

## LEHIGH VALLEY HOSPITAL GRADUATE TRAINING AGREEMENT

This AGREEMENT made between **Lehigh Valley Hospital**, a Pennsylvania non-profit corporation having its office at Cedar Crest Boulevard & I-78, P.O. Box 689, Allentown, Lehigh County, Pennsylvania, party of the first part (hereinafter called "LVH") and <<firstname>> <<lastname>> <<credentials>> (herein after called "Graduate Trainee").

### WITNESSETH:

WHEREAS, LVH provides patient care, medical education, and research in accordance with accepted professional standards; and

WHEREAS, the Graduate Trainee desires to begin or to continue a residency or fellowship in <<program>> at LVH.

Now, THEREFORE, in consideration of the covenants and agreements herein contained, intending to be mutually bound hereby, the parties agree as follows:

### ARTICLE I

#### 1. APPOINTMENT

- 1.1 LVH hereby appoints the Graduate Trainee to a beginning or continuing residency or fellowship for the period <<startdate>> *to* <<enddate>> as a **PGY**<<pgy>> Graduate Trainee following the compensation and benefits as set forth in Appendix I.
- 1.2 The Graduate Trainee acknowledges that this appointment is subject to the policies, procedures, rules and regulations of Lehigh Valley Health Network (LVHN) hospitals and is contingent upon fulfillment of the applicable medical licensure requirements of the Pennsylvania State Board applicable to Graduate Trainee . Should the Graduate Trainee fail to obtain a Graduate Training License prior to the starting term of this contract or have this licensure suspended or revoked, this agreement may be terminated immediately.
- 1.3 A trainee must complete a pre-requisite training program prior to starting term of this contract as defined by each individual training program.

### ARTICLE II

#### 2. GRADUATE PROGRAM

- 2.1 The hospital will ensure that all residency programs define, in accordance with its program requirements, the Specific knowledge, skills, attitudes, and educational experiences required in order for each Graduate Trainee to demonstrate the following (i.e. written curriculum):
  - 2.1.1 **Patient care** that is compassionate, appropriate, and effective for the treatment of health problems and the promotion of health;
  - 2.1.2 **Medical knowledge** about established and evolving biomedical, clinical, and cognate (e.g., epidemiological and social-behavioral) sciences and the application of this knowledge to patient care;
  - 2.1.3 **Practice-based learning and improvement** that involves investigation and evaluation of their own patient care, appraisal and assimilation of scientific evidence, and improvements in patient care;
  - 2.1.4 **Interpersonal and communication skills** that result in effective information exchange and teaming with patients, their families, and other health professionals;
  - 2.1.5 **Professionalism**, as manifested through a commitment to carrying out professional responsibilities, adherence to ethical principles, and sensitivity to a diverse patient population;
  - 2.1.6 **Systems-based practice**, as manifested by actions that demonstrate an awareness of and responsiveness to the larger context and system for health care and the ability to effectively call on system resources to provide care that is of optimal value.

2.1.7 **Osteopathic Philosophy and Osteopathic Manipulative Medicine**, where applicable Graduate Trainees are expected to demonstrate and apply knowledge of accepted standards in Osteopathic Manipulative Treatment (OMT) appropriate to their specialty. The educational goal is to train a skilled and competent osteopathic practitioner who remains dedicated to life-long learning and to practice habits in osteopathic philosophy and manipulative medicine. In addition, the Sponsoring Institution must ensure that Graduate Trainees:

- 2.1.7.1 Develop a personal program of learning to foster continued professional growth with guidance from the teaching staff;
- 2.1.7.2 Participate fully in the educational and scholarly activities of their program and, as required, assume responsibility for teaching and supervising other Graduate Trainees and students;
- 2.1.7.3 Have the opportunity to participate on appropriate institutional and departmental committees and councils whose actions affect their education and /or patient care;
- 2.1.7.4 Participate in an educational program regarding physician impairment, including substance abuse.

2.2 LVH agrees to provide:

- 2.2.1 A working environment conducive to learning which includes access to food while on duty, private sleep/rest facilities, private facilities for lactation, proper security measures, and accommodations for residents with disabilities consistent with the standards of the Accreditation Council for Graduate Medical Education requirements;
- 2.2.2 A suitable academic environment for an educational experience contributing to the development of those skills necessary in the Graduate Trainee's specialty area;
- 2.2.3 A training program that meets the standards of the Accreditation Council for Graduate Medical Education (ACGME), and/or the Accreditation Council for Graduate Medical Education Osteopathic Recognition (ACGME OR) or the Commission on Dental Accreditation (CODA);
- 2.2.4 An LVH certificate upon satisfactory completion of the Graduate Training Program requirements.

2.3 The hospital is an equal opportunity employer, affirmative action employer and selection of Graduate Trainees in educational programs is conducted under applicable federal and state laws. The hospital does not discriminate on the basis of sex, race, age, religion, national origin, handicap or other prohibited matters in employment, in educational programs and activities in admission. Inquiries or complaints may be addressed to the Human Resources at the hospital.

### **ARTICLE III**

#### **3. DUTIES**

The Graduate Trainee agrees to:

- 3.1 Perform satisfactorily the customary responsibilities expected of the Graduate Trainee as determined by his/her Program and with the expected knowledge commensurate with his/her level of training;
- 3.2 Perform satisfactorily the academic requirements necessary to meet the specialty specific program competencies (i.e., oral mock exams, research projects and case presentations) and demonstrate that competency to the program director before promotion or graduation is granted;
- 3.3 Fully comply with all hospital and health network initiatives to improve patient safety;
- 3.4 Fully comply with all hospital and health network employment of technology, including but not limited

to, the electronic medical record;

- 3.5 Present at all times a proper appearance and courteous attitude toward all patients, visitors and colleagues (hospital and medical staff) pursuant to LVHN hospitals' policies;
- 3.6 Complete the patient's medical records within the required time frames as specified in the Medical Staff Bylaws, including provision of all dictations and signatures;
- 3.7 Obtain appropriate life support certification prior to initiating patient care activities and maintain certification at all times with any specific specialty licensure requirements that need to be met (i.e., BLS, PALS, ACLS, ATLS, etc) per the "Life Support Provider Status" GME policy.
- 3.8 Abstain from any outside work, whether remunerative or not, except as specifically approved by the Program Director in writing
- 3.9 Cooperate with LVH in the investigation of any incident and in the investigation and preparation of any matter for trial which in any manner involves the Graduate Trainee. This provision shall survive the termination of the Agreement;
- 3.10 Abide by applicable local, state, and federal laws and regulations, as well as LVHN hospitals' policies and procedures.
- 3.11 It is expected that residents reside within 20 miles of the primary training site, subject to program specific requirements for further details.

#### **ARTICLE IV**

#### **4. PROBATION, SUSPENSION AND TERMINATION**

- 4.1 For proper cause, LVH reserves the right to place on probation, suspend or terminate the Graduate Trainee without pay upon notice, thereof, as determined by the Program Director and/or Department Chair following due process as set forth in Appendix II "**Institutional Guidelines for Evaluation, Promotion, Remediation, and Discipline.**"

#### **ARTICLE V**

#### **5. RELEASE OF INFORMATION**

- 5.1 The Graduate Trainee understands and agrees that should another institution, organization, or individual to which the Graduate Trainee has applied request a reference from LVH, LVH shall provide all information it possesses concerning the Graduate Trainee, including information relating to any adverse actions, suspension or termination of this Agreement. The Graduate Trainee hereby authorizes LVH to release such information under these circumstances, either during the term of this Agreement or thereafter and to indemnify and hold harmless LVH ,its parent and affiliates, together with their respective employees and agents from any liability arising from that disclosure.

