

Steward St. Elizabeth's Medical Center

Graduate Medical Education Policy on Disciplinary Action And Grievance Procedure for Residents

I. PURPOSE

(1) To set forth the procedures governing the initiation and implementation of Disciplinary Action and Corrective Action as against a House Officer at Steward St. Elizabeth's Medical Center of Boston arising from the House Officer's academic knowledge, clinical performance or professional conduct within a Graduate Medical Education Program.

(2) To set forth the mechanism by which a House Officer may communicate and exchange information regarding their working environment and their Graduate Medical Education Program.

II. DEFINITIONS

"Business Day" shall mean any day other than a Saturday, Sunday or legal holiday recognized within The Commonwealth of Massachusetts.

"Corrective Action" shall mean any formal action arising from the House Officer's academic knowledge, clinical performance or professional conduct adversely affecting a House Officer's status within a Graduate Medical Education Program, including being placed on probation, being suspended from a Graduate Medical Education Program, failing to be promoted to the next level of training within a Graduate Medical Education Program, non-renewal of a House Officer's employment agreement or being terminated from a Graduate Medical Education Program. The term "Corrective Action" does not include (i) termination of a House Officer's employment agreement or contract with the Hospital for reasons not associated with academic knowledge, clinical performance or professional conductor (ii) evaluations or reviews, formal or informal, satisfactory or unsatisfactory, arising from the routine ongoing assessment of a House Officer's clinical performance or professional conduct in a Graduate Medical Education Program.

"Disciplinary Action" shall mean any formal action reflecting adversely on a House Officer other than a Corrective Action, including written censure, reprimand or admonition or requiring the House Officer to complete a course of education, training, counseling, or monitoring beyond that associated with the normal progression through a Graduate Medical Education Program.

"Graduate Medical Education Program" any formal internship, residency or fellowship training program sponsored by the Hospital, in which the Hospital participates, or which participants in which rotate through a service provided at the Hospital.

"Hospital" shall mean Steward St. Elizabeth's Medical Center of Boston, Inc.

“House Officer” shall mean any physician appointed to a Hospital Graduate Medical Education Program or employed by the Hospital as an intern, resident or fellow, regardless of Department.

“Non-Renewal of Physician-in-Training Employment Agreement” shall mean a statement by the Hospital to the House Officer that his or her employment agreement associated with a Graduate Medical Education Program will not be renewed after expiration of the agreement’s then current term.

“Notice” shall mean for the purpose of this Policy on Disciplinary Action a written communication and will be deemed given as of the date such written communication (a) is hand delivered to the recipient, or (b) is mailed, postage prepaid, first class, certified mail, return receipt requested, or (c) is sent for overnight delivery, shipping prepaid, receipt requested by a nationally recognized courier service, or (d) is transmitted by facsimile, if promptly confirmed by a returned facsimile signed by the recipient, or (e) is transmitted by email, if confirmed as delivered by the sending party’s email system.

“Policy on Disciplinary Action” shall mean this Graduate Medical Education Policy on Disciplinary Action.

“Receipt of Notice” shall mean for the purpose of this Policy on Disciplinary Action the date upon which a Notice (a) is received in hand by the recipient, or (b) three (3) business days after a Notice is placed with the U.S. Postal Service, or (c) one (1) business day after the Notice is placed with a nationally recognized courier service, or (d) the date a recipient acknowledges receipt of a Notice by return facsimile, or (e) the date an email is confirmed as delivered if confirmed prior to 5 p.m. Eastern Time or if confirmed after 5 p.m., the next day following confirmation of delivery.

“Residency Program Director” shall mean the individual designated as Director of any Residency Program conducted at the Hospital.

III. APPLICABILITY

(A) It is the responsibility of each Residency Program Director to initiate Disciplinary Action or Corrective Action in accordance with this Policy on Disciplinary Action when a House Officer’s academic knowledge, clinical performance or professional conduct within a Graduate Medical Education Program is considered unsatisfactory or unacceptable.

