

SUNY DOWNSTATE MEDICAL CENTER  
GME POLICIES AND PROCEDURES



University Hospital of Brooklyn  
College of Medicine  
School of Graduate Studies  
College of Nursing

School of Health Related Professions  
School of Public Health

**SUBJECT: POLICY ON IMPAIRED RESIDENTS**

Originating Department: Institutional Policy  
Date Approved by GMEC: 12/18/19  
Original Date: 9/12/1996  
Revisions: 6/16/2010, 12/18/2019

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*In accordance with section IV.H.2 of the ACGME Institutional Requirements, the Sponsoring Institution must have a policy, not necessarily GME-specific, which addresses physician impairment.*

**Purpose:**

The purpose of this Policy is to describe how instances of physician impairment or potential physician impairment, including impairment due to substance abuse, are addressed by SUNY Downstate.

**Definitions:**

**Committee for Physicians Health (CPH)** - a division of the Medical Society of the State of New York providing non-disciplinary, confidential assistance to physicians, residents, medical students, and physician's assistants experiencing problems from stress and difficult adjustment, emotional, substance abuse and other psychiatric disorders, including psychiatric problems that may arise as a result of medical illness.

**Impairment** – is "the inability to practice medicine with reasonable skill and safety as the result of mental disorder, physical illness or condition or substance abuse disorders." (American Medical Association and Federation of State Medical Boards).

**Program Director:** the one faculty member appointed as program director of a GME program with authority and accountability for the overall program, including compliance with all applicable program requirements.

**Resident or House Staff or House Officer:** refers to all physicians enrolled in an ACGME-accredited program of graduate medical education, including fellows.

**Policy:**

SUNY Downstate Medical Center recognizes that substance abuse addiction, psychiatric disorders, and alcoholism are medical conditions. Residents, as part of resident benefits, have access to confidential mental health assessments, counseling and treatment, including access to urgent and emergency care, 24-hours a day, seven days a week. SUNY Downstate will take all reasonable steps to protect the confidentiality of resident who seeks voluntary treatment for an illness or condition or is referred for treatment by his/her supervisor, subject to applicable legal constraints as well as the provisions of this Policy, recognizing that it is

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professional misconduct for any physician to practice medicine while impaired.

The New York State Education Law includes within the definition of "professional misconduct" the following: (1) practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability; and (2) being a habitual abuser of alcohol or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except if maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the ability to practice medicine

Education and Evaluation

Educational programs for residents regarding physician impairment, including on identification of symptoms of depression and substance abuse and the means to assist those who experience these conditions, are given at orientation for new residents as well as during the academic year by CPH staff, at Program grand rounds. Programs, with the support of SUNY Downstate, must ensure that residents are educated to recognize these symptoms in themselves and the process to seek appropriate care.

CPH is available to provide confidential evaluation, treatment planning, and monitoring for physicians who voluntarily enroll. CPH generally does **not** report participating physicians to the Office of Professional Medical Conduct (OPMC) of the New York State Department of Health **unless**: 1) the physician is an imminent danger to the public, 2) the physician refuses to cooperate with CPH, or 3) the physician does not follow the treatment plan and/or does not respond to treatment.

Voluntary Self-Referral for Treatment in the Absence of Performance Issues. A resident who is concerned that he/she may have a problem with impairment is encouraged to contact CPH directly (1-800-338-1833) or may discuss the issue with a faculty member, his or her Program Director, the Department Chair or the Associate Dean for GME (ADGME).

If a resident brings a concern about his/her own potential impairment to the attention of any of the above - listed individuals, the individual so notified (if a faculty member) must notify at least one of the Program Director, the Department Chair or the ADGME, and at least two of these individuals shall meet with the resident to determine an appropriate course of action. The meeting with the resident must occur as soon as possible, but in any event, within two business days.

For residents who require further voluntary evaluation and possible treatment, the Program Director and/or Department Chair shall notify the ADGME, if not yet notified, who will arrange for referral to CPH. A resident who has enrolled in a CPH-approved treatment program may be permitted to return to work with agreement of CPH and in accordance with the "Return to Work Section" of this Policy.

