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Program Director's Training Course.

PDTC-9: Developing a Residency Disciplinary Policy



Disciplinary Action Policy

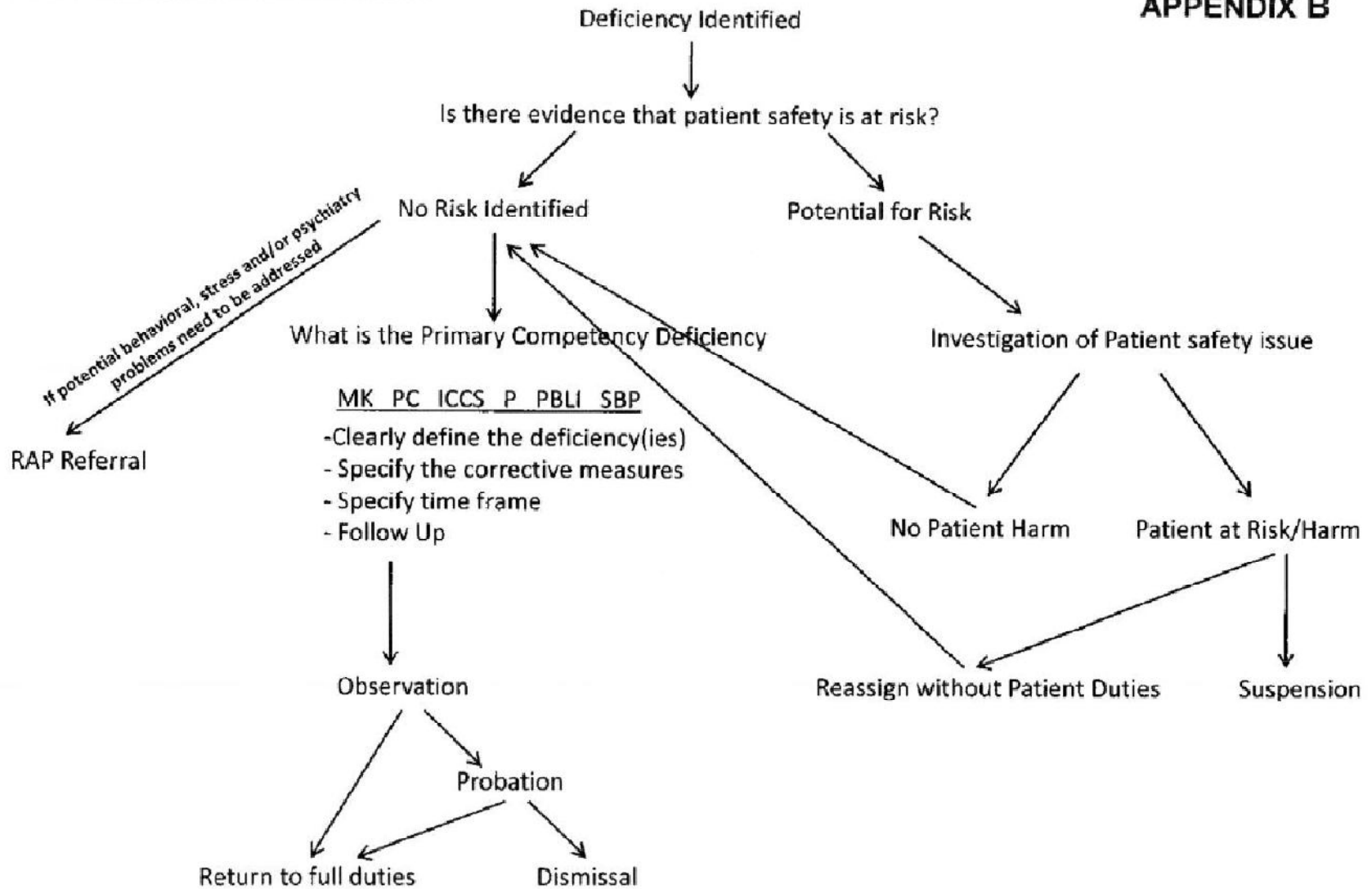
- Essential component of the resident manual
- Every resident is entitled to proper due process
- Two large groups:
 - Academic performance issues
 - Behavioral problems
 - Misconduct:
 - Does NOT need to be progressive (NOC, observation, probation, dismissal)
 - Much harder to correct

Setting Expectations

- Be clear and disseminate goals and objectives
- Describe the evaluation tools to be used
- Progressive responsibility is necessary in the description
- When evaluating residents the more descriptive the area in need of improvement the better
- Early intervention is critical to increase your chances of effective corrective action