(B) This Policy on Disciplinary Action applies only to matters relating to the House Officer’s academic knowledge, clinical performance, professional conduct, or progression through a Graduate Medical Education Program. This Policy on Disciplinary Action does not, and the rights accorded a House Officer herein do not, apply to any other administrative disciplinary action that may be taken by the Hospital as the result of a House Officer’s breach of his or her employment agreement with the Hospital or the

failure of the House Officer to abide by and comply with the general policies and procedures of the Hospital as in effect from time to time; in which case such administrative disciplinary action shall be implemented by the Hospital's Department of Human Relations or other applicable department in accordance with the policies and procedures of the Hospital, as in effect from time to time.

IV. DISCIPLINARY PROCEDURES

Disciplinary Action or Corrective Action shall be implemented against a House Officer in accordance with the following procedures:

A. Disciplinary Action – A Residency Program Director may implement disciplinary action against a House Officer at any time the Residency Program Director believes such disciplinary action is warranted as the result of (1) an incident of deficient clinical performance or academic knowledge or (2) inappropriate professional conduct of a minor nature. The specific Disciplinary Action shall be at the sole discretion of the Residency Program Director. The Residency Program Director shall provide the House Officer with written Notice of the Disciplinary Action, which Notice shall set forth the reason or reasons for the Disciplinary Action, the nature of the Disciplinary Action, the duration of the Disciplinary Action, if applicable, and the duration of the Disciplinary Action, if applicable. The House Office shall have no right to challenge or appeal, either informally or formally, the imposition of any Disciplinary Action.

B. Corrective Action – The implementation and rights of appeal regarding Corrective Actions are set forth below:

C. (1) Probation – A House Officer may be placed at any time on probation by the Residency Program Director or in his absence by either the Chairman of the Graduate Medical Education Committee or the President of the Medical Staff following (1) repeated incidents of deficient academic knowledge or clinical performance, (2) repeated incidents of inappropriate professional conduct of a minor nature, or (3) inappropriate professional conduct of a moderate nature. The specifics of the probation, including its duration and any necessary remedial actions, shall be at the sole discretion of the Residency Program Director, the Chairman of the Graduate Medical Education Committee, or the President of the Medical Staff. In no instance shall probation exceed six (6) months, unless completion of necessary remedial action requires a longer period of time and the House Officer is making reasonable effort and progress towards completing any necessary remedial action. The Residency Program Director shall provide the House Officer with written Notice of the implementation of probation, which Notice shall set forth the reasons for the probation, the duration of the probation, any necessary remedial actions that need to be completed before the probation is lifted, and any limitations, if any, placed on the House Officer regarding clinical activities within the Graduate Medical Education Program. The House Office shall have no right to appeal, either informally or formally, the decision to place him or her on probation.

D. (2) Suspension – A House Officer may be suspended at any time from a Graduate Medical Education Program by the Residency Program Director, or in his absence by either the Chairman of the Graduate Medical Education Committee or the President of the Medical Staff following (1) a substantial breach of in professional conduct, including failing to complete or satisfy any remedial actions related to a probation in a timely fashion, (2) exhibiting seriously deficient clinical performance with regard to clinical technique, clinical judgment, or clinical knowledge, on one or more occasions, (3) repeated incidents of inappropriate professional conduct of a moderate nature, or (4) inappropriate professional conduct of a substantial nature. The specifics of the suspension, including its duration and any necessary remedial actions, shall be at the sole discretion of the Residency Program Director, the Chairman of the Graduate Medical Education Committee, or the President of the Medical Staff. In no instance shall suspension exceed six (6) months, unless completion of necessary remedial action requires a longer period of time and the House Officer is making reasonable effort and progress towards completing any necessary remedial action. The Residency Program Director shall provide the House Officer with written Notice of the implementation of a suspension, which Notice shall set forth the reasons for the suspension, the duration of the suspension, and any necessary remedial actions that need to be completed before the suspension is lifted. During a suspension the House Officer shall be prohibited from performing any clinical activities at the Hospital. During a suspension the House Officer shall be deemed to be on an involuntary leave of absence without pay. The suspension shall be effective from the date of the Notice of suspension regardless of whether the House Officer makes a request for reconsideration.