#### **ARTICLE VI**

#### **6. MISCELLANEOUS PROVISIONS**

- 6.1 LVHN hospitals' policies require post-offer, pre-employment physical performed by Employee Health Services, and specific laboratory tests for all employees. This examination includes a test for Tuberculosis and a urine drug and alcohol screen. Employment under this agreement is contingent upon successfully passing this medical examination, including the drug screen.
- 6.2 The Graduate Trainee shall have a record showing, or agree to meet the following requirements:
  - 6.2.1 Laboratory proof of immunity or appropriate immunization against:
    - 6.2.1.1 Measles - initial immunization and a booster
    - 6.2.1.2 Mumps - initial immunization and a booster

- 6.2.1.3 Rubella - initial immunization
- 6.2.1.4 Varicella initial immunization and 1 booster.
- 6.2.2 If history of a positive tuberculin skin test (TST) or positive tuberculosis (TB) blood test (Interferon Gamma Release Assay or IGRA), a chest x-ray within 3 months of the start date indicating no disease.
- 6.2.3 Disclosure of any history of Hepatitis A, B or C, and existence of a carrier state. If present, additional medical information, including recent viral load results must be provided to the Employee Health Office so that the expert review panel can determine the need for restrictions or accommodations.
- 6.2.4 A recent Hepatitis B surface antigen titer and Hepatitis C antibody titer for Graduate Trainees providing direct patient care. Record should show completed Hepatitis B vaccine or laboratory evidence of immunity.
- 6.2.5 Annual influenza vaccination is required, unless an exemption is granted for a legitimate medical reason or a sincerely held, bona fide religious belief pursuant to LHN hospitals' policies.
- 6.3 This Agreement is contingent upon your successful completion of all pre-employment requirements, including, but not limited to, all background clearances and medical clearances. The hospital policies require a Pennsylvania Criminal History Record Check for all candidates prior to employment. Finger printing and a Child Abuse Clearance is also required under the Pennsylvania Child Protective Services Law for all employees. Additionally, employees who will be working in Transitional Skills Unit, Home Care or Hospice and have not lived in Pennsylvania for the most recent two years will be required to successfully pass the requirements of Older Adult Protective Services. Employment under this agreement is contingent upon successful clearance of these processes. **YOUR SIGNATURE BELOW AUTHORIZES THE HOSPITAL TO PERFORM THIS CRIMINAL HISTORY RECORD CHECK.**

Please note that due to the evolving COVID-19 global pandemic, your employment is contingent upon national, regional, and LVHN policies that are evolving to address this crisis. As such, you may be required to complete steps such as quarantine, additional screenings, or other procedural items that have yet to be defined. You should prepare to be available for such additional steps as early as May 15, 2021. Additionally, we strongly recommend that you not travel unnecessarily during the weeks leading up to May 15, 2021 and your official start date, as doing so may impact your eligibility to begin as scheduled.

- 6.4 Where applicable, in the event the Graduate Trainee does not meet requirements in accordance with the policies of LVHN hospitals, the name of the Graduate Trainee will be submitted to the National Residency Matching Program, and/or other regulatory bodies as necessary, with a request to release said Graduate Trainee from the match obligation.
- 6.5 Upon satisfactory professional and academic performance, acceptable to the Program and upon completion of the academic year, the Graduate Trainee will be offered a Graduate Training Agreement for the following academic year if applicable. .
- 6.6 If a Graduate Trainee will not be offered an agreement for the following academic year, the program will utilize reasonable efforts to provide the Graduate Trainee with a written notice of intent not to provide a new Agreement no later than 16 weeks prior to the end of the current Graduate Training Agreement. If the primary reason(s) for not offering a new Agreement occurs within the last 16 weeks of training level prior to the end of the agreement, the Program will ensure that the Graduate Trainee is provided with as much written notice of the intent not to renew as the circumstances will reasonably allow prior to the end of the training agreement. Graduate Trainees will be allowed to implement the institution's Appeals Committee set forth in Appendix II, of the graduate training agreement, when they have received a written notice of intent not to provide a Graduate Training Agreement for the subsequent academic year.

- 6.7 In the event of program reduction or program closure, LVH will make efforts to phase out the program to allow the Graduate Trainees to finish their training and will assist Graduate Trainees in securing another position.
- 6.8 Professional and patient care activities external to the Graduate Trainee's educational program are known as moonlighting. The Graduate Trainee agrees to abide by the institutional and program policy regarding moonlighting, including but not limited to, the "Moonlighting and Other Professional Activities Outside of the Program." Policy. Professional liability insurance will only be provided for approved moonlighting activities.
- 6.9 All clinical and academic activities that foster Graduate Trainee education and facilitate the care of patients are defined as duty hours. The Graduate Trainee agrees to abide by the institutional and program policies in accordance with the ACGME regarding duty hours. For specific policy information, please refer to the "Duty Hours." policy.

## **ARTICLE VII**

### **7. GRADUATE MEDICAL EDUCATION POLICIES**

- 7.1 Graduate Medical Education Policies - A complete set of policies can be found on the website: [www.lvhn.org/Research\\_and\\_Education/Residents](http://www.lvhn.org/Research_and_Education/Residents)

## **ARTICLE VIII**

### **8. HOSPITAL POLICIES**

- 8.1 Lehigh Valley Health Network Policies that apply to the Hospital and residents – A complete set of policies including Human Resource Policies can be found on the LVHN Intranet: [www.lvhn.com](http://www.lvhn.com), click on Department, Non-clinical, Human Resources. LVHN Policy and Procedure Manuals can also be found on the LVHN Intranet: [www.lvhn.com](http://www.lvhn.com), click on Resources, LVHN Policy and Procedure Manuals, Manuals. Graduate Medical Education policies supersede HR policy statements.

## **ARTICLE IX**

### **9. STATE REQUIREMENTS**

- 9.1 The laws of the Commonwealth of Pennsylvania shall govern this agreement.

In WITNESS WHEREOF, the parties have in good faith, and intending to be legally bound, executed this Agreement as of the day and year first above written.

<<s:sig1\_\_\_\_\_>>  
<<firstname>> <<lastname>> <<credentials>>

<<s:sig2\_\_\_\_\_>>  
<<programdirector>>

<<s:sig3\_\_\_\_\_>>

**Designated Institutional Official**

Attachments:      Appendix I - Hospital Compensation and Benefits  
                          Appendix II - Institutional Guidelines for Evaluation, Promotion, Remediation, and Discipline  
                          Appendix III – Institutional Guidelines for Fair Hearing Process

Revised: October 12, 2020



**LEHIGH VALLEY HEALTH NETWORK  
GRADUATE TRAINING AGREEMENT  
APPENDIX 1 - HOSPITAL COMPENSATION AND BENEFITS**

**1. Salary**

1.1 For the term of this appointment, the Graduate Trainee's **PGY** <<pgy>> annualized salary of \$ <<compensation>> shall be payable biweekly.

**2. Paid Time Off (PTO), Sick Time, Leaves Of Absence**

2.1 All Paid Time Off (PTO) must be approved by the Program Director, or designee, and is granted in accordance with the residency program's PTO policy. PTO is not cumulative and must be taken within the time frame of this agreement. Unused PTO will not be reimbursed nor carried over from year to year. For program-specific PTO allowances, graduate trainees should refer to their residency program's policy manual.

2.2 Twelve (12) days of paid sick time each year, which can be accumulated to a maximum of eighty-four (84) paid days. Unused sick time will not be compensated.

2.3 Leave of absences i.e., Family Medical Leave of Absence (FMLA) and Leave of Absence (LOA) can be granted in accordance with LVHN policies. FMLA- Human Resources Policy 3001 and LOA, Human Resources Policy 3002.

2.4 For successful completion of residency requirements, all time off must be in accordance with the certifying Board. (See "Effect of Leave" Policy No. 2005.15.)

2.5 Personal Leave – a personal leave may be granted to a graduate trainee upon review of the circumstances by the Program Director. All eligible Paid Time Off (PTO) for that year must be used during this period. The personal leave not covered by PTO is without pay and is limited to 60 days per HR policy 3002. . (See Policy No. 2005.20 and 2005.21)

**3. Insurance Benefits**

3.1. Health and Dental Insurance shall be provided for the Graduate Trainee, spouse, and eligible children in accordance with LVHN policies.