Disciplinary Action

- If disciplinary action is taken:
 - Verbal or written as appropriate
 - Specify the deficiency(ies) as specific as possible
 - Describe the behavior, do not judge
 - Give a specific timeline for improvement
 - Provide any help as needed or requested
 - Follow up and provide documentation as progress reports
 - Action:
 - Notice of concern
 - Observation
 - Probation
 - Dismissal



Disciplinary Action

- Probation
 - Get your promotion committee to help you
 - More severe action than observation or NOC
 - Need to inform resident of implications
 - Resident may have the right to appeal
 - If so get your legal counsel involved
 - Notify DIO, GMEC, maybe the State Board
- Dismissal
 - May offer resident voluntary resignation first if not accepted
 - Get you promotion committee involved
 - Get your legal council involved
 - Document meticulously
 - Notify DIO, GMEC, State Board

Appeal Process

- Specific GME policy available
- Needs to be requested on a timely basis by resident
- Ad hoc committee formed by faculty and residents
- Should not involve members of the department where resident is from
- GME ad hoc committee is only advisory in function
- Dean of the school is the only individual able to dismiss a resident

TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER
Paul L. Foster School of Medicine
GRADUATE MEDICAL EDUCATION
Standard Policy and/or Procedure

TITLE: Adverse Actions Due Process Protocol
APPROVED: 1/18/1994
REVISED: 2/13/2009
EFFECTIVE DATE: 7/1/2009; 7/1/1995
PURPOSE: To provide a formal means by which trainees may request review of an adverse action which may include probation, suspension, non-promotion, non-reappointment, or dismissal from training as described in the Institutional Handbook of Graduate Medical Education Policies and Procedures.

PROCEDURE STATEMENT: Over the course of training in a graduate medical education training program, a trainee is expected to acquire progressive and increasing competence in the knowledge, skills and attitudes of the specialty in which he/she is training. The Program Director is responsible for maintaining a record for each trainee and for ensuring that the program has an evaluation system that documents the success of each trainee in achieving the goals and objectives of the training program. The evaluation system must also identify trainees with deficiencies in knowledge, skills and attitudes for each of the ACGME General Competencies.

Adverse action may be taken for due cause including, but not limited to:

- failure to satisfy the academic and clinical requirements of the training program
- professional incompetence, misconduct, or conduct inconsistent with or harmful to patient care or safety
- consistently substandard performance, conduct that calls into question the professional qualifications, ethics, or judgment of the trainee
- inappropriate or unprofessional behavior toward medical students, other trainees, employees, medical staff, patients, patients' families, etc.
- violation of the bylaws, rules, policies, or procedures of the medical staff, participating institutions, or applicable departments, divisions, or programs
- scientific misconduct
- violation of a state or federal law
- forgery, alteration or misuse of documents or records
- illegal use, possession, and/or illegal sale of drug, narcotic or other controlled substances as defined by the Texas Controlled Substance Act
- alcohol or chemical substance abuse, dependency or addiction and refusal of treatment for same

- excessive tardiness and/or absenteeism
- other circumstances deemed significant by the Program Director and teaching faculty

It is expected that prior to the communication of an adverse action to a trainee the Program Director will consult with the Associate Dean for Graduate Medical Education/DIO for review of the proposed action. However, the decision regarding the action will still rest with the Program Director.

This procedure outlines the processes for trainees who fail to make satisfactory progress in achieving the standards set by the training programs and is expected to be followed uniformly and fairly. For purposes of efficiency and effectiveness, this procedure shall report a two-level differentiating process to allow for efficiency of resolution. Adverse actions will be distinguished as to type which will determine the level (short vs. long steps for resolution) of the due process protocol. Type 1 adverse actions are those actions other than a decision of non-reappointment or recommendation of dismissal from training, namely, probation, suspension and non-promotion. Type 2 adverse actions are non-reappointment or recommendation of dismissal from training.