Referral for Treatment by Others in the Context of Performance Related Concerns. Residents are encouraged to alert a Program Director, Department Chair or CPH when they are concerned that another resident (or faculty member) may be displaying signs or symptoms of depression, substance abuse, suicidal ideation or a potential for violence. When a resident is experiencing performance related problems or engaging in concerning behavior, and impairment is suspected, the Program shall have the right to require the resident to undergo further evaluation. Concerning behavior includes any instance in which another resident, faculty member, other hospital employee, patient or patient's family, or other person witnesses inappropriate behavior by a resident during the exercise of his/her professional duties, including, but not limited to the following behaviors: perceived problems with judgment, behavior, speech, emotional outbursts, depression, alcohol odor, or other evidence of substance abuse or impairment.

In addition to reporting to the applicable Program Director, Department Chair or CPH, suspicious/concerning behavior may be reported to the resident's attending physician. Reports to the resident's attending physician should be brought to the attention of the applicable Program Director and Department Chair.

Upon receiving such a report, the applicable Program Director and Department Chair shall conduct an interview with the resident within two business days. If the Program Director and Department Chair both agree and determine that the report does not have a foundation and that there are no performance concerns with respect to the resident, no further action will be taken.

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In the event that the Program Director or the Department Chair or both believe that the report has foundation, the Program Director and Department Chair shall further evaluate the situation. In conducting further evaluation, the Program Director and Chair may require the resident to undergo further testing (psychiatric evaluation and/or drug or alcohol testing). If a decision to require testing is made, the Program Director or Department Chair shall contact the ADGME to arrange for this testing. Results of the tests will be reported directly to the Department Chair.

Leave and Clinical Restriction

The Program Director may allow a resident a personal leave (Leave of Absence) during the evaluation and investigation process. In the event it is determined that the continued presence of a resident may place patients, the resident, or other staff at risk or subject residents, faculty or other hospital staff to an adverse and unacceptable work environment, the Program Director may suspend the resident from clinical duties during the evaluation and investigation process. In the event of a decision to suspend the clinical duties of a resident during investigation and evaluation, the suspension shall be communicated in writing to the resident in accordance with applicable SUNY Downstate GME Due Process policies, with a copy to the GME Office, and the suspension reported to OPMC as may be required pursuant to NY law or regulations.

If, after evaluation, it is believed that further evaluation of the resident and incidents are required to eliminate, understand or address the concern, the matter will be referred to the GME Office. The resident will be offered the opportunity to voluntarily enroll with CPH. CPH will arrange for an intake evaluation. The GME Office will assist the resident in enrolling in CPH. If, after evaluation, both the Program Director and Department Chair determine that the resident does not require treatment or rehabilitation, they shall address the resident's performance issues in accordance with Department evaluation standards and related institutional policies. (See Evaluation Policy and applicable Due Process policies).

Return to Work: If treatment or rehabilitation is recommended by CPH or the Program, and the resident enrolls in a CPH-approved treatment program, the resident will be required to waive his/her right to confidentiality to the extent that: the ADGME will be notified as to whether the proposed treatment plan limits the resident's ability to work, and, if so, the ADGME will be provided with a description of the limitation(s), will be notified periodically whether the resident is participating in the treatment plan, whether treatment has been successful and will be provided any other information needed by the ADGME to assess the resident's continued fitness to work. Whether a resident will be allowed to return to work or complete his/her residency will be evaluated on a case-by- case basis, taking into consideration the recommendations of the treatment program, the limitations, if any, on the resident's ability to practice and expected duration of the limitations, whether reasonable accommodations can be made by the Program, the circumstances that give rise to the initial report of potential impairment (i.e. whether any serious incidents or violations of law occurred), and whether patient and staff safety can be maintained.

Refusal to Cooperate: If a resident who self-reports potential impairment or is determined by his or her Program Director and Department Chair to require further evaluation refuses to enroll with CPH, the ADGME will be obligated to report the resident to the OPMC. In addition, the ADGME may terminate the resident's clinical privileges and may terminate the resident from the Program. The resident shall have the right to appeal the decision to terminate in accordance with appeal procedures set forth in applicable SUNY Downstate GME due process policies.

  
Approved by the GMEC and DIO, effective 12/18/2019.

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Chairman of the GMEC

  
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DIO