3.2. Professional liability insurance in accordance with Pennsylvania Law, Act III as amended by Act 135, shall be provided to the Graduate Trainee, to be renewed on an annual basis, directly related to the training program. A copy of their certificate of insurance will be on file in the Department of Risk Management. Outside activities (i.e., moonlighting) must be approved by the Program Director and LVHN will not provide professional liability insurance for these activities unless special approval is given by the Risk Management Department. For specific policy information, refer to "Professional Liability Insurance" Policy No. 2005.14.

3.3. Term life insurance equal to twice the annual stipend; short term disability with 60% of base pay from the 31st calendar day of disability and long-term disability with 60% of base pay from the 181st calendar day of disability insurance in accordance with LVHN policies. See HR Summary on Description of Short and Long Term Disability Plan.

**4. Provisions For On-Call Duty Hours**

4.1. During the on-call duty hours in-house at LVHN, meals/meal allotments will be subsidized, and living quarters will be provided in accordance with the requirements of the Accreditation Council for Graduate Medical Education or the American Dental Association.

**5. Continuing Education Funds**

- 5.1. Graduate Trainees are provided an annual amount of \$1,500 in Continuing Education Funds for approved expenses. Up to \$500 of the \$1,500 annual total may be used for technology and durable medical equipment purchases. Per the Continuing Education Funds for Graduate Trainees policy, educational technology and durable medical equipment payment dollars are subject to all applicable federal, state, and local income taxes and consistent with IRS regulations. Travel to scientific meetings shall be in accordance with LVH policy and at the discretion of the program director. Every Graduate Trainee shall be allowed one (1) conference during their residency, not to exceed five (5) days including travel, as approved by the program director.
- 5.2. Additional conferences and funding shall be granted at the discretion of the program director. The appropriate request form must be completed and approved prior to the conference in accordance with LVHN policy. Reimbursement will be given per LVHN's Business Travel and Entertainment policy.

**6. Additional Benefits**

- 6.1. Employee Assistance Program (EAP) is available for up to five (5) free counseling sessions which includes both employee and their dependents per year. The EAP provides guidance to the graduate trainee to help address problems including personal, financial, addictions, marital/family disorders and divorce and to provide medical and psychological support.
- 6.2. Adjudication of graduate trainee complaints and grievances related to the work environment or issues related to the program or faculty may be addressed using the Institutional Guidelines for Evaluation, Promotion, Remediation, and Discipline. For specific policy information, please refer to Appendix II of the Graduate Training Agreement (except for those areas covered under the Institutional Guidelines for Graduate trainee Fair Hearing Process found as Appendix III of the Graduate Training Agreement.)

Revised: October 12, 2020  
GMEC



**LEHIGH VALLEY HOSPITAL  
GME Policy and Procedures**

**Effective Date: June 24, 2020**

**Replacing: Appendix II: GME Disciplinary Action Review Graduate Trainee Fair Hearing Plan and Procedure for Graduate Trainee Grievance**

**Originating Department/Committee: Department of Education /Graduate Medical Education Committee**

**GRADUATE TRAINING AGREEMENT**

**Appendix II: Institutional Guidelines for Evaluation, Promotion, Remediation, and Discipline**

**I. PURPOSE**

Lehigh Valley Health Network (LVHN) maintains a uniform process of evaluation, promotion, remediation, and discipline of all Graduate Trainees (hereafter collectively referred to as Graduate Trainees) enrolled in an LVHN graduate medical education program. A process has been identified for progressive constructive remediation or discipline to inform Graduate Trainees who are not meeting their residency program's expectations of how and why their performance is not acceptable and how the Graduate Trainee must improve to meet the program's standards.

The purpose of this policy is to provide a process that shall serve as a guide to the Residency Program Director (Program Director) in the evaluation, promotion, remediation, or discipline of Graduate Trainees. These guidelines set forth the procedures by which Graduate Trainees are evaluated, promoted, and disciplined; how identified academic deficiencies are remediated; and the grievance process by which Graduate Trainees can appeal an adverse action taken by the Program Director of the appropriate residency program. Uniform guidelines also insure the elements of fairness and due process.

This Policy also establishes two separate disciplinary procedures: (i) Appeals Committee; and (ii) Fair Hearing.

Any adverse action which results in LVHN reporting a National Practitioner Data Bank (NPDB) entry, shall entitle the Graduate Trainee to the rights set forth in the Graduate Trainee Fair Hearing Plan.

**II. DEFINITIONS**

**Administrative Leave** – a leave from clinical duties with compensation and benefits that does not exceed 15 days and does not trigger any Appeals Committee or Fair Hearing rights.

**Adverse Action** - A decision by the Program Director to issue a formal reprimand, to place on probation, to suspend, to declare in breach of contract, or to terminate employment of a Graduate Trainee.

**DIO** – Designated Institutional Official – A liaison to the Accreditation Council for Graduate Medical Education. At LVHN, the DIO is an ex officio member and chair of the Graduate Medical Education Committee. The DIO provides leadership within the Office of Graduate Medical Education within LVHN's Department of Education and reports to the Chief Medical Officer.

**DOE** – Department of Education – The central administrative support structure for education at LVHN.

**DME** – Director of Medical Education – The DME, in collaboration with the DIO, provides administrative oversight over the Office of Graduate Medical Education (OGME) and central GME support services at LVHN. He/she reports to the Chief of the Department of Education.

**GME** – Graduate Medical Education

**GMEC** – Graduate Medical Education Committee

**Appeals Committee (AC)** – The primary mechanism by which Graduate Trainees can appeal an adverse action.

**Fair Hearing Committee (FHC)** – The review committee triggered by an adverse action that rises to the level of reporting to the National Practitioner Data Bank (NPDB)

**Hospital** – Lehigh Valley Hospital as the Sponsoring Institution.

**Program Director** – A qualified physician, or dentist, who meets ACGME or other accrediting agency qualifications and who is appointed by the institution. The program director has primary responsibility for the organization, implementation, and supervision of all aspects of the specified LVHN training program

**Graduate Trainee (includes resident and fellows)** – A graduate of a medical, osteopathic, dental school, holding the relevant professional degree (MD, DO, DDS, DMD) and formally enrolled in an Lehigh Valley Health Network accredited or approved medical or dental graduate training program.

**Residency Review Committee (RRC)** - The committee of the ACGME that is responsible for oversight of the residency program requirements for that specialty.

**Remediation** – Plan developed by the Program Director to correct deficiencies identified in a Graduate Trainee's academic and/or clinical performance.

**Special Notice** – Written notification by certified or registered mail, return receipt requested, or delivered in person.

### **III. CAUSES FOR ADVERSE ACTION**

Subject to the procedures provided herein, the Hospital reserves the right, in the discretion of the Program Director, and/or Department Chair or their designee, to take any and all adverse actions deemed necessary including but not limited to probation, suspension, or termination. Conduct necessitating adverse actions may include, but is not limited to:

- Failure to meet the standards of patient care;
- Failure to complete and maintain medical records in accordance with institutional and/or Accreditation Board requirements;
- Inappropriate or illegal use of medication, drugs, or alcohol;
- Failure to take and pass USMLE Step III/COMLEX Step III, as set forth by program and institutional requirements; (see Policy No. 2005.38 and 2005.40);
- Failure to maintain any and all appropriate licensure necessary to participate in the Residency program including, but not limited to a valid Graduate Training License from the Pennsylvania State Board of Medicine;
- Failure to comply with any applicable bylaws, policies, procedures, rules or regulations of the LVHN hospitals and/or Accreditation Boards;
- Failure to meet visa requirements for Graduate Trainees that are non-U.S. citizens;
- Violation of the Graduate Training Agreement;
- Inability to interact constructively with patients, staff or fellow Graduate Trainees; or
- Any other conduct, behavior or failure determined, in the sole discretion of the Hospital, to be contrary to the spirit of the Residency Program or the safe and orderly practice of medicine or disruptive to the Hospital and/or its employees, patients and visitors.

