duties as defined by the Residency Program Contract and Family Practice Residency of Idaho Program objectives.

2. PROCESS

The process for handling serious concerns is detailed below. Attachment A outlines examples of deviation from Family Practice Residency Program. Attachment B defines disciplinary measures that may be used in Due Process. The Grievance Process for Residents is described in Attachment C.

All notices and communications with the Resident required below will be documented in writing and kept in his/her confidential QA file. The Advisor will be involved as a Resident advocate and liaison with the faculty. Should the Program Director be unavailable, the Associate Director or Assistant Director will assume the responsibilities below.

A. Identification

Examples of deviations from the Family Practice Residency Program standards that require attention are described in Attachment A. This list is intended to be illustrative in nature, and is in no way exhaustive of all types of activities, which may give rise to action pursuant to this policy. Issues under “Deficient Professional Performance” usually develop over time as a trend, while those under “Impairment, Misconduct or Imminent Danger” are more urgent and require immediate attention.

An individual faculty member, attending or community physician, staff or other resident(s) may identify a Resident with any of these concerns. Concerns may be identified as serious through a combination of the above sources, written evaluations, quarterly review summary evaluations or by direct observation of the Resident’s performance. In addition, for issues of Deficient Professional Performance, the faculty may, at Quarterly Review sessions or at interim faculty meetings, decide that the Resident is not making satisfactory professional growth in spite of routine feedback and evaluations.

After being notified of performance issues relating to a Resident, the Program Director shall determine whether such issues raise Deficient Professional Performance or Impairment, Misconduct or Imminent Danger issues. The faculty may then, with the approval of the Program Director, move to the appropriate next step of the Due Process Policy.

B. Resolving Identified Concerns – Step I: Intensive Observation

1. Deficient Professional Performance: If evaluations reveal concerns about deficient professional performance, the Resident and his/her faculty Advisor will be notified by the Program Director that Step I of the Due Process Policy has

been implemented within 72 hours of the decision. The faculty Advisor and the resident will meet to discuss the specific concerns raised and the plan for increased observation. The observational period is meant to last no more than 28 days. Increased observation may include, but is not limited to, one-on-one precepting of all patients, increased chart review, a structured reading program, videotaping, and oral examinations. A primary goal of this step is to assess the validity and generalizability of the identified problem. If the issue is not replicated, the Program Director will notify the Resident and his/her Advisor that the Due Process procedure is complete and the Resident is no longer under Intensive Observation. There will be no permanent documentation of the process in the resident's file in this case. If the problem is confirmed at the end of Step I, the Program Director will notify the Resident and Advisor that Step II (Corrective Action Plan) is being implemented.

2. Impairment, Misconduct or Imminent Danger. There is no Step I under these circumstances. Reported violations automatically move to Step II.

Step II: Corrective Action Plan

1. Deficient Professional Performance: The Resident and his/her faculty Advisor will be notified by the Program Director that Step II of the Due Process Policy has been implemented within seven days of the decision.

The faculty Advisor, Resident, Program Director, and Chair of the Academic Advisory Committee will meet within another 7 days. The goal of this meeting will be to develop a written assessment of the situation based on the Observational Period, a corrective plan with measurable outcomes, and a timeline for follow-up and resolution of the concerns.

If a the Corrective Action Plan is successfully carried out by the Resident, and the faculty Advisor, Academic Advisory Chair, and Program Director agree that the concern is resolved, the Resident will return to the usual process of professional development. Alternatively, if the corrective plan is not successfully carried out by the Resident as determined by the Program Director, then proceed to Step III.

2. Impairment, Misconduct or Imminent Danger: The Program Director will notify the Resident immediately that the Due Process Policy has been implemented. In addition, the Resident, his/her Advisor, Academic Advisory Chair and the Program Director will meet within 72 hours of such notice. The Program Director will then make a decision to proceed with either:

1. Suspension
2. Probationary status
3. Another plan if the above recommendations do not fit the situation in the judgement of the Program Director.
4. Immediate paid or unpaid leave pending investigation.

This decision is then communicated to the Resident in writing within three (3) days of the initial meeting.

