Policy 3.300 Graduate Medical Education Committee
Section Resident Supervision/Work Environment
Subject Moonlighting
Policy Requirements ACGME Institutional: 4.3.a.12; 4.11.a ACGME Common: 6.20; 6.25
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Purpose

The purpose of this policy is to define what constitutes moonlighting activities in the residency/fellowship setting which result in additional financial support to residents/fellows above their contractual residency/fellowship stipend. This policy also sets forth the procedures for approval of such moonlighting activities.

This policy also serves to prevent inappropriate use of a resident/fellow's services in activities that residents/fellows cover as part of their educational program. Since residency/fellowship training is a full-time educational experience, moonlighting must neither interfere with the resident/fellow's educational performance nor with the resident/fellow's opportunities for rest, relaxation, or independent study.

Moonlighting activities are distinguished from activities outlined in the Graduate Medical Education Committee (GMEC) policy on Supplemental Clinical Activities (3.310) in the following ways:

- Residents/fellows participating in moonlighting activities are independent/autonomous practitioners. This includes billing for services performed.
- Residents/fellows participating in moonlighting activities are not operating within the scope of their training program.
- Residents/fellows participating in moonlighting activities are not receiving supervision as part of their training program.

Definitions

Moonlighting: Any activity, outside the requirements of the residency/fellowship program, in which an individual performs duties as a fully licensed physician, receives direct financial remuneration and acts as an individual practitioner.

Internal Moonlighting: Voluntary, compensated, independent medically related work that is not related to approved Accreditation Council for Graduate Medical Education (ACGME) training programs and is performed in outpatient department, emergency department, or the inpatient

setting of the University of Arkansas for Medical Sciences (UAMS) or any of its related participating sites in which residents have their approved ACGME training program.

Examples of internal moonlighting: a child psychiatry fellow weekend rounding on the adult psychiatry inpatient unit at the Psychiatric Research Institute; a Pediatric Emergency Medicine fellow moonlighting at the UAMS Emergency Department.

External Moonlighting: Any voluntary, compensated, independent professional activity arranged by an individual resident/fellow, which is outside the course and scope of the approved ACGME training program, that is outside of the UAMS system or any of its related participating sites.

Examples of external moonlighting: a resident performing physical examinations at a local/community psychiatric hospital; an emergency medicine resident doing ER shifts at a non-affiliated community hospital emergency department.

Resident: Any physician in an ACGME accredited graduate medical education program, including interns, residents and fellows.

Fellow: Any physician in an ACGME accredited program of graduate medical education who has completed the requirements for eligibility for the first board certification in a specialty. The term "subspecialty residents" is also applied to such physicians. Other uses of the term "fellow" require modifiers for precision and clarity, e.g., research fellow.

Residency: An ACGME accredited graduate medical education program that provides a structured educational experience designed to conform to the program requirements of a particular specialty.

Fellowship: An ACGME accredited graduate medical education program that provides advanced training in progressive levels of subpecialization following completion of training in a primary specialty and, if applicable, a related sub-subspecialty. It is a structured educational activity comprising a series of clinical and/or other learning experiences designed to train physicians to enter the unsupervised practice of medicine in a subspecialty.

Policy:

In order to ensure that residents and fellows that moonlight meet ACGME requirements, each program must have a specific policy in place that has been approved by the Executive Associate Dean for Graduate Medical Education. Said program policy regarding moonlighting must be consistent with and/or more restrictive than GMEC policy 3.200, which outlines oversight of the clinical working and learning environment and GMEC policy 3.300. The program policy should include:

- a list of any allowable internal moonlighting services;
- how the program will monitor the moonlighting activities of residents/fellows to ensure that GMEC policies 3.200 and 3.300 are met; and, the consequences if GMEC policies 3.200 and 3.300 and/or the program specific policy are violated; and,
- an explanation of how internal moonlighting services are separately identified from those services that are required as part of the approved ACGME program. The program should review their ACGME program-specific requirements to verify that the moonlighting request is not a training program requirement.

For moonlighting paid by UAMS, the pay per shift and numbers of shifts allowed must not result in the resident/fellow receiving more than the state line-item salary maximum. It is the responsibility of the program to receive appropriate approval for any moonlighting activity, to manage and track all moonlighting activities of its residents/fellows and to ensure that ACGME clinical learning environment work hour requirements are met.