Upon receipt of the notice of suspension, a House Officer may request that the suspension be reconsidered by submitting to the Residency Program Director a written request for reconsideration within five (5) business days of receipt of the notice of suspension. Simultaneously, the House Officer shall provide the Chairman of the Graduate Medical Education Committee with a copy of the request for reconsideration. The request for reconsideration should state concisely why the House Officer should not be suspended or how and why the suspension should be modified. Within five (5) business days of receipt of the request for reconsideration, the Residency Program Director shall notify the House Officer in writing of the date the Residency Program Director will meet with the House Officer to discuss the House Officer's request for reconsideration. The meeting between the Residency Program Director and the House Officer shall be held no sooner than five (5) business days following the House Officer's receipt of the notice of the reconsideration date from the Residency Program Director and no later than fifteen (15) business days following said notice. Up until three (3) business days prior to the meeting as between the Residency Program Director and the House Officer, the House Officer may submit to the Residency Program Director any written materials the House Officer reasonably believes are relevant and material to the circumstances or matters leading to the suspension.

The meeting between the Residency Program Director and the House Officer to discuss the reconsideration of the suspension shall be informal in nature and need not be recorded. The Chairman of the Graduate Medical Education Committee or his or her

designee shall be present at the meeting between the Residency Program Director and the House Officer to facilitate the discussion, but shall not be a substantive participant in the discussion. At the end of the meeting, the Residency Program Director shall take the issue of reconsideration under advisement and shall not be required make a final decision at that time. Within three (3) business days following the meeting with the House Officer, the Residency Program Director shall provide the House Officer with written notice as to the response to the House Officer's request for reconsideration, which such response shall be one of the following – (i) denial of the request for reconsideration in which case the suspension stands as originally set forth, (ii) modification of the suspension, or (iii) the vacating of the suspension. The Residency Program Director need not provide a written statement explaining or justifying the final decision. The decision of the Residency Program Director shall be final and shall not be subject to further appeal or reconsideration.

If the final decision of the Residency Program Director is to uphold the suspension as originally proposed or to modify the suspension, the Residency Program Director shall notify at the same time that he or she notifies the House Officer of his or her decision the following individuals in writing of his or her decision: the President of the Hospital, the President of the Medical Staff, the Chairman of the Graduate Medical Education Committee and the Director of Human Resources at the Hospital and each such individual shall take whatever administrative actions are appropriate as the result of such suspension. If the final decision is to vacate the suspension the suspension shall be vacated immediately upon notice to the House Officer and the House Officer shall resume full activities within the Graduate Medical Education Program. The House Officer will be entitled to receive the regular compensation the House Officer would have received during the period from the effective date of the suspension until the date the suspension was vacated.

E. (3) Termination - A House Officer may be terminated at any time from a Graduate Medical Education Program by the Residency Program Director or in his absence by either the Chairman of the Graduate Medical Education Committee or the President of the Medical Staff following (1) a serious breach of in professional conduct, including failing to complete or satisfy any remedial actions related to a suspension in a timely fashion, (2) exhibiting grossly deficient clinical performance in clinical technique, clinical judgment, or clinical knowledge, on one or more occasions, (3) repeated incidents of inappropriate conduct of a substantial nature, (4) inappropriate professional conduct of a serious nature, or (5) failure to progress through the different levels of a Graduate Medical Education Program in a timely fashion. The Residency Program Director shall notify the House Officer in writing of his or her termination from the Graduate Medical Education Program. Upon termination, the House Officer shall be deemed to be terminated from the Graduate Medical Education Program and his or her employment agreement with the Hospital shall be deemed to be terminated. Accordingly, upon termination the House Office shall provide no services whatsoever in the Graduate Medical Education Program and shall not be entitled to compensation from the Hospital. The termination shall be effective from the date of the Notice of termination regardless of whether the House Officer makes a request for a hearing to review the termination.

Notice of the termination of the House Officer shall be provided in writing to President of the Hospital, the President of the Medical Staff of the Hospital, the Residency Program Director (if necessary), and the Director of Human Resources at the Hospital. Notice of the termination shall be reported to the Board of Registration in Medicine if required.