Step III: Academic Advisory Committee Review

For concerns of:

1. "Deficient Professional Performance" which remain unresolved after Step II;
2. "Impairment, Misconduct or Imminent Danger," for which the Program Director recommends a plan of action, including Probation, which would benefit from the input of an Advisory Committee, as determined solely by the Program Director.

The matter will be referred to the Academic Advisory Committee or representative members (excluding the Program Director) to investigate the concerns or charges against the Resident, and provide the Program Director with a report and recommendations. The Academic Advisory Committee will include the Resident's Advisor, one other Resident designated by the Program Director and at least one faculty member in addition to the Committee Chair. The Advisory Committee will notify the Resident of its desire to meet with him/her within two (2) days of appointment, proceed to meet with the Resident within ten (10) days of appointment, and provide a written evaluation of the problem to the Program Director within fifteen (15) days of appointment. The Advisory Committee may recommend:

1. Remediation
2. Probation
3. Suspension/Termination

If the Advisory Committee recommends Remediation or Probation and such recommendation is accepted by the Program Director, the Academic Advisory Committee will develop an educational plan to define a process for assessment of the problem, to define measurable outcomes and to set a timeline for resolution. The Committee will report to the Program Director within the fifteen-day timeline. The Program Director may accept or reject the plan. If it is accepted, the Advisory Committee (or a subcommittee) works with the Resident to fulfil the requirements of the plan. If it is rejected, the Advisory Committee shall prepare a revised plan after consulting with the Program Director.

If the Advisory Committee recommends suspension or termination, both the Program Director and Chairman of the Board must agree with this course of action within five (5) days. If either the Program Director or the Chairman of the Board disagree with such recommendation, the Advisory Committee will reconsider its recommendation after consulting with the dissenting person (s). Final decisions for Suspension or Termination are referred for approval by the Executive Committee of FPRI's Board of Director's.

STEP IV: Process Completion

Where applicable, the Advisory Committee must meet and report to the Program Director within ten (10) days of the timeline date for resolution of the problem outlined in the education plan from Step III.

If the Advisory Committee finds that the resident meets the requirements of the educational plan, and the Program Director agrees, the Resident is returned to good standing in the program. If the Program Director disagrees with such recommendation, the Advisory Committee will reconsider its recommendation after consulting with the Program Director. If the Advisory Committee continues to disagree with the Program Director with respect to the Resident's

compliance with and satisfaction of the educational plan, Family Practice Residency of Idaho's Board Chairman shall decide the issue.

If requirements of the plan are not met as determined above, a report to that effect is provided to the Program Director with recommendations from the Advisory Committee and from the Chairman of the Board (but with respect to the latter, only where he or she was involved in the decision on this issue). The Program Director shall meet with the Resident and his/her advisor within five (5) days of receipt of said report. The Program Director may then require additional disciplinary action consideration.

C. The Program Director will notify the FPRI Board of Directors of any Due Process actions or issues at its next regularly scheduled meeting

D. Grievance Process

Any corrective action or disciplinary plan instituted against a Resident under this policy may be appealed by the Resident. The Resident will have seven (7) days following receipt of a corrective or disciplinary plan to file a written request for an appellate review. See Attachment C.

Ted Epperly, M.D., Chairman and Program Director
Family Practice Residency of Idaho

Eric Maier, M.D., Chairman of the Board of Directors
Family Practice Residency of Idaho