Prior to the start of any moonlighting activity, the program must submit a Moonlighting Activity Request Form (https://medicine.uams.edu/gme/moonlighting-request/)) on the GME website and wait for final approval from the GME Office.

General Considerations Regarding Moonlighting

1. Moonlighting activities are voluntary and cannot be mandated as part of a training program. A resident/fellow must not be required to moonlight.

2. A PGY-1 resident may not moonlight.

3. Moonlighting is not allowed for residents/fellows during months that he/she is participating on a Central Arkansas Veterans Healthcare System (CAVHS) reimbursed clinical or research experience.

4. A resident/fellow who is on formal probation is prohibited from engaging in any moonlighting activities during the probationary period. A resident/fellow who is participating in any step of the academic improvement process may be prohibited from engaging in any moonlighting activities. This could include focused review, probation or suspension.

5. Internal moonlighting activity must comply with the following: (1) all State and Federal rules and regulations; (2) all accrediting organizations rules and regulations (e.g. Joint Commission for the Accreditation of Healthcare Organizations); (3) state law regarding line item salary maximums for a position's authorized compensation; (4) UAMS's credentialing policies and procedures.

6. A resident/fellow must obtain a malpractice insurance policy that will cover the activity to be performed outside the training program. In special circumstances, UAMS may elect to provide/purchase a moonlighting resident/fellow with malpractice insurance policy.

7. The Program Director must approve or deny a resident/fellow's request to participate in moonlighting activities. The decision to approve or deny a resident/fellow's request to moonlight will depend on a number of factors including, but not limited to, interference with the resident/fellow's responsibilities in the training program and the individual educational circumstances of the resident/fellow. The Program Director's decision is final and not appealable.

8. An individual residency/fellowship program may decide that moonlighting activities are counterproductive to education and may not allow any resident/fellow to participate in any moonlighting activities.

9. Moonlighting privileges may be curtailed or prohibited based upon any of, but not limited to, the following grounds:

a. If it is determined that such activities interfere with the resident/fellow's opportunities for rest, relaxation, and independent study; or
b. If it is determined that such activities interfere with the resident/fellow's patient care responsibilities and educational performance or if such activity adversely impacts the professional reputation of the resident/fellow and/or UAMS; or
c. If such limitation is required by the appropriate organization(s) responsible for the accreditation/certification of graduate medical education programs; or
d. If the resident/fellow fails to abide by the procedures outlined herein.

10. J1 visa holders are not permitted to participate in moonlighting.

11. H1B visa holders will need program and immigration approval to participate in moonlighting.

12. If a program is on Special Review or has concerning academic trends, it is at the discretion of the Designated Institutional Official (DIO), GMEC, or Special Review Committee, to prohibit moonlighting activities in this policy.

Internal Moonlighting

Specific Considerations Governing Internal Moonlighting

1. A resident/fellow can only be involved in internal moonlighting services that are <u>not</u> a part of their required or elective training activities in their current ACGME approved training program.

2. A resident/fellow can only be involved in internal moonlighting services if (i) the total hours worked (GME required + moonlighting) do not exceed ACGME work hour requirements; and (ii) there are adequate resources and training for the role; and (iii) there is a plan by which (1) any decisions made by the moonlighting resident may be formally reviewed by the service and (2) any conflicts resolved (iv) fellows must function in their core (primary) specialty.

3. A resident/fellow can only be involved in internal moonlighting services if (i) the services are identifiable physicians' services and meet the conditions for payment of physicians' services to beneficiaries by providers, (ii) the resident is fully licensed to practice medicine, by the state in which the services are performed, and (iii) the services can be separately identified from those services that are required as part of the approved ACGME program.

4. A resident/fellow must be fully licensed to practice medicine by the State of Arkansas. The Arkansas State Medical Board residency-training exemption statute is not a license to practice medicine outside the scope of an ACGME approved training program.

5. Appropriate hospital credentialing must be in place for each resident/fellow participating in any moonlighting activities in an outpatient department, emergency department or inpatient setting within UAMS or any of its related participating sites in which residents have their approved ACGME training program.

6. Residents must obtain an individual Drug Enforcement Agency (DEA) number for any moonlighting activity. Use of the UAMS Medical Center's, Arkansas Children's (AC), or any affiliated hospital's DEA number is prohibited.