In addition to informing the House Officer of his or her termination from the Graduate Medical Education Program, said notice shall also:

- (i) inform the House Officer of the effective date of the termination;
- (ii) state the reason(s) why the House Officer has been terminated;
- (iii) inform the House Officer that he or she has the right to request a hearing to review said termination;
- (iv) informs the House Officer that if he or she desires to request a hearing to review said termination said request must be made in writing and must be submitted to the Chairman of the Graduate Medical Education Committee within five (5) business days of receipt of the notice of termination;
- (v) informs the House Officer of the name of the Chairman of the Graduate Medical Execution Committee and the address to which the request for a hearing should be submitted;
- (vi) informs the House Officer that a failure to request a hearing in a timely fashion shall be deemed to be a waiver of all future rights of reconsideration or appeal.

Within five (5) business days of receipt of a written request for a hearing to review the termination of a House Officer from a Graduate Medical Education Program the Chairman of the Graduate Medical Education Program shall designate in his or her sole discretion a hearing subcommittee to consist on no less than three (3) members and no more than five (5) members of Graduate Medical Education Committee who have had no prior direct involvement in the matters leading to the termination of the House Officer and he or she shall designate one such member to serve as the Chairman of the hearing subcommittee. If the Chairman of the Graduate Medical Education Program cannot compose a hearing subcommittee consistent with the prior sentence, the Chairman of the Graduate Medical Education Program may appoint any other member of the Active Medical Staff to serve on the hearing subcommittee, provided that the total number of members of the hearing subcommittee shall not exceed five (5). The Chairman of the Graduate Medical Education Committee and the Residency Program Director shall not be members of the hearing subcommittee. Also, within five (5) business days of receipt of a written request for a hearing to review the termination of a House Officer from a Graduate Medical Education Program, the Chairman of the Graduate Medical Education Committee shall provide the House Officer requesting the hearing with a written notice informing the House Officer of the following:

- (i) the date, time and location of the hearing, which hearing shall be scheduled not less than five (5) business days nor more than fifteen

- (15) business days from the date of the written notice of the hearing given to the House Officer;
- (ii) the composition of the hearing subcommittee and the identify of the Chairman of the hearing subcommittee;
- (iii) a list of the evidence and a list of the witnesses that will be presented to the hearing subcommittee in support of the decision to terminate the House Office from the Graduate Medical Education Program;
- (iv) that he or she has the right to present relevant evidence and witnesses to the hearing subcommittee;
- (v) that he or she must provide the Chairman of the hearing subcommittee at least three (3) business days prior to the hearing a written list of the evidence and a list of the witnesses the House Officer will present to the hearing subcommittee; and
- (vi) that he or she must indicate to the Chairman of the hearing subcommittee at least three (3) business days prior to the hearing whether the House Officer will be representing himself or herself or whether the House Office will be represented by a member in good standing on the Active Medical Staff.

The hearing before the hearing subcommittee will be conducted in a manner consistent with the following guidelines:

- (i) the Chairman of the subcommittee will control the conduct of the hearing and will make all procedural rulings regarding the conduct of the hearing as they arise;
- (ii) the case for termination of the House Officer will be presented by the Residency Program Director or his or her designee and will be presented first;
- (iii) the House Officer may present his or her case for reversing the termination or may be represented or joined by a member in good standing on the Active Medical Staff of the Hospital;
- (iv) neither the Residency Program Director or the House Officer may be represented by legal counsel;
- (v) each side shall have the right to present all relevant evidence and call witnesses;
- (vi) each side shall have the right to rebut the evidence presented by the other side and to question the witnesses presented by the other side;
- (vii) the Chairman of the hearing subcommittee shall in his or her discretion rule on any question as to whether proffered evidence or testimony is relevant and the Chairman shall not be bound in making such rulings by the formal rules of evidence applicable in a court of law;
- (viii) members of the hearing subcommittee may ask questions of any witness providing testimony before the subcommittee;

- (ix) a record of the hearing will be made and upon written request made within two (2) business days of the conclusion of the hearing will be prepared in a reasonably timely manner at the expense of the requesting party;
- (x) the hearing subcommittee within its discretion may request either the Residency Program Director or the House Officer to present additional information to the hearing subcommittee; and
- (xi) the hearing subcommittee shall have the right to adjourn or continue the evidentiary portion of the hearing until another date or time provided the overall length of the hearing does not extend beyond a period of five (5) business days.