FIGURE 1

DUE PROCESS FOR DEFICIENT PROFESSIONAL PERFORMANCE

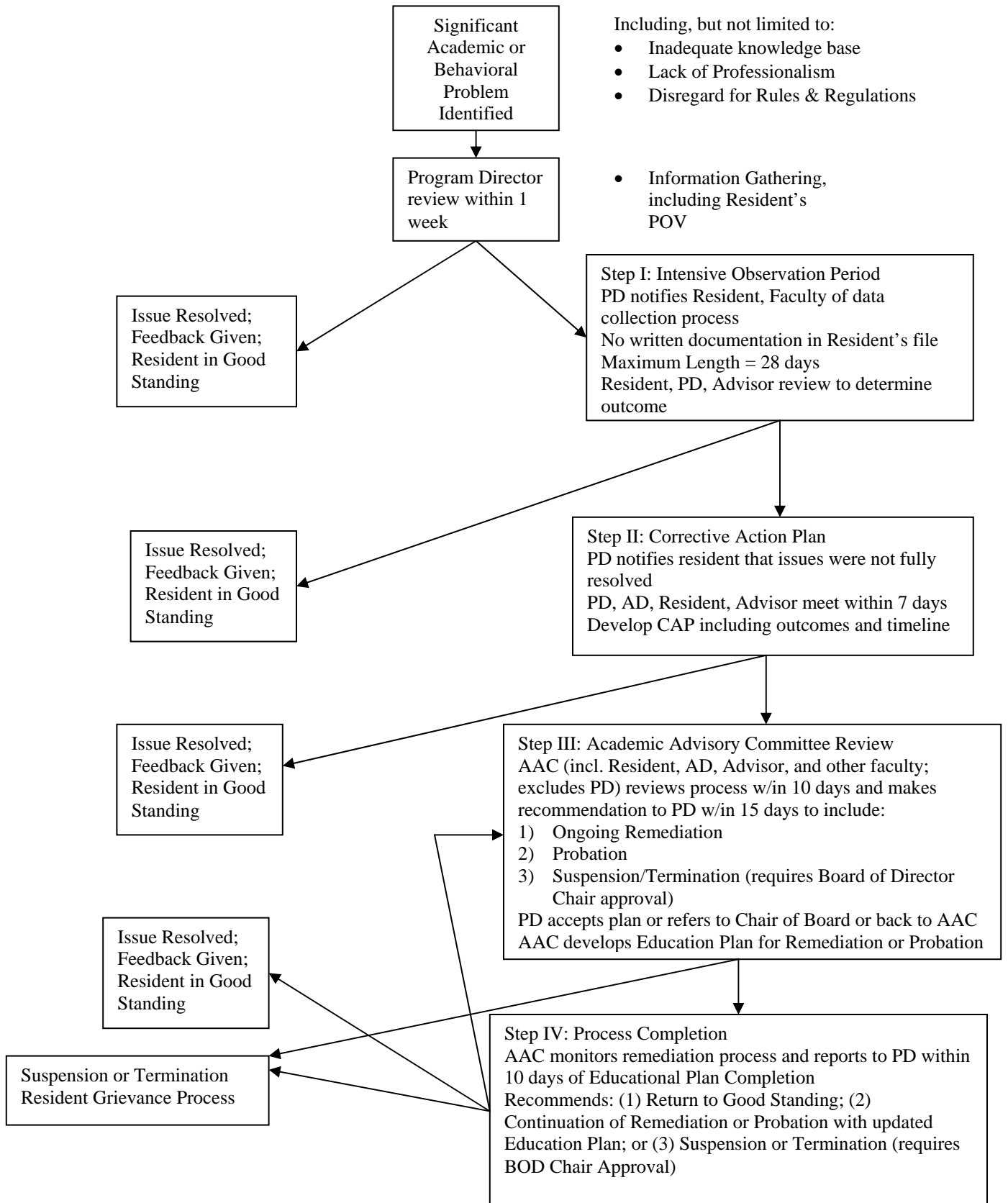
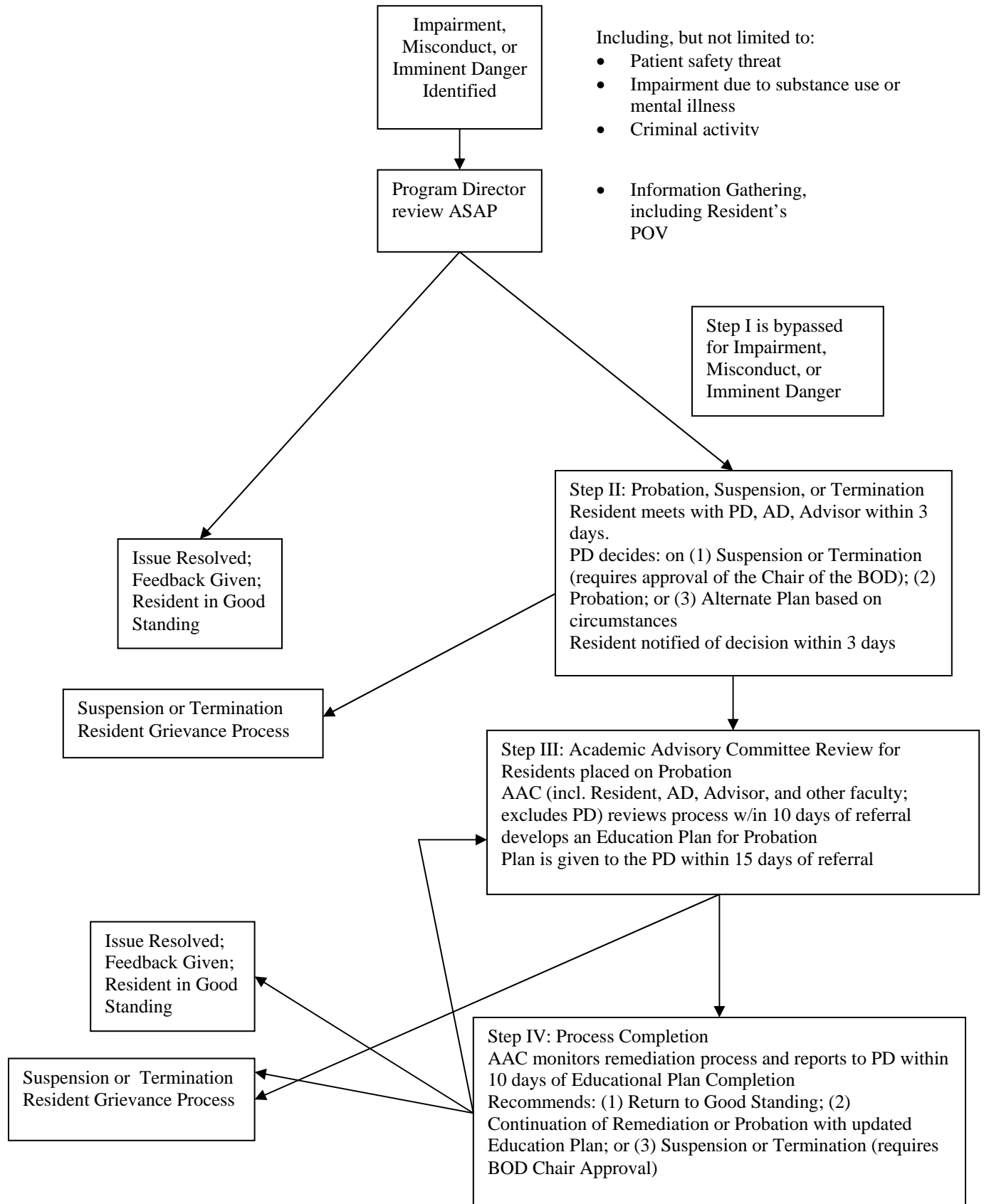