Level 1- Due Process Protocol for Type 1 Adverse Actions (probation, suspension, non-promotion)

1. Within three (3) working days after consultation with the Associate Dean for Graduate Medical Education/DIO and making a decision to take an adverse action regarding a trainee, the Program Director will inform the affected individual.
2. After receiving notification of an adverse action, the trainee will have five (5) working days from the date of notification to request a review of the adverse action by submitting a written request to the Associate Dean for Graduate Medical Education (ADGME). In the event the trainee elects not to request a review of the adverse action, or the trainee fails to make the request within the prescribed five (5) working days, the trainee will be deemed to have waived the option to request a review.
3. Upon receipt of a Request for Review of Adverse Action by the ADGME, a Review Committee comprised of a member of the Graduate Medical Education Committee, the president of the House Staff Association (should the HSA president be in the same training program as the trainee another resident member of the GMEC will participate), and the Senior Director for Graduate Medical Education (SrDGME) will be notified and requested to hold a review meeting within five (5) working days of the date that the Request for Review was received. The SrDGME will serve as chair of the Review Committee. The same notification will be made to the trainee.
4. Upon receipt of notification from the ADGME, the chair of the Review Committee will send formal notification to the trainee and the Program Director of the scheduled meeting (date, time and location). Both will be asked to provide any necessary documentation to the Review Committee prior to the scheduled meeting.
5. Once the Review Meeting occurs, the Committee will have five (5) working days to communicate its decision to the trainee and Program Director. The Committee may agree with, modify or overturn the adverse action. The decision of the Review Committee will be final.

Level 2- Due Process Protocol for Type 2 Adverse Actions (non-reappointment and recommendation for dismissal from training)

1. Within three (3) working days after consultation with the Associate Dean for Graduate Medical Education/DIO and making a decision to take an adverse action regarding a trainee, the Program Director will inform the affected individual.
2. After receiving notification of an adverse action, the trainee will have five (5) working days from the date of notification to request a Hearing to Address an Adverse Action by submitting a written request to the Associate Dean for Graduate Medical Education (ADGME). In the event the trainee elects not to request a Hearing, or the trainee fails to make the request within the prescribed five (5) working days, the trainee will be deemed to have waived the option to request a Hearing.
3. Upon receipt of a Request for Hearing, the ADGME will appoint an *ad hoc* Hearing Panel comprised of selected members of the Graduate Medical Education Committee inclusive of resident representation. (A member of the *ad hoc* Hearing Panel will be appointed as Panel Chair.) The Hearing Panel will be requested to hold a Hearing within five (5) working days of the date that the Request for Hearing was received.
4. Upon receipt of notification from the ADGME, the chair of the *ad hoc* Hearing Panel will send formal notification to the trainee and the Program Director of the scheduled hearing (date, time and location). Both parties will be asked to provide any relevant documentation and a list of witnesses, if applicable, to the *ad hoc* Hearing Panel prior to the scheduled hearing. All documents submitted to the *ad hoc* Hearing Panel shall be deemed confidential and returned to the Office of Graduate Medical Education. The trainee and Program Director shall each be responsible for arranging the participation of their respective witnesses for and during the hearing. Legal counsel for either party may attend the hearing and serve in an advisory capacity, but will not be allowed to actively participate in the hearing. If legal counsel is to attend the hearing appropriate notification should be made to the chair of the *ad hoc* Hearing Panel.
5. Both the trainee and the Program Director shall have the right to address the *ad hoc* Hearing Panel and may introduce evidence considered to be relevant and material to the case. All evidence offered must be reasonably related to the facts and statements concerning the reasons for the adverse action and the trainee's request for the hearing to address the adverse action.
6. The *ad hoc* Hearing Panel shall submit a summary report of findings and recommendation to the Graduate Medical Education Committee (GMEC) within seven (7) working days from the actual hearing date.
7. The GMEC shall review the findings and recommendation of the *ad hoc* Hearing Panel at a regular or called meeting that shall be held within seven (7) working days after receipt of the report by the ADGME. The GMEC may agree with, modify or overturn the recommendation of the *ad hoc* Hearing Panel. The action of the GMEC will be formally communicated to the Dean of the School of Medicine within five (5) working days of its meeting.
8. The Dean of the School of Medicine shall review the recommendation of the GMEC and make a decision which shall be communicated in writing to the trainee, Program Director, Department Chair, and Associate Dean for Graduate Medical Education/DIO within five (5) working days of receiving the recommendation of the GMEC. The communication to the trainee shall be by certified mail/return receipt requested or hand delivered with acknowledgment of delivery.
9. A final determination by the Dean of the School of Medicine to uphold the adverse action shall conclude the due process protocol.
10. Processes contained in this due process protocol contained herein must be exhausted in their entirety prior to the trainee's resorting to any other forum for redress.

Summary

- One of the most critical areas in the management of a residency
- Proper process is necessary to avoid overlooking required elements
- Always important to inform resident of right to appeal when an adverse action is taken

End of Presentation