Within five (5) business days of the conclusion of the evidentiary portion of the hearing, the hearing subcommittee shall submit its written findings and recommendations to the Graduate Medical Education Committee through the Chairman of the Graduate Medical Education Committee. At the same time the hearing subcommittee submits its findings and recommendations to the Graduate Medical Education Committee it shall also provide the House Officer with a copy of said findings and recommendations.

Within five (5) business days of receipt of the findings and recommendations of the hearing subcommittee, the Residency Program Director or his or her designee or the House Officer may submit to the Graduate Education Committee through its Chairman a written rebuttal to the findings and recommendations of the hearing subcommittee. The rebuttal may identify additional information (written evidence or witnesses) the Graduate Education Committee should consider, provided the rebuttal contains a detailed explanation as to why such additional information was not presented to the hearing subcommittee.

Within thirty (30) business days of receipt of the findings and recommendations of the hearing subcommittee, the Graduate Medical Education Committee shall review the findings and recommendations of the hearing subcommittee and shall take action on the findings and recommendations of the hearing subcommittee by voting to (i) accept and adopt the findings and recommendations of the hearing subcommittee, (ii) modify the recommendations of the hearing subcommittee in any manner it deems appropriate, (iii) reject the recommendations of the hearing subcommittee and to adopt alternative action or actions, or (iv) reconvene the hearing subcommittee with a specific charge to reconsider the matter. Action consistent with subparts (i), (ii) or (iii) of the preceding sentence shall be considered a Final Decision. If the Graduate Medical Education Committee votes to reconvene the hearing subcommittee, the hearing subcommittee shall be reconvened, complete the assigned charge and resubmit its findings and recommendations to the Graduate Medical Execution Committee within fifteen (15) business days and the Graduate Medical Education Committee shall make a Final Decision within ten (10) business days of the receipt of the findings and recommendations as resubmitted by the hearing subcommittee. In considering and making a Final Decision the Graduate Medical Education Committee may solicit and consider any additional evidence, including additional testimonial evidence, it deems

appropriate without the necessity of reconvening the hearing subcommittee. The Final Decision of the Graduate Medical Education Committee shall be final and shall not be subject to further reconsideration or appeal by any individual or entity.

Within one (1) business day following the making of a Final Decision, the Graduate Medical Education Committee shall provide written Notice of the Final Decision to the President of the Hospital, the President of the Medical Staff of the Hospital, the Residency Program Director, the Director of Human Resources and the House Officer. If required, the Final Decision shall be reported to the Board of Registration in Medicine and any other applicable governmental, professional or insurance entity or organization.

If the Final Decision is to vacate the termination, the termination shall be vacated immediately upon notice to the House Officer and the House Officer shall resume full activities within the Graduate Medical Education Program. The House Officer will be entitled to receive the regular compensation the House Officer would have received during the period from the effective date of the termination until the date the termination was vacated.

F. (4) Non-Renewal of Physician-in-Training Employment Agreement - A House Officer who has been informed by the Hospital and/or the Residency Program Director that his or her Physician-in-Training Employment Agreement will not be renewed as set forth in said Physician-in-Training Employment Agreement shall be deemed to be terminated from the Graduate Medical Education Program effective upon the expiration of the then current term of the Physician-in-Training Employment Agreement.

The notice of non-renewal of the Physician-in-Training Employment Agreement shall: (i)

- inform the House Officer of the effective date of the expiration of the then current term of the Physician-in-Training Employment Agreement;
- (ii) a brief statement of how the House Officer has failed to make satisfactory progress in the Graduate Medical Education Program;
- (iii) inform the House Officer that he or she has the right to request a hearing to review said non-renewal;
- (iv) informs the House Officer that if he or she desires to request a hearing to review said non-renewal said request must be made in writing and must be submitted to the Chairman of the Graduate Medical Education Committee within five (5) business days of receipt of the notice of non-renewal;
- (v) informs the House Officer of the name of the Chairman of the Graduate Medical Execution Committee and the address to which the request for a hearing should be submitted; and
- (vi) informs the House Officer that a failure to request a hearing in a timely fashion shall be deemed to be a waiver of all future rights of reconsideration or appeal.