FIGURE 2

DUE PROCESS FOR IMPAIRMENT, MISCONDUCT, OR IMMINENT DANGER



ATTACHMENT A

Deficient Professional Performance: Performance deficits that may be identified as concerns requiring correction. Includes but is not limited to:

- A. Inadequate knowledge base or inability to apply medical knowledge appropriately during work on clinical rotations in in-patient or outpatient settings.
- B. A pattern showing inability to perform procedural skills or to respond appropriately in a timely fashion to medical emergencies within expectations for level of training.
- C. Ratings of “marginal” or “inadequate” performance on clinical rotations. Ratings indicating that the Resident does not meet competency expectations for level of training at Quarterly Review sessions.
- D. Attitude or behavior that compromises professional relationships with faculty, other attendings, fellow residents, staff and patients.
- E. Disregard of the Rules and Regulations of the Family Practice Medical Center, St. Alphonsus Hospital, St. Lukes Hospital, the Boise VA Medical Center, or other community sites.

Impairment, Misconduct or Imminent Danger: Problems that may require immediate probation or suspension from the program. Includes but is not limited to:

- A. Inappropriate patient care that puts a patient in serious or life-threatening danger.
- B. Resident impairment due to uncontrolled psychiatric and/or medical illness, including substance use, that interferes with the resident’s ability to provide safe care to patients. This includes being on duty under the influence of illicit substances, alcohol or mind-altering medication not prescribed by the resident’s physician.
- C. Arrest and/or conviction during residency training of a criminal offence pertaining to illicit drugs, inappropriate prescribing, theft, assault or other personal injury, or another matter relating to specific qualifications of a resident.
- D. Providing false or misleading information on the Resident’s application, curriculum vitae or otherwise to the Program.
- E. Inappropriate offensive contact with or sexual harassment of faculty, staff, fellow residents, students or patients.

ATTACHMENT B

CORRECTIVE OR DISCIPLINARY MEASURES - GUIDELINES FOR THE ACADEMIC ADVISORY COMMITTEE

B1.1 Remediation

A specific program may be recommended by a Resident's advisor, or an Ad Hoc Advisory Committee, advisory to the Program Director, per Step III, to assist the Resident in meeting program standards. A specific date will be set by which the Resident will have shown adequate improvement as evaluated by the Academic Advisory Committee. Remediation is a plan that is recommended to the Resident. If the Academic Advisory Committee finds that, after evaluation of the remediation program, the resident is still unable to meet program standards, further disciplinary action may ensue per Step V.

B2.1 Probation

Probation is a disciplinary status recommended by the Academic Advisory Committee to the Program Director. The Academic Advisory Committee will recommend that a Resident be required to receive special training or perform special assignments as outlined by the Advisory Committee, which will be completed in a defined time. The plan is subject to approval by the Program Director. If the Resident reaches the goal(s) in the time allowed, the Resident will be reinstated to normal residency status. If the goal(s) are not met or new performance issues arise, the Resident will be referred to the Program Director for further action. Probation is a plan that is required of the Resident by the residency program and will require the resident to disclose this action to licensing and credentialing bodies.

B3.1 Suspension or Termination

The problem/deficit is severe enough that the Program Director, after reviewing the Ad Hoc Advisory Committee's recommendation, recommends suspension or termination from the program. The issue will be referred to the office of the Chairman of the Board of Director's for review and approval.

B4.1 Contract Not Provided

The contract for the ensuing year may be withheld by the Program Director if the Academic Advisory Committee determines that, in spite of remedial or disciplinary action, the Resident's performance does not meet competency standards to justify advancement in the program. The Resident must be notified sixty (60) days prior to the end of the Resident's current year.

B5.1 Certificate of Internship Withheld

In addition to B4.1, if minimal competency standards have not been reached in spite of remedial or disciplinary action during the internship (R₁) year, the Certificate of Completion of Internship may be withheld. The Resident should be notified at least sixty (60) days before the end of the internship year whenever possible.

ATTACHMENT C

ARTICLE I. INITIATION AND PREREQUISITES OF APPELLATE REVIEW

C1.1 REQUEST FOR APPELLATE REVIEW

The Resident shall have seven (7) days following his/her receipt of a corrective and/or disciplinary plan by the Program Director, pursuant to Step III of Figure 1 to file a written request for an appellate review. Such request shall be delivered to the Program Director either in person or by certified or registered mail. The written request may ask for a copy of the disciplinary plan report, the record of any Residency Advisory Committee hearing, and all other material, favourable or unfavourable, if not previously forwarded, that was considered in making the corrective and/or disciplinary plan.

C1.2 WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW

A Resident who fails to request an appellate review within the time and in the manner specified in Section C1.1 above waives any right to such review.

C1.3 NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW

Upon receipt of a timely request by the Resident for appellate review, the Program Director shall notify the Chairman of the Board of Directors. As soon as practical, the date for the appeal shall be arranged for, not less than ten (10) days from the date of receipt of the appellate review request. An appellate review for the Resident who is under suspension then in effect shall be held as soon as arrangements for it may be reasonably made, but not later than 14 days from the date of receipt of the request for review. At least five (5) days prior to the appellate review, the Chairman of the Board of Directors, shall send the Resident special notice of the time, place and date of the review. The appellate review body may, for good cause and if the request therefore is made as soon as is reasonably practical, extend the time for the appellate review.