### **IV. ROLE OF OFFICE OF GME:**

The Office of GME (OGME) provides institutional oversight for all graduate medical education programs throughout LVHN. The OGME is charged with the responsibility for insuring that fair institutional policies and procedures are established for the selection, evaluation, promotion, and dismissal of Graduate

Trainees in compliance with institutional and program requirements of the Accreditation Council for Graduate Medical Education (ACGME) or other respective accrediting organizations. The OGME and the residency program will collaborate with Human Resources (HR) when disciplinary or performance issues involve a violation of established network policies.

The Chief Medical Officer, the Chief Academic Officer, the Designated Institutional Official, and the Director of Medical Education each shall serve as resources to both Graduate Trainees and program directors when issues arise regarding academic performance, disciplinary concerns, and the establishment and maintenance of fair and appropriate institutional and program policies and procedures. The OGME shall mediate issues between Graduate Trainees and Program Directors upon request by either the Graduate Trainee or Program Director and shall insure that the established policies and procedures outlined in this document are followed when formal adverse action is taken against a Graduate Trainee.

**V. DEPARTMENT OR DIVISION COMMITTEES:**

The following committees shall be established and maintained within each Department or Division that operates a residency program(s).

**A. Graduate Trainee Evaluation and Promotion Committee**

Each residency program shall maintain a Clinical Competency Committee (CCC) or comparable entity as a standing committee within the Department or Division. In accordance with ACGME or other relevant accreditation commission requirements, the CCC shall meet periodically to review the performance of each Graduate Trainee. This periodic review shall take place at least every 6 months or more frequently as required by specialty-specific Resident Review Committee (RRC) requirements.

The CCC shall determine the evaluation tools that have a clear role in promotion recommendations and shall adopt its own criteria for promotion within each category and at each level of training. Standards for promotion shall be communicated to all Graduate Trainees within the program's written Residency Manual and shall be reviewed with Graduate Trainees at least annually.

**1. CCC Members**

The CCC shall be composed of at least 3 individuals and shall include the Program Director, Assistant/Associate Program Director (s) (if applicable) and ad hoc member(s) of the faculty. The Department Chair shall approve all ad hoc members of the Committee. The moderator of the CCC must be in accordance with RRC guidelines. When a Division is too small to maintain its own CCC, ad hoc members may be appointed from a Department's other divisions.

**2. CCC Procedures**

**a. Periodic Reviews**

At its meetings, the CCC shall review the written report from the previous Committee meeting as well as review all available evaluative information submitted for the current time period under review including, but not limited to, written evaluations, documentation of procedural skills, conference attendance, written and oral examination scores (including In-Training Examinations), quality assurance issues, medical record completion history, disciplinary/incident reports and any other relevant data that may be brought to the attention of the CCC.

The CCC shall maintain a written report of each meeting that summarizes individual Graduate Trainee performance and progress and specifies the CCC's recommendations for Graduate Trainee advancement in training, remediation of academic deficiencies, probationary status and/or disciplinary sanctions. Graduate Trainees shall be notified of CCC findings by the Program Director during scheduled Program Director meetings as required by the Residency Review Committee (RRC). In addition, promotion decisions, adverse actions, or remediation plans shall be communicated in writing by the Program Director to the Graduate Trainee. Adverse actions and remediation plans must be communicated within 10 business days of final decision by CCC and/or Program Director. Such written communications shall become part of the Graduate Trainee's file.

The CCC serves in an advisory capacity to the Program Director and its recommendations are

not binding on the Program Director. In accordance with ACGME requirements, the CCC must make recommendations regarding promotion to the next level of training or dismissal at least 16 weeks prior to the end of current training level. Should the CCC recommend dismissal of a Graduate Trainee or non-promotion to the next training level, it must dismiss or non-promote within the same time frame. For instances of non-promotion, the Program Director must specify, in writing, the anticipated length of time the Graduate Trainee will remain at same training level, remediation plans and performance expectations of the Graduate Trainee during that time frame along with an anticipated date for next review by CCC (may be ad hoc or regularly scheduled meeting).

If the primary reason(s) for non-promotion or dismissal of a Graduate Trainee occurs within the last 16 weeks of training level, the Graduate Trainee will be provided with as much written notice of the intent not to promote as circumstances reasonably allow, prior to the end of the current level.

Graduating Graduate Trainees will be reviewed by the CCC during their last year of training at which time commendations for graduation, Board eligibility, license credit, and specialty/subspecialty training credit must be made and documented.

b. CCC Ad Hoc Meetings

The CCC also may be convened on an ad hoc basis at the Program Director's request to review a Graduate Trainee's poor academic performance, remediation progress, critical incident in patient care, or a specific disciplinary issue that occurs. The CCC shall complete a written report of its findings and recommendations. The Program Director shall review the CCC's written report and any other relevant material in order to make a determination regarding a Graduate Trainee. The Program Director shall provide the Graduate Trainee under review with written communication of the final outcome/decision.

When the CCC is convened in a disciplinary matter, it is convening as an academic proceeding and not as a legal proceeding. No legal counsel shall be present during any aspect of the CCC proceedings. A Program Director is expected to communicate/consult with the Office of Graduate Medical Education and/or the appropriate Human Resources representative during the decision process for disciplinary action.

B. Appeals Committee

An appeals Committee shall be convened at the request of a Graduate Trainee to review an adverse action against the Graduate Trainee. The Appeals Committee is an ad hoc Committee. The convening of an Appeals Committee is considered an academic proceeding, not a legal proceeding. No legal counsel shall be present. The purpose of the Appeals Committee is twofold: to determine if the process leading up to adverse action was in conformity with the Institutional Guidelines for Graduate Trainee Evaluation, Promotion, Remediation and Discipline discussed in this document; and to determine if the adverse action(s) taken by the Program Director were reasonable. A Program Director may consult with the OGME at any time during the course of the Graduate Trainee appeals process.

In instances where adverse action is initiated at the institutional level via the OGME and/or HR for violation of institutional policies, a departmental Appeals Committee will not be convened. The Residency Program Director will participate in the disciplinary process in conjunction with the OGME and/or Human Resources.

1. Appeals Committee Members

The Appeals Committee shall be composed of at least three (3) individuals deemed by the DIO to understand GME expectations in regard to clinical education and professionalism. These individuals may include GMEC members, department chairs, division chiefs, or core residency faculty. The Appeals Committee must include a Graduate Trainee representative from the Lehigh Valley Resident Association board. No CCC/ member from the department of the Graduate Trainee may serve as an Appeals Committee member. The DIO or DME will serve as the Chair (moderator) of the Appeals Committee and will appoint all ad hoc faculty members to the Appeals Committee. If the DIO is from the department of the Graduate Trainee in question, the DME will be Chair.

## 2. Committee Procedures

A Graduate Trainee may request an Appeals Committee review of an adverse action taken or proposed against said Graduate Trainee within five (5) business days of the date of written notification of the adverse action. The appeal must be made in writing to the Program Director who will forward the appeal to the Department Chair with a copy to the OGME/DIO. The written appeal must state the basis of the appeal describing, if the Graduate Trainee is contesting the determination of fact, the decision rendered, the adverse action taken, or challenging the fairness of the process.

An Appeals Committee shall be established and convened no more than fifteen (15) business days upon receipt of written request for appeal by a Graduate Trainee. This time frame is intended to insure timely review of appeals. In the event the Appeals Committee is unable to convene within this time frame, it shall inform the Graduate Trainee and Program Director of the reasons for the delay and the approximate date on which it expects to convene. The Program Director shall make all relevant documentation available to the Appeals Committee members, including the Graduate Trainee, with adequate time for review prior to its meeting. The Appeals Committee meeting shall be conducted in a manner as determined by the Chair (moderator). The meeting shall include information from the Program Director and the Graduate Trainee. The Chair may request additional material and or information from the Graduate Trainee, Program Director or any other individual it deems necessary to render a decision.

The Appeals Committee shall have ten (10) business days after all testimony is heard and materials reviewed to consider the matter, to collect additional information if necessary, and to render an opinion on the Graduate Trainee's appeal. This time frame is intended to serve as guideline and, as such, shall not be deemed to create any right for the Graduate Trainee and/or Program Director to have the Appeals Committee make a final determination within such time period. In the event the Appeals Committee is unable to make its final determination within this time frame, it shall inform the Graduate Trainee and Program Director of the reasons for the delay and the approximate date on which it expects to make its final determination and render an opinion.