Within twenty (20) business days of receipt of a written request for a hearing to review the non-renewal the Chairman of the Graduate Medical Education Program shall designate in his or her sole discretion a hearing subcommittee to consist on no less than three (3) members and no more than five (5) members of Graduate Medical Education Committee and he or she shall designate one such member to serve as the Chairman of the hearing subcommittee. The Chairman of the Graduate Medical Education Committee and the Residency Program Director shall not be members of the hearing subcommittee. Also, within twenty (20) business days of receipt of a written request for a hearing to review the non-renewal of a Physician-in-Training Employment Agreement, the Chairman of the Graduate Medical Education Committee shall provide the House Officer requesting the hearing with a written notice informing the House Officer of the following:

- (i) the date, time and location of the hearing, which hearing shall be scheduled not less than twenty (20) business days nor more than thirty (30) business days from the date of the written notice of the hearing given to the House Officer;
- (ii) the composition of the hearing subcommittee and the identify of the Chairman of the hearing subcommittee;
- (iii) that he or she has the right to present relevant evidence and witnesses to the hearing subcommittee;
- (iv) that he or she must provide the Chairman of the hearing subcommittee at least three (3) business days prior to the hearing a written list of the evidence and a list of the witnesses the House Officer will present to the hearing subcommittee; and
- (v) that he or she must indicate to the Chairman of the hearing subcommittee at least three (3) business days prior to the hearing whether the House Officer will be representing himself or herself or whether the House Office will be represented by a member in good standing on the Active Medical Staff.

The hearing before the hearing subcommittee will be conducted in a manner consistent with the following guidelines:

- (i) the Chairman of the subcommittee will control the conduct of the hearing and will make all procedural rulings regarding the conduct of the hearing as they arise;
- (ii) the Residency Program Director or his or her designee will summarize for the Hearing Committee why the House Officer's Physician-in-Training Employment Agreement was not renewed;
- (iii) the House Officer may present his or her case for reversing the non-renewal or may be represented or joined by a member in good standing on the Active Medical Staff of the Hospital;
- (iv) neither the Residency Program Director or the House Officer may be represented by legal counsel;

- (v) each side shall have the right to rebut the evidence presented by the other side and to cross-examine the witnesses presented by the other side;
- (vi) the Chairman of the hearing subcommittee shall in his or her discretion rule on any question as to whether proffered evidence or testimony is relevant and the Chairman shall not be bound in making such rulings by the formal rules of evidence applicable in a court of law;
- (vii) members of the hearing subcommittee may ask questions of any person providing evidence before the subcommittee;
- (viii) a record of the hearing will be made and upon written request made within two (2) business days of the conclusion of the hearing will be prepared in a reasonably timely manner at the expense of the requesting party;
- (ix) the hearing subcommittee shall have the right to adjourn or continue the evidentiary portion of the hearing until another date or time provided the overall length of the hearing does not extend beyond a period of fifteen (15) business days.

Within ten (10) business days of the conclusion of the evidentiary portion of the hearing, the hearing subcommittee shall submit its written findings and recommendations to the Graduate Medical Education Committee through the Chairman of the Graduate Medical Education Committee. At the same time the hearing subcommittee submits its findings and recommendations to the Graduate Medical Education Committee it shall also provide the House Officer with a copy of said findings and recommendations.

Within ten (10) business days of receipt of the findings and recommendations of the hearing subcommittee, the Graduate Medical Education Committee shall review the findings and recommendations of the hearing subcommittee and shall take action on the findings and recommendations of the hearing subcommittee by voting to (i) accept and adopt the findings and recommendations of the hearing subcommittee, (ii) modify the recommendations of the hearing subcommittee in any manner it deems appropriate, or (iii) reject the recommendations of the hearing subcommittee and to adopt alternative action or actions. Action consistent with subparts (i), (ii) or (iii) of the preceding sentence shall be considered a Final Decision. In considering and making a Final Decision the Graduate Medical Education Committee may solicit and consider any additional evidence, including additional testimonial evidence, it deems appropriate without the necessity of reconvening the hearing subcommittee. The Final Decision of the Graduate Medical Education Committee shall be final and shall not be subject to further reconsideration or appeal by any individual or entity.

