

Fitness for Practice and Drug Testing for Cause**I. Introduction**

The University is committed to maintaining a safe and productive academic and clinical workplace, and it therefore requires that every Resident¹ report to work fit to perform his or her job duties. For purpose of this policy, “fitness for practice” (or “FFP”) refers to the readiness of a Resident to perform the essential functions of the job and professional responsibilities, as well as reasonable suspicion drug/alcohol testing.

This policy does not limit the University’s right to take employment action, and application of this policy is not a substitute for discipline. In circumstances where a Resident has engaged in misconduct or failed to perform his/her duties, disciplinary action up to and including termination of employment may be imposed notwithstanding a referral for a fitness for practice examination.

The University is committed to equal employment opportunity, and it prohibits discrimination against qualified individuals with disabilities. This policy is to be construed consistent with that commitment and in compliance with applicable law, including the Americans with Disabilities Act and Section 504 of the Rehab Act.

II. Resident Responsibilities

All Residents are required to report to work fitness for practice and to be able to perform their job duties in a safe, professional, and effective manner.

The University encourages Residents to voluntarily seek assistance for emotional and/or personal problems, physical and/or mental health conditions, including controlled substance, drug and alcohol abuse/addictions, before their work performance is adversely affected. The Aid for Impaired Residents Program (GME Policy # 260) offers assistance to Residents on a confidential basis.

III. Work Rules for Residents:

- No Resident shall report to the work site impaired for any reason including but not limited to personal stress, medical condition, use of alcohol or controlled substances, including drugs prescribed by a physician, or by use of over the counter medication.
- No Resident shall use, sell, possess, distribute, dispense, divert alcohol, controlled substances or prescription drugs without a valid prescription on campus or training sites. Such conduct is also prohibited during non-working time to the extent that it impairs the Resident’s ability to perform their job upon arrival at work.

- Residents who consume alcohol or controlled substances under any circumstances and return to work during that work day/shift are subject to evaluation under this policy.
- Residents shall not consume alcohol while officially on call including at-home call.
- A Resident arrested or convicted of any alcohol related or criminal drug offense must immediately notify their Program Director and Associate Dean/DIO no later than first business day after the arrest/conviction.
- The GME Office will support the responsible action of a Resident seeking help for an alcohol or controlled substance problem. See GME Policy #260 Aid for Impaired Residents.

All Residents, faculty, and staff have a duty to report observed and suspected violations of this policy to their Program Director, the Associate Dean/DIO, or the GME Office.

IV. Fitness for Practice Examinations

A. Introduction

A fitness for practice examination constitutes a medical examination and therefore, in keeping with the Americans with Disabilities Act and University policy, any such examination is strictly limited to job-related inquiries and must be consistent with business necessity. When a condition constitutes a disability and the Resident asks for an accommodation, the accommodation determination process of GME Policy #340 should be implemented through the Office of Equity and Diversity. It may be necessary to collect additional documentation from the Resident and his/her own healthcare provider to support the accommodation request.

B. Grounds for Seeking a Fitness for Practice Examination

The referring Program Director or supervisor may request a medical fitness for practice evaluation when (1) a Resident's conduct creates a reasonable belief that a threat to the health or safety of the Resident or others, or to University property, exists; or (2) there is objective evidence that the Resident cannot perform the essential job functions. Program Directors should consult, if practical, with the Associate Dean/DIO (GME Office) prior to making a referral for an examination.

The grounds for seeking a fitness for practice evaluation may become evident from a supervisor's observations and/or receipt of a reliable report of a Resident's possible lack of fitness for practice. Observations or a Resident's self-report may include, but are not limited to difficulties with manual dexterity, memory, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with co-workers and supervisors, outbursts, hostility, violent behavior, suicidal or threatening statements, change in personal hygiene, and/or reasonable suspicion (via odor

or observation) of drug or alcohol use.

A Resident's medical fitness may also be evaluated in other contexts, including as a result of any required post-offer, pre-employment medical screen or as required after a leave of absence or return from leave of absence.

C. **Medical Evaluation**

Fitness for practice evaluations are performed by or at the direction of GME, and may include, without limitation, a health history, physical and/or psychological examination, alcohol and drug testing and any medically indicated diagnostic studies. The purpose of the evaluation is to determine if the Resident can perform the essential functions in a safe manner and if there is a need for restrictions. As circumstances warrant, GME will arrange for an evaluation by a qualified clinician to determine whether there is a psychological or other impairment. In addition, if it appears that the condition is a disability, GME will refer the Resident to disability services to address any requested accommodations and/or modifications and whether there is likelihood that the Resident can perform the job with or without reasonable accommodations. Any determination of reasonable accommodation is also subject to the rules and requirements of the clinical site.