C1.4 APPELLATE REVIEW BODY

The appellate review body (known as the Appeals Board) shall consist of five (5) members appointed by the Chairman of the Board of Directors. These five members will include: (1) the Chair of the Board, (2) a member of the Board, (3) a member of the Family Practice Department, (4) an FPRI faculty member, and (5) a resident (other than the complainant).

ARTICLE II. APPELLATE REVIEW PROCEDURE

C2.1 NATURE OF PROCEEDINGS

The proceedings by the Appeals Board shall be in the nature of an appellate review based upon the record of any Academic Advisory Committee, the records of the Program Director, and all subsequent results and actions taken thereon. The Appeals Board shall also consider the written statements, if any, submitted pursuant to Section C2.2 of this Plan and such other materials as may be presented and accepted under Section C2.4 and C2.5.

C2.2 WRITTEN STATEMENTS

The Resident seeking the review may submit a written statement detailing the findings of fact, conclusions and procedural matters with which he or she disagrees, and his or her reasons for such disagreement. This written statement may cover any matters raised at any step in the prior hearing process, and the Resident's legal counsel may assist in its preparation (at the Resident's sole cost and expense). The statement shall be submitted to the Appeals Board through the Chair at least five (5) days prior to the scheduled date of the appellate review, except if the Appeals Board waives such time limit. A written statement in reply may be

submitted by the Program Director, and, if submitted, the Chair shall provide a copy thereof to the Resident at least two (2) days prior to the scheduled date of the appellate review. The residency program may consult or retain legal counsel in preparation of the program's statements or review of the resident's written statements.

C2.3 PRESIDING OFFICER

The Chair of the Appeals Board shall be the presiding officer. S/he shall determine the order of procedure during the review, make all required rulings, and maintain decorum.

C2.4 ORAL STATEMENT

The Appeals Board, at its sole discretion, may allow the parties or their representatives to personally appear and make oral statements in favor of their positions. Any party or representative so appearing shall be required to answer questions put to him/her by any member of the Appeals Board, subject to such party's legal rights.

C2.5 CONSIDERATION OF NEW OR ADDITIONAL MATTERS

New or additional matters or evidence not raised or presented during the original concern or in any Advisory Committee report and not otherwise reflected in the record shall be introduced at the Appeals Board only at the discretion of the Appeals Board, following an explanation by the party requesting the consideration of such matter or evidence as to why it was not presented earlier.

C2.6 POWERS

The Appeals Board shall have all the powers granted to the Advisory Committee and such additional powers as are reasonably appropriate to the discharge of its responsibilities.

C2.7 PRESENCE OF MEMBERS AND VOTE

A majority of the Appeals Board must be present throughout the review and deliberations. If a member of the Appeals Board is absent from any part of the proceedings, s/he shall not be permitted to participate in the deliberations or the decision. The Appeals Board shall decide all matters at issue based on a decision supported by a simple majority of the Appeals Board.

C2.8 RECESSES AND ADJOURNMENT

The Appeals Board may recess the review proceedings and reconvene the same, without additional notice, for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. Upon the conclusion of oral statements, if allowed, the appellate review shall be closed. The Appeals Board shall thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon conclusion of those deliberations, the appellate review shall be declared finally adjourned.

C2.9 ACTION TAKEN

The Appeals Board may affirm, modify, or reverse the adverse result or corrective action taken pursuant to this Policy. The Appeals Board may also, at its discretion, refer the matter back to the Program Director for further review and recommendation, to be returned to it within 7 days and in accordance with its instructions. Within 14 days after receipt of such recommendation after referral, the Appeals Board shall make its decision in writing to the Program Director for notification of the Resident. The Appeals Board's decision will be considered final and binding.

C2.10 CONCLUSION

The appellate review shall not be deemed to be concluded until all of the applicable procedural steps provided herein have been completed or waived.