Within one (1) business day following the making of a Final Decision, the Graduate Medical Education Committee shall provide written Notice of the Final Decision to the Residency Program Director and the House Officer. Within one (1) business day following the making of a Final Decision to uphold the decision to not renew the Physician-in-Training Agreement, the Graduate Medical Education Committee shall

provide written Notice of the Final Decision to the President of the Hospital, the President of the Medical Staff of the Hospital, and the Director of Human Resources of the Hospital. If required, the Final Decision shall be reported to the Board of Registration in Medicine and any other applicable governmental, professional or insurance entity or organization.

(5) Non-Promotion to the Next Level of Training – The Residency Program Director may inform a House Officer that he or she will not be promoted to the next level of training if the Residency Program Director has determined that the House Officer has not adequately met the requirements associated with academic knowledge, clinical performance or professional conduct to warrant promotion to the next level of training.

A notice of non-promotion shall be provided to the House Officer which shall:

- (i) inform the House Officer that he or she has not been promoted to the next level of training;
- (ii) a brief statement of why the House Officer was not promoted to the next level of training;
- (iii) inform the House Officer that he or she has the right to request a hearing to review said non-promotion;
- (iv) informs the House Officer that if he or she desires to request a hearing to review said non-promotion said request must be made in writing and must be submitted to the Chairman of the Graduate Medical Education Committee within five (5) business days of receipt of the notice of non-promotion;
- (v) informs the House Officer of the name of the Chairman of the Graduate Medical Execution Committee and the address to which the request for a hearing should be submitted; and
- (vi) informs the House Officer that a failure to request a hearing in a timely fashion shall be deemed to be a waiver of all future rights of reconsideration or appeal.

Within twenty (20) business days of receipt of a written request for a hearing to review the non-promotion the Chairman of the Graduate Medical Education Program shall designate in his or her sole discretion a hearing subcommittee to consist on no less than three (3) members and no more than five (5) members of Graduate Medical Education Committee and he or she shall designate one such member to serve as the Chairman of the hearing subcommittee. The Chairman of the Graduate Medical Education Committee and the Residency Program Director shall not be members of the hearing subcommittee. Also, within twenty (20) business days of receipt of a written request for a hearing to review the non-promotion, the Chairman of the Graduate Medical Education Committee shall provide the House Officer requesting the hearing with a written notice informing the House Officer of the following:

- (i) the date, time and location of the hearing, which hearing shall be scheduled not less than twenty (20) business days nor more than thirty (30) business days from the date of the written notice of the hearing given to the House Officer;
- (ii) the composition of the hearing subcommittee and the identify of the Chairman of the hearing subcommittee;
- (iii) that he or she has the right to present relevant evidence and witnesses to the hearing subcommittee;
- (iv) that he or she must provide the Chairman of the hearing subcommittee at least three (3) business days prior to the hearing a written list of the evidence and a list of the witnesses the House Officer will present to the hearing subcommittee; and
- (v) that he or she must indicate to the Chairman of the hearing subcommittee at least three (3) business days prior to the hearing whether the House Officer will be representing himself or herself or whether the House Office will be represented by a member in good standing on the Active Medical Staff.

The hearing before the hearing subcommittee will be conducted in a manner consistent with the following guidelines:

- (i) the Chairman of the subcommittee will control the conduct of the hearing and will make all procedural rulings regarding the conduct of the hearing as they arise;
- (ii) the Residency Program Director or his or her designee will summarize for the Hearing Committee why the House Officer was not promoted to the next level of training;
- (iii) the House Officer may present his or her case for reversing the non-promotion or may be represented or joined by a member in good standing on the Active Medical Staff of the Hospital;
- (iv) neither the Residency Program Director or the House Officer may be represented by legal counsel;
- (v) each side shall have the right to rebut the evidence presented by the other side and to cross-examine the witnesses presented by the other side;
- (vi) the Chairman of the hearing subcommittee shall in his or her discretion rule on any question as to whether proffered evidence or testimony is relevant and the Chairman shall not be bound in making such rulings by the formal rules of evidence applicable in a court of law;
- (vii) members of the hearing subcommittee may ask questions of any person providing evidence before the subcommittee;
- (viii) a record of the hearing will be made and upon written request made within two (2) business days of the conclusion of the hearing will be prepared in a reasonably timely manner at the expense of the requesting party;

- (ix) the hearing subcommittee shall have the right to adjourn or continue the evidentiary portion of the hearing until another date or time provided the overall length of the hearing does not extend beyond a period of fifteen (15) business days.