D. **Confidentiality**

Patient information obtained by GME is maintained on a confidential basis in accordance with applicable law. When conducting a mandated fitness for practice evaluation, GME will require the Resident to sign an ***Authorization to Release Information*** (Attachment "B") that permits reporting by the examining healthcare provider as to the Resident's fitness, recommendations with respect to fitness, and any limitations and restrictions placed on the Resident arising from the Resident's health condition. **There is no confidential relationship between the examining healthcare provider and the Resident.** GME will act to safeguard medical or psychological information of the Resident and will not release that information without the consent of the employee, except as necessary in the judgment of GME or as may be required by law.

V. **GME Fitness for Practice Procedures**

- The Program Director will discuss the identified issues with the Associate Dean/DIO and the Director of GME..
- If it is agreed that a fitness for practice evaluation is needed, the Resident will be placed on paid administrative leave until the evaluation is complete.
- During business hours the fitness for practice evaluation will be conducted by an appropriate provider identified by GME. For afterhours care the evaluation may be conducted by another facility.

- **This is a not a confidential session between the Resident and a counselor or physician**, in that this is considered an academic referral and therefore, will not be subject to the same privacy rules as occurs in a therapeutic relationship.
- A report shall be generated by the evaluator to inform the Program Director and Associate Dean/DIO if a Resident is fit return to practice.
- If the evaluator determines that the Resident is fit to return to practice they will notify the Associate Dean/DIO in writing who will notify the Program Director and Resident.
- If the evaluator determines that the Resident is ***not*** fit to return to practice they will notify the Associate Dean/DIO in writing who will notify the Program Director, Resident, and Director of GME.
 - Once the written report is received the Associate Dean/DIO and Program Director will determine the status of the Resident.
 - This could result in medical leave of absence, personal leave of absence, discipline up to and including termination.
 - In order for reinstatement into a program, a fitness for practice report must be submitted to the Associate Dean/DIO and Program Director.
 - A Resident that continues to be not fitness for practice after 90 days is in jeopardy of losing their position as provided in the Agreement of Appointment.
- A Resident who refuses to undergo a fitness for practice evaluation (as well as a drug or alcohol test) will be terminated from the program.
- Cost of the Evaluation
 - All costs for these fitness for practice evaluations will be paid by GME.
 - Treatment plans are the personal responsibility of the Resident.
- A Resident that tests positive for alcohol or controlled substance(s) shall be subject to immediate termination.
- At all times, patient safety is paramount and nothing in these procedures or policy shall prevent the University from requiring Residents at all times to meet the essential eligibility requirements and technical standards. The University is the final decision maker as to the reasonableness of an accommodation and is not required to make changes to the underlying fundamental academic program.

VI. Reasonable Suspicion Drug Testing

Residents, as employees of the University of Tennessee, are subject to all University work rules and policies including the Drug Free Workplace Policy (Policy HR0720). Note that the policy allows drug screening “where there is reasonable suspicion of drug or alcohol use.” Some situations that might require drug testing include:

- Unusual behavior such as slurred speech or unusual energy levels for which an explanation is not apparent.
- Drastic changes in performance or behavior.

- Unusual drug administration procedures or documentation, including those as noted by a review from the pharmacy staff of any of our teaching hospitals.
- Reports by faculty, peers or other co-workers of unauthorized drug and/or alcohol use or being under the influence on the job.
- Any behavior that poses a threat to patients or co-workers.

A Program Director or supervisor (such as a responsible faculty member) should fill out Attachment A, the **Reasonable Suspicion Drug Testing Checklist** to document the facts that support a conclusion that there is ‘reasonable suspicion’ for a drug test.

If a Resident appears to be unfit for duty due to suspected influence of alcohol or other drugs, the Program Director or other responsible faculty member will immediately relieve the Resident of assigned clinical responsibilities and notify the GME office. If a determination is made that immediate drug testing is necessary, the GME office may refer the Resident to University Health Services for urinalysis, breathalyzer or blood tests to assess fitness for duty. If the GME Office is not available or the incident is ‘after hours’, the Program Director may direct immediate drug testing. The Resident should then execute Attachment B, **Authorization to Release Information**. The supervisor should keep a copy of the executed Attachment B as well as provide a copy to the testing facility.

A Resident’s refusal to be escorted from the hospital or to be tested shall result in termination of employment. If necessary, the Program Director or attending should arrange safe transportation for the Resident.

The GME office may also arrange drug or alcohol testing through the Physicians Health Program of the Tennessee Medical Foundation (TMF) (see GME Policy #320 – Aid for Impaired Residents). Based upon test results, the TMF will work with GME administration to develop an appropriate treatment or intervention program for the Resident unless it is determined that the Resident will not be able to continue training. The UTHSC Drug Free Campus and Workplace Policy (HR0720) supports this GME Policy. Erlanger Work Force or Erlanger North Emergency Department for after hours and weekends, with the GME Office, will supervise any reasonable suspicion testing.

The term “Resident” refers to a Resident or Fellow.

Attachment A: *Reasonable Suspicion Drug/Alcohol Testing Checklist*
Attachment B: *Authorization to Release Information*

This policy, drafted with input by the UTHSC Associate General Counsel, will be presented to the GMEC at its July 2020 meeting for approval.