At the end of all deliberations, the Appeals Committee will provide the Program Director with its written recommendation to uphold, modify or repeal the adverse action taken. The Program Director will review the Appeals Committee's recommendation and notify the Graduate Trainee in writing of any additional action. The Program Director may modify, accept, or reject the Appeals Committee's recommendation(s). If the Program Director does anything other than accept the Appeals Committee recommendation, an explanation must be given to the DIO/GMEC and recorded in the GMEC minutes.

## 3. Confidentiality

All documentation pertaining to any CCC and Appeals Committee meetings and procedures shall be maintained by the Residency Program Administrative Office. A written copy of decisions of an Appeals Committee and final determinations by the Program Director also will be **confidentially** maintained in the Graduate Trainee's institutional file housed within the Office of Graduate Medical Education (OGME).

## VI. ADVERSE ACTIONS

Graduate Trainees may be subject to disciplinary action and/or remediation for a variety of reasons. Poor performance, as determined by the CCC committee after reviewing the Graduate Trainee's performance data, may result in adverse action against the Graduate Trainee. Generally, issues of poor academic or clinical performance are coupled with a program of remediation in an effort to achieve sufficient improvement to a satisfactory level. Failure to meet other obligations or infractions of residency program policies and procedures, institutional graduate medical education policies and procedures, Medical Staff Bylaws, or violations of LVH Human Resources policies may result in disciplinary action. Adverse actions for these activities are best described as punitive and not remediable. Repeated infractions may result in escalating disciplinary action or termination of employment.

Adverse actions taken against a Graduate Trainee may have serious professional consequences. The Graduate Trainee's activities while a member of Hospital's House Staff are subject to repeated review and inquiry by medical staff credentialing committees, certification boards, licensing agencies and others. The Residency Program must report adverse actions when proper inquiry is made. Prior to the graduation of any Graduate Trainee for whom an adverse action has been taken, the Program Director must compose a formal statement with exact wording of what will be reported when formal inquiry is made by an outside party/organization. Both the Program Director and the OGME will use this statement to ensure consistency in reporting. A copy of the official statement of adverse action must be supplied to the Graduate Trainee prior to graduation from the program so that all parties are fully aware of how and what information will be reported after graduation. In instances where a Graduate Trainee is terminated or leaves the program prior to graduation, this formal statement will be composed and communicated to the Graduate Trainee upon leaving the program.

A range of adverse actions is available to the Program Director. Adverse actions are classified as Clinical, Academic and Training Performance Adverse Actions or Disciplinary Adverse Actions. Each circumstance is unique and will be handled with professionalism and discretion. The actions listed below are not sequential and do not have to be employed in a certain order. A Program Director may elect to couple actions together (i.e. reprimand and suspension). Severe circumstances may mandate severe action. The following actions may be employed:

A. Clinical, Academic and Training Performance Adverse Actions

1. Counseling

A Graduate Trainee may be subject to counseling regarding clinical or academic activity. Generally, the Program Director will conduct the counseling session, although any faculty member may also counsel a Graduate Trainee. The counseling will be recorded in a written manner and maintained in the Graduate Trainee's file. Counseling is not reported after residency training and may not be appealed by the Graduate Trainee.

2. Probation

Poor clinical or academic performance may include a probationary period. Probation is designed to provide official recognition of poor performance and to implement a remediation program for improvement. Generally, a probationary period is a defined period of time where specific objectives for improvement are described and specific degrees of improvement are required to successfully complete a probationary period. All of these elements are described in a written letter to the Graduate Trainee that is maintained in the Graduate Trainee's file. A copy of this letter is also forwarded to the OGME. Periodic meetings with the Program Director are required during the probationary period. The Program Director will record the results of these periodic meetings in the Graduate Trainee's program evaluation file. One of three actions can occur after a probationary period: probation successfully completed, probation continued, or dismissal from the training program. Probationary periods are reported after residency training.

3. Dismissal

Failure to satisfy the conditions of a probationary period may result in dismissal from the training program for academic or clinical reasons. The Program Director will convene the CCC when dismissal is considered and utilize the CCC to provide advice and recommendation regarding the Graduate Trainee's dismissal from the training program. The Program Director may immediately dismiss a Graduate Trainee if it is determined that the Graduate Trainee poses a grave and immediate danger to the health and well-being of others. The Program Director must consult the OGME and Human Resources prior to a Graduate Trainee's notification of dismissal. (The Program Director must notify the Graduate Trainee both in person and in writing of the dismissal. Written record of the dismissal will be maintained in the Graduate Trainee's files both in the OGME and the training program, and will be reported after Graduate Trainee training. Should a Graduate Trainee choose to appeal termination through departmental Appeals Committee and FHC processes as appropriate, the appellant Graduate Trainee shall remain a salaried employee of LVHN until the appeals process is concluded.

## B. Disciplinary Adverse Actions

### 1. Counseling

A Graduate Trainee may be subject to counseling regarding a minor disciplinary activity. Minor activities may include but are not limited to first occurrence of action, non-critical incidents, or activity deemed minor by the Program Director. The Program Director (or his/her designee) will conduct the counseling session. The counseling will be recorded in a written manner and maintained in the Graduate Trainee's file. Counseling is not reported after residency training and may not be appealed by the Graduate Trainee.

### 2. Informal Reprimand

For more serious activities or after prior or repeated counseling on a particular issue, a Graduate Trainee may be subject to an informal reprimand. Generally, reprimands are employed for disciplinary infractions rather than poor academic or clinical performance. The informal reprimand, in the form of a written letter, will be maintained in the Graduate Trainee's file and a copy shall be provided to the Graduate Trainee. Such letters must clearly state in the opening paragraph the letter's intent as an informal reprimand. The Program Director will issue all informal reprimands in person. Informal reprimands are not reported after residency training and may not be appealed by a Graduate Trainee.

### 3. Formal Reprimand

Serious disciplinary issues may be handled with a formal reprimand. Formal reprimands will be issued in writing by the Program Director. Such letters must clearly state in the opening paragraph the letter's intent as a formal reprimand. The Program Director and/or Department Chair will meet with and read the formal to the Graduate Trainee. The Graduate Trainee is required to acknowledge the formal reprimand in writing to the Program Director. Formal reprimands may be appealed by the Graduate Trainee and will be reported after residency training upon proper inquiry by a third party/organization.

### 4. Suspension

Severe or repeated violations of department, institutional or other policies may mandate suspension. When a Graduate Trainee cannot safely provide patient care for whatever reason, the Graduate Trainee may be suspended for a designated period of time. Suspension may be made with or without pay, at the discretion of the Program Director or at the direction of the OGME in conjunction with Human Resources. The Program Director must notify the Graduate Trainee in writing of the suspension. Suspensions may be appealed by the Graduate Trainee and will be reported after residency training upon proper inquiry by a third party/organization.

### 5. Dismissal

Severe or repeated disciplinary issues, criminal activity and other activities such as critical patient care incidents may result in dismissal from the training program. Depending on the severity of the infraction, dismissal may be the first action taken. The Program Director must notify the OGME and Human Resources prior to the Graduate Trainee's notification of dismissal. The Program Director must notify the Graduate Trainee of the dismissal both in person and in writing. Written record of the dismissal will be maintained in the Graduate Trainee's file. A dismissal may be appealed by the Graduate Trainee and will be reported after residency training upon proper inquiry by a third party/organization.

### 6. Breach of Contract

A Graduate Trainee may elect to request that they be released from their Graduate Training Agreement. This request must be made in writing and presented to the Program Director. The Program Director can agree to release the Graduate Trainee from the Graduate Training agreement or cannot agree to release the Graduate Trainee. If the Program Director agrees to release the Graduate Trainee from the Graduate Training Agreement, the Graduate Training Agreement will be dissolved by mutual agreement. If the Program Director does not agree to release the Graduate Trainee and the Graduate Trainee elects to not honor the Graduate Training Agreement, the

Graduate Trainee will be declared in breach of the Graduate Training Agreement. A declaration of breach of contract may be appealed by the Graduate Trainee and will be reported after residency training upon proper inquiry by a third party/organization.