Within ten (10) business days of the conclusion of the evidentiary portion of the hearing, the hearing subcommittee shall submit its written findings and recommendations to the Graduate Medical Education Committee through the Chairman of the Graduate Medical Education Committee. At the same time the hearing subcommittee submits its findings and recommendations to the Graduate Medical Education Committee it shall also provide the House Officer with a copy of said findings and recommendations.

Within ten (10) business days of receipt of the findings and recommendations of the hearing subcommittee, the Graduate Medical Education Committee shall review the findings and recommendations of the hearing subcommittee and shall take action on the findings and recommendations of the hearing subcommittee by voting to (i) accept and adopt the findings and recommendations of the hearing subcommittee, (ii) modify the recommendations of the hearing subcommittee in any manner it deems appropriate, or (iii) reject the recommendations of the hearing subcommittee and to adopt alternative action or actions. Action consistent with subparts (i), (ii) or (iii) of the preceding sentence shall be considered a Final Decision. In considering and making a Final Decision the Graduate Medical Education Committee may solicit and consider any additional evidence, including additional testimonial evidence, it deems appropriate without the necessity of reconvening the hearing subcommittee. The Final Decision of the Graduate Medical Education Committee shall be final and shall not be subject to further reconsideration or appeal by any individual or entity.

Within one (1) business day following the making of a Final Decision, the Graduate Medical Education Committee shall provide written Notice of the Final Decision to the Residency Program Director and the House Officer. If required, the Final Decision shall be reported to the Board of Registration in Medicine and any other applicable governmental, professional or insurance entity or organization.

V. GRIEVANCE PROCEDURE

A. A House Officer shall have the right to communicate and exchange general information on his or her working environment or his or her Graduate Medical Education Program in a confidential and protected manner. The House Officer shall be afforded the right to communicate and exchange information without fear of intimidation or retaliation on the part of the Hospital or the Graduate Medical Education Committee. To exchange such information the House Officer shall have the right to request a private meeting with their Residency Program Director. If the House Officer reasonably believes that he or she can not communicate or exchange such information directly with the Residency Program Director he or she may request a private meeting with the Chairman of the Department, and if the House Officer reasonably believes that he or she can not

communicate or exchange such information directly with the Chairman of the Department, he or she may request a private meeting with the Chairman of the Graduate Medical Education Committee. All such requests for a private meeting shall be in writing and shall provide a brief discussion of the matters to be discussed. Upon receipt of such a request, the Residency Program Director, the Chairman of the Department and/or Chair of the Graduate Medical Education Committee shall make all reasonable efforts to meet with the House Officer within fifteen (15) business days. The meeting shall be informal in nature. The Residency Program Director, the Chairman of the Department and/or Chairman of the Graduate Medical Education Committee shall document that the meeting was requested and held and shall document any conclusion reached at the meeting, if any.

B. If a House Officer has a formal complaint or grievance as against another House Officer, Residency Program Director or other individual at the Hospital, the House Officer shall first bring the matter to the attention of the Chief Resident. If the Chief Resident is unable to satisfactorily resolve the matter or is the focus of the complaint or grievance, the House Office shall bring the matter to the attention of the Chairman of the Department. If the Chairman of the Department is unable to satisfactorily resolve the matter or is the focus of the complaint or grievance, the House Officer shall bring the matter to the attention of the Chairman of the Graduate Medical Education Committee. If the Chairman of the Graduate Medical Education Committee is unable to satisfactorily resolve the matter or is the focus of the complaint or grievance, the House Office may request to appear before the full Graduate Medical Education Committee. In each instance the House Officer's complaint or grievance must be in writing. Upon receipt of a formal written complaint or grievance the Chief Resident, Chairman of the Department or Chairman of the Graduate Medical Education Committee shall make reasonable efforts to meet with the House Officer within fifteen (15) business days. At such level as the complaint or grievance is resolved to the satisfaction of the House Officer, the House Officer shall sign a written statement of the resolution agreed upon. If the complaint or grievance reaches the full Graduate Medical Education Committee, the decision of the Graduate Medical Education Committee shall be final and shall be subject to no further appeals or reviews.