7. A resident/fellow who participates in moonlighting must continuously report in New Innovations all work hours, including regular duty, moonlighting hours and supplemental clinical activity hours. The Program Director and the individual resident/fellow must closely monitor moonlighting to ensure compliance with ACGME work hour rules -- including the 80-hour rule -- to ensure that moonlighting does not interfere with a resident/fellow's ability to achieve the goals and objectives of the educational program. Failure to report moonlighting hours could result in suspension and/or dismissal from the training program.

8. A resident/fellow's income from a state institution must not exceed state regulations, in particular, a resident/fellow's compensation from UAMS, which includes residency/fellowship stipend and all earnings from internal moonlighting, may not exceed the state line-item salary maximum.

9. When performing moonlighting services, the resident/fellow must appropriately document in the medical chart. For example, they can state that they are licensed to practice medicine in Arkansas, document the service was performed outside of their approved GME program, and describe the specific physician services furnished.

External Moonlighting

Specific Considerations Governing External Moonlighting

1. A resident/fellow can only be involved in external moonlighting services that are <u>not</u> a part of their required or elective training activities in their current ACGME approved training program.

2. A resident/fellow can only be involved in external moonlighting services if (i) the total hours worked (GME required + moonlighting) do not exceed ACGME work hour requirements.

3. Residents must obtain an individual Drug Enforcement Agency (DEA) number for any external moonlighting activity. Use of the UAMS Medical Center's, Arkansas Children's (AC), or any affiliated hospital's DEA number is prohibited.

4. When performing external moonlighting services, a resident/fellow must not wear badges or other identifiers as a resident/fellow in a UAMS COM residency/fellowship training program.

5. A resident/fellow who participates in moonlighting activities must continuously report in New Innovations all work hours, including regular duty, moonlighting hours and supplemental clinical activity work hours. The Program Director and the individual resident/fellow must closely monitor moonlighting to ensure compliance with ACGME

work hour rules -- including the 80-hour rule -- to ensure that moonlighting does not interfere with a resident/fellow's ability to achieve the goals and objectives of the educational program. Failure to report moonlighting hours could result in suspension and/or dismissal from the training program.

6. A resident/fellow's income from a state institution must not exceed state regulations, in particular, a resident/fellow's compensation from UAMS, which includes residency/fellowship stipend and all earnings from external moonlighting, may not exceed the state line-item salary maximum.

7. When performing moonlighting services, the resident/fellow must appropriately document in the medical chart. For example, they can state that they are licensed to practice medicine in Arkansas, document the service was performed outside of their approved GME program, and describe the specific physician services furnished.

External & Internal Moonlighting Activity Request Procedure

1. A resident/fellow must obtain a valid Arkansas Medical License.
2. A resident/fellow must obtain his/her personal DEA number.
3. A resident/fellow must either obtain a malpractice insurance policy individually or through the employing facility that will cover the activity to be performed outside the training program.
4. A resident/fellow must obtain appropriate hospital credentialing (house staff credentialing is not acceptable).
5. Each academic year, a Moonlighting Activity Request Form (https://medicine.uams.edu/gme/moonlighting-request/) must be completed and all approval obtained prior to the start of any moonlighting activity.
6. Once final approval is obtained for internal or external moonlighting, copies of the following documents MUST be kept in a resident/fellow's permanent program educational file in the program:

    - Arkansas Medical License
    - DEA number
    - Hospital credentialing documentation
    - Proof of malpractice insurance, as appropriate
    - Approved Moonlighting Activity Request form
    - Copy of current GMEC Policy 3.300
    - Copy of Program's current policy on Moonlighting

    Additionally, the resident/fellow's moonlighting file must state the following: "the resident/fellow's performance will be monitored for the effect of moonlighting activities upon patient care responsibilities and educational performance, and if the moonlighting activities adversely effects either of these areas of care or learning, then permission to

moonlight may be withdrawn." Once final approval for moonlighting is obtained and a copy of the Moonlighting Approval Agreement is fully executed, this agreement will constitute a contract with the resident/fellow.

7. Once internal moonlighting has been approved, a resident/fellow must work with their Department Business Administrator to arrange compensation amounts and the procedure for the resident/fellow to participate in any moonlighting activities.

8. The residency/fellowship program must keep an active list of all residents/fellows participating in moonlighting activities and monitor their compliance to GMEC policy 3.300 and their program specific policy.

References:

1. Centers for Medicare and Medicaid Services Provisions for Agreement 42 CFR 415.208
2. Medicare Benefit Policy Manual: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c01.pdf