C. Other Discipline & Restrictions

The Residency Program or LVHN may employ other types of adverse actions as deemed appropriate or defined in other policies.

**VII. RESIDENCY PROGRAM DIRECTOR GUIDELINES**

- A. Program Directors are responsible for monitoring and evaluating the clinical progress, academic achievement, professional development, and compliance with program, institutional, and accrediting agencies policies of each Graduate Trainee.
- B. When a Graduate Trainee's academic or clinical performance is unsatisfactory, the Program Director must ensure that such performance is well documented, that a corrective action plan is described, and that satisfactory improvement is observed within a defined period. When a Graduate Trainee behaves in an unprofessional, unethical, or criminal manner, the Program Director must determine the facts surrounding the disciplinary misconduct and the appropriate punitive or corrective action when necessary.
- C. Program Directors must ensure that the following guidelines are met:
  - 1. Each program must maintain a current Residency Manual or electronic equivalent detailing a clear description of clinical, academic, and behavioral expectations and a clear description of relevant policies and procedures. The Residency Manual must be presented to each new Graduate Trainee and should be re-affirmed with all other Graduate Trainees on an annual basis. Ideally, each Graduate Trainee should acknowledge receipt and understanding of the Residency Manual in writing.
  - 2. The Residency Manual must contain a clear description of the residency program's process for evaluation, promotion and dismissal of Graduate Trainee. Individual residency program policies and procedures should mirror LVHN's Institutional Guidelines for Graduate Trainee Evaluation, Promotion, Remediation and Discipline described herein.
  - 3. Evaluation of Graduate Trainees and any adverse actions that arise from such evaluation must be recorded in writing in a clear, concise manner and maintained in residency program files in an organized fashion.
  - 4. The Program Director should seek advice and counsel from the Chief of the Department of Education, the DME, Human Resources or LVHN legal services when appropriate.

**VIII. CONFIDENTIALITY**

To the extent applicable, all activities relating to this policy are considered peer review pursuant to the Pennsylvania Peer Review Protection Act, 63 P.S. 425.1, et seq. and the Health Care Quality Improvement Act of 1986, 42 U.S.C.A. 11101, et seq.



**LEHIGH VALLEY HOSPITAL  
GME Policy and Procedures**

**Effective Date: June 24, 2020**

**Originating Department/Committee: Department of Education /Graduate Medical Education Committee**

**GRADUATE TRAINING AGREEMENT  
Appendix III: Institutional Guidelines for Graduate Trainee Fair Hearing Process**

**I. PURPOSE**

This policy specifically describes the Graduate Trainee Fair Hearing process and procedure. Only adverse action which may result in LVHN making a National Practitioner Data Bank (“NPDB”) entry, shall entitle the Graduate Trainee to the rights set forth in the Graduate Trainee Fair Hearing Process. The DIO in consultation with the Chief Medical Officer and the Chief Academic Officer will make the determination of whether a particular issue entitles the Graduate Trainee to a Fair Hearing Process. All other adverse actions are covered under the GRADUATE TRAINING AGREEMENT Appendix II: Institutional Guidelines for Evaluation, Promotion, Remediation, and Discipline.

**II. DEFINITIONS**

**Administrative Leave** – a leave from clinical duties with compensation and benefits that does not exceed 15 days and does not trigger any Graduate Trainee Appeals Committee or Fair Hearing rights.

**Adverse Action** – A decision by the Program Director to issue a formal reprimand, to place on probation, to suspend, to declare in breach of contract, or to terminate employment of a Graduate Trainee.

**DIO** – Designated Institutional Official – A liaison to the Accreditation Council for Graduate Medical Education. At LVHN, the DIO is an ex officio member and chair of the Graduate Medical Education Committee. The DIO provides leadership within the Office of Graduate Medical Education within LVHN’s Department of Education and reports to the Chief Medical Officer.

**DOE** – Department of Education – The central administrative support structure for education at LVHN.

**DME** – Director of Medical Education – The DME, in collaboration with the DIO, provides administrative oversight over the Office Graduate Medical Education (OGME) and central GME support services at LVHN. He/she reports to the Chief Academic Officer.

**GME** – Graduate Medical Education

**GMEC** – Graduate Medical Education Committee

**Appeals Committee (AC)** – The primary mechanism by which Graduate Trainees can appeal an adverse action.

**Fair Hearing Committee (FHC)** – the review committee triggered by an adverse action that rises to the level of possible reporting to the National Practitioner Data Bank (NPDB). A Fair Hearing Committee ("FHC") is an ad hoc committee constituted in response to a specific request to conduct an Institutional Fair Hearing. At the conclusion of the hearing for which the FHC was constituted, that FHC shall be disbanded.

**Hospital** – Lehigh Valley Hospital as the Sponsoring Institution.

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**MSS – Medical Staff Services** – This office supports the credentialing of the medical and advanced practice clinician staff of LVH. They facilitate the fair hearing process for the medical staff, AHPs and Graduate Trainees.

**National Practitioner Data Bank** - an electronic information repository created by Congress. It contains information on medical malpractice payments and certain adverse actions related to health care practitioners, entities, providers, and suppliers. Federal law specifies the types of actions reported to the NPDB, who submits the reports, and who queries to obtain copies of the reports. Organizations must be authorized according to federal law to submit reports and/or query the NPDB. Organizations authorized to access these reports use them to make

licensing, credentialing, privileging, or employment decisions. Individuals and organizations who are subjects of these reports have access to their own information. The reports are confidential and not available to the public.

**Program Director** – A qualified physician, or dentist, who meets ACGME or other accrediting agency qualifications and who is appointed by the institution. The program director has primary responsibility for the organization, implementation, and supervision of all aspects of the specified LVHN training program

**Graduate Trainee – (graduate trainee-includes resident and fellows)** – A graduate of a medical, osteopathic, dental school, holding the relevant professional degree (MD, DO, DDS, DMD) and formally enrolled in an Lehigh Valley Health Network accredited or approved medical or dental graduate training program.

**Remediation** – Plan developed by the Program Director to correct deficiencies identified in a Graduate Trainee's academic and/or clinical performance.

**Special Notice** – Written notification by certified or registered mail, return receipt requested, or delivered in person.

### **III. RIGHT TO A FAIR HEARING**

#### **A. Fair Hearing**

A Graduate Trainee subject to an adverse action by his/her Program Director has the right to request initiation of an institutional Fair Hearing Committee if the adverse action may result in a report to the National Practitioners Data Bank (NPDB). No Graduate Trainee may be reprimanded, disciplined, or otherwise harassed for having made such request. The Fair Hearing shall address the fairness of the process leading to an adverse action (i.e. whether the process was conducted in a capricious or arbitrary manner) and review the appropriateness of the Program Director's disciplinary or corrective action taken against the Graduate Trainee. The Fair Hearing may not be used to question the validity of established policies, procedures, rules, or regulations.

#### **B. Confidentiality**

All documentation pertaining to a Fair Hearing shall be maintained by the OGME and kept in a separate file from the Graduate Trainee's regular institutional file. If the final decision of the Fair Hearing results in anything other than a total and full reversal of the adverse action (finding of fact not supported and adverse action deemed inappropriate) then the final decision shall be maintained in the Graduate Trainee's regular institutional file. If the decision of the Fair Hearing results in full reversal then the final decision and all supporting documents will be *confidentially* maintained by the office of OGME but kept in a separate file from the Graduate Trainee's regular institutional file as a matter of record only.

#### **C. Request for a Hearing**

##### **1. Request for Hearing**

A Graduate Trainee has thirty (30) days after receiving notification to file a written request for a hearing. The request must be delivered to the Office of Medical Staff Services (MSS) who will immediately notify the Vice President of Medical Operations. If the Graduate Trainee intends to be represented by an attorney at the hearing, the request for a hearing must state that intent and the name of the Graduate Trainee's attorney. MSS will notify the OGME that such a request has been filed.

##### **2. Failure to Request Hearing**

A Graduate Trainee who fails to request a hearing within the time and in the manner specified waives any hearing or appellate review to which he or she might otherwise have been entitled.

#### **D. Parties' Rights and Duties**

##### **1. Rights of Parties.** During a hearing, each party may:

- a. Call, examine, and cross-examine witnesses;

- b. Present evidence determined to be relevant by the Presiding Officer (as hereinafter defined), subject to Section III.F.4. hereof;
- c. Request that the record of the hearing be made by the use of a court reporter;
- d. Request that copies of the said proceeding be available upon payment of any reasonable charges associated with the preparation thereof; and
- e. Submit a written statement at the closing of the hearing.

#### Additional Rights and Duties of the Graduate Trainee

- a. Subject to Section III.C.1., the Graduate Trainee may be accompanied and represented at the hearing by an individual of his or her choice, including an attorney. The body (or bodies) whose recommendation or action prompted the right to a hearing (as well as other interested committees or components of the Hospitas, Board or Medical Staff) may be represented by an attorney at the hearing if and only if the Graduate Trainee is represented by an attorney. The foregoing provision shall not be deemed to deprive the Graduate Trainee or the body (or bodies) whose recommendation or action prompted the right to a hearing of the right to legal counsel in connection with the preparation for the hearing.
- b. Upon completion of the hearing, the Graduate Trainee has the right to receive the written recommendation of the Fair Hearing Committee (as hereinafter defined).
- c. At least fifteen (15) days prior to a hearing, the Graduate Trainee shall provide the body (or bodies) whose recommendation or action prompted the right to a hearing with a list of witnesses. The parties shall also exchange exhibits at that time and provide copies of the same to the Hearing Committee.

#### E. Notification of Hearing

##### 1. Notification

The DIO/OGME shall immediately deliver timely and proper hearing requests to the Vice President of Medical Operations and the President of the Medical Staff. Upon receipt of a request for a hearing, the Office of Medical Staff Services shall schedule and arrange for a hearing which shall be not later than sixty (60) days from the receipt of the request for the hearing. At least thirty (30) days prior to the hearing date, the Vice President Medical Operations, shall send the Graduate Trainee special notice of the time, place and date of the hearing and of the composition of the hearing panel; provided, however, that a hearing for a Graduate Trainee who is under suspension then in effect must be held as soon as the arrangements may be reasonably made, but not later than forty-five (45) days after the Vice President Medical Operations, received the hearing request. The special notice shall include a list of the witnesses (if any) expected to testify at the hearing on behalf of the body or bodies whose recommendation or action prompted the right to a hearing.

#### F. Fair Hearing Procedure

##### 1. Appointment of the Hearing Committee

The FHC shall be comprised of the following four (4) persons, each of whom shall have a vote:

The President of Lehigh Valley Residents Association (LVRA) or her/his designee chosen from the LVRA officers/board. This individual must be from a department/division other than that to which the appellant Graduate Trainee belongs. If the Graduate Trainee of the LVRA is unavailable or otherwise unable to act, the Director of Medical Education or the DIO shall appoint a Graduate Trainee representative.

The President of the Medical Staff or her/his designee.

Two (2) members of the Medical Staff who are also members of GMEC (program directors or associate program directors) or Department Chairs. These members shall be appointed by the Chief Academic Officer Department of Education or this task may be delegated to the DIO/DME. These individuals must be from a department/division other than that to which the Graduate Trainee belongs.

2. Hearing Officer / Presiding Officer

a. Hearing Officer

The use of a Hearing Officer to assist the Hearing Committee at the hearing is optional and is to be determined by the President of the Medical Staff or the Chief Academic Officer as appropriate. A Hearing Officer may or may not be an attorney-at-law, but must be experienced in conducting hearings. A Hearing Officer shall not be in direct economic competition with the Graduate Trainee involved or have any known reason for bias against said Graduate Trainee.

b. Presiding Officer

If a Hearing Officer is used, then the Hearing Officer will be the Presiding Officer. If no Hearing Officer is chosen, then a committee member will serve as the Presiding Officer.

If any of the above-referenced individuals have a real or apparent conflict of interest involving the appellant Graduate Trainee, another individual from the same category of persons shall be appointed to the FHC. The final decision will be made by the Vice President of Medical Operations. Three (3) or more members of the committee must be present for the hearing to proceed.

G. Personal Presence

1. Failure to Appear

The personal presence of the Graduate Trainee is required. A Graduate Trainee who fails, without good cause, to appear and proceed at the hearing waives his or her rights in the same manner as provided in Section III.C.2.

2. Testimony

If the Graduate Trainee does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination. The FHC may request additional testimony from other individuals of its choice.

H. Procedure and Evidence

The hearing need not be conducted strictly in accordance with the rules of law relating to the examination of witnesses or presentation of evidence. During a hearing, each party may present evidence considered to be relevant by the Presiding Officer, regardless of its admissibility in a court of law. Furthermore, any relevant matter upon which reasonable persons customarily rely in the conduct of serious affairs may be considered, regardless of the admissibility of such evidence in a court of law. Each party is entitled, prior to or during the hearing, to submit memoranda concerning any issue of law or fact, and such memoranda shall become part of the hearing record. The Presiding Officer may, but is not required to, order that oral evidence be taken only on oath or affirmation.

The appellant Graduate Trainee or the departmental/institutional representative may submit written materials for review by the FHC. Any materials submitted for review at the FHC must be received no later than two (2) business days prior to the scheduled hearing. All materials must be delivered directly to the Office of Medical Staff Services and submissions must contain the appropriate number of copies for the FHC and other attendees to the Fair Hearing. Neither the appellant Graduate Trainee nor the departmental/institutional representative may deliver materials directly to or have direct contact with any FHC member.

I. Official Notice

In reaching a decision, the Hearing Committee may take official notice, either before or after submission of the matter for decision, of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noted by the courts of the state where the hearing is held. Parties present at the hearing must be informed of the matters to

be noticed, and those matters must be noted in the hearing record. Any party shall be given opportunity, on timely request, to request that a matter be officially noticed and to refute any officially noticed matter by evidence or by written or oral presentation of authority, in a manner to be determined by the Hearing Committee.

#### Burden of Proof

The body (or bodies) whose adverse action or recommendation prompted the right to a hearing has the burden of proof.

#### Hearing Record

A court reporter shall be utilized to prepare a record of the hearing.

#### Postponement

Request for postponement of a hearing may be granted by the Hearing Committee only upon a showing of good cause and only if the request is made as soon as reasonably practicable.

#### Presence of Hearing Committee Members

A majority of the Hearing Committee, but not less than three (3) members, must be present for each hearing and during deliberations on the decision.

#### Recesses and Adjournment

The Hearing Committee may recess and reconvene the hearing without additional notice for the convenience of the participants or for any other purpose. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The Hearing Committee shall, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon conclusion of its deliberations, the hearing shall be adjourned.

#### Hearing Committee Report

Within ten (10) days after final adjournment of the hearing, the Hearing Committee shall make a written report of its findings and recommendations and forwards the report along with the record and other documentation to the body (or bodies) whose adverse action prompted the right to a hearing to the Graduate Trainee involved and to the OGME as well as the Senior Vice President Medical Operations, c/o Medical Staff Services Office. The Hearing Committee Report shall include a statement of the basis for the recommendations or action.

The FHC's final decision shall be determined by a simple majority vote. Copies of the FHC decision evidencing the signature of the Chief Academic Officer, Department of Education shall be submitted to:

- a. Committee members
- b. The appellant Graduate Trainee
- c. The relevant Department Chairperson
- d. The relevant Program Director

#### Decision of the Fair Hearing Committee

The decision of the Fair Hearing Committee is subject to the Appeals Process described below. All relevant documentation containing original signatures shall be retained in the OGME as part of the Graduate Trainee's file. Should the decision of the FHC result in a full reversal of the adverse action taken against a Graduate Trainee by a Program Director, the adverse action will be removed from the Graduate Trainee's regular institutional file and will not be reported after the Graduate Trainee's graduation. Information regarding the adverse action and grievance procedure will be maintained by the OGME in a separate file as a matter of record.

#### J. Effect of a Fair Hearing Committee Report

##### 1. Action on Hearing Committee Report

Within thirty-five (35) days after receiving the Hearing Committee Report, the body (or bodies) whose adverse recommendation or action occasioned the hearing shall consider the Report, and affirm, modify or reverse the original recommendation or action. The final result shall be transmitted to the DIO with a copy to the VP of Medical Staff Services.

## 2. Notification and Effect of Result

### a. Notification

The DIO shall promptly send a copy of the result to the Graduate Trainee by special notice, to the Graduate Trainee of the Staff, to the OGME.

### b. Effect of Favorable Result

If the FHC result is favorable to the Graduate Trainee, the DIO shall promptly forward it, together with all appropriate supporting documentation, to the Program Director and Department Chair, and other relevant internal and external parties.

### c. Effect of an Adverse Result

If the result of the FHC continues to be adverse to the Graduate Trainee, this special notice shall inform him or her of his or her right to an appellate review.

## **IV. APPELLATE REVIEW PROCESS**

### 1. Request for Appellate Review

A Graduate Trainee has thirty (30) days after receiving special notice under Section III.G.2.a. to file a written request for an appellate review. The request must be delivered to the Administrator, Medical Staff Services (or his/her designee), c/o Medical Staff Services Office, by special notice (see definition) and may include a request for a copy of the Hearing Committee Report and record and all other material, if not previously forwarded, that was considered by the Hearing Committee. If the Graduate Trainee wishes to be represented by an attorney at any appellate review proceeding, the request for appellate review must state that intent and the name of the Graduate Trainee's attorney.

### 2. Failure to Request Appellate Review

A Graduate Trainee who fails to request an appellate review within the time and in the manner specified in Section IV.A.1. waives any appellate review to which he or she might otherwise have been entitled.

## **B. Notification of Time and Place for Appellate Review**

### 1. Notification

The CEO shall immediately deliver timely and proper requests for appellate review to the Chairs of the Boards. Upon receipt of a request for appellate review, the Chairs shall schedule and arrange for an appellate review which shall not be later than sixty (60) days from the receipt of the request for appellate review. At least thirty (30) days prior to the appellate review, the Vice President Medical Operations, shall send the Graduate Trainee special notice of the time, place, and date of the review and of the composition of the Appellate Review Body.

## **C. Appellate Review Procedure**

### 1. Appellate Review Body

The Appeals Committee of the Boards shall serve as the Appellate Review Body. If a Board action occasions the review, the Joint Conference Committee shall serve as the Appellate Review Body. The Chairs of the Boards shall designate one (1) of the appointees as Chair of the Appellate Review Body.

### 2. Nature of Proceedings

The proceedings conducted by the Appellate Review Body are a review based upon the hearing record, the Hearing Committee Report, all subsequent results and actions, the written and/or oral statements, if any, provided below, and any other material that may be presented and accepted under the appellate review procedure.

### 3. Hearing Officer/Presiding Officer

#### a. Use of Hearing Officer

The use of a Hearing Officer to assist the Appellate Review Body at the appellate review is optional and is to be determined by the Chairs of the Boards. A Hearing Officer may or may not be an attorney-at-law, but must be experienced in conducting hearings. A Hearing Officer shall not be in direct economic competition with the Graduate Trainee involved.

b. Presiding Officer.

The Presiding Officer shall be the Chair of the Appellate Review Body or the Hearing Officer, if any, at the Chair's discretion.

4. Representation at Appellate Review

If the Graduate Trainee desires to be represented by an attorney at an appellate review appearance, his or her request for the review pursuant to Section IV.A.1 must declare his or her intent to be so represented. The Appellate Review Body shall determine in its sole discretion whether to permit such representation. The body (or bodies) whose recommendation or action prompted the right to an appellate review (as well as other interested committees or components of the Hospital, Board or Medical Staff) may be represented by an attorney at the appellate review if and only if the Graduate Trainee is represented by an attorney. The foregoing provision shall not be deemed to deprive the Graduate Trainee or the body (or bodies) whose recommendation or action prompted the right to the appellate review of the right to legal counsel in connection with the preparation for the appellate review.

5. Written Statements

The Graduate Trainee 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 hearing and appellate review process. The statement shall be submitted to the Appellate Review Body and the body (or bodies) whose adverse action prompted the appellate review through the CEO at least fourteen (14) days prior to the scheduled date of the appellate review, except if the time limit is waived by the Appellate Review Body. A similar statement may be submitted to the Appellate Review Body through the CEO by the body (or bodies) whose adverse action prompted the appellate review at least seven (7) days prior to the scheduled date of the appellate review.

6. Oral Statements

The Appellate Review Body, in its sole discretion, may allow the parties or their representatives to personally appear and present oral statements. Any party or representative appearing shall be required to answer questions of any member of the Appellate Review Body.

7. Powers

The Appellate Review Body has all the powers granted to the Hearing Committee, and any additional powers that may be reasonably appropriate to or necessary for the discharge of its responsibilities.

8. Presence of Members

A majority of the Appellate Review Body must be present for each appellate review session and during deliberations.

9. Recesses and Adjournments

The Appellate Review Body may recess and reconvene the proceedings without additional notice for the convenience of the participants or for any other purpose. At the conclusion of the oral statements, if allowed, the appellate review shall be closed. The Appellate Review Body shall then, at a time convenient to itself, conduct its deliberations outside the presence of the parties. The appellate review shall be adjourned at the conclusion of those deliberations.

10. Consideration of New or Additional Matters

Upon written request of either party, the Appellate Review Body shall have the right, in its sole and absolute discretion, to consider new and additional information. The Appellate Review Body shall not consider any such new and additional information unless the party seeking to introduce the information can demonstrate that the information was not available or discoverable in time for presentation to the Hearing Committee at the original hearing.

D. Appellate Review Action

1. Action Taken

Within thirty (30) days of adjournment, the Appellate Review Body may affirm, modify or reverse the adverse result or action, or in its discretion, may refer the matter back to the Hearing Committee for further review and recommendation to be returned to it within twenty (20) days and in accordance with its instructions. Within ten (10) days after receipt of such recommendation from the Hearing Committee the Appellate Review Body shall take action.

a. Joint Conference Committee

If the Joint Conference Committee acted as the Appellate Review Body, it shall submit its recommendation to the Boards. The Boards shall then render a final decision.

b. Appeals Committee

If the Appeals Committee acted as the Appellate Review Body, it shall submit its recommendation to the Boards. If the Boards' action is consistent with the last recommendation of the MEC, the decision shall be considered final. If the Boards' action is inconsistent with the last recommendation of the MEC, the decision of the Boards shall not be considered final and the CEO shall submit the matter to the Joint Conference Committee for further review and consideration. The Joint Conference Committee shall, within thirty (30) days of receipt of the matter, submit its recommendation to the Boards. The Boards shall then render a final decision.

2. Notification of Action Taken

The Vice President Medical Operations, shall provide the Graduate Trainee, the President of the Medical Staff, the OGME, the Appellate Review Body and the Boards with the recommendation and/or action taken by the Appellate Review Body, the Joint Conference Committee and the Board.

## **V. MISCELLANEOUS**

### Number of Hearings and Reviews

Notwithstanding any other provision of the Medical Staff Bylaws or of this Plan, no Graduate Trainee is entitled as a right to request more than one (1) evidentiary hearing and appellate review with respect to the subject matter that is the basis of the adverse recommendation or action which prompted such right.

### Compliance with Bylaws

The failure by Hospital committees or components to meet the conditions described in this Plan shall not, in itself, constitute a violation of any state or federal law or a deprivation of the Graduate Trainee's due process rights.

### Exhaustion of Remedies

If a recommendation to uphold an adverse action is made or action taken pursuant to Section III.A. of this Plan, the Graduate Trainee must first exhaust the remedies afforded by this Plan before resorting to legal action. The fact that a Graduate Trainee has exhausted the remedies afforded by this Plan shall not in any way suggest that any subsequent legal action is proper or appropriate.