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SOMAC Approval: October 15, 2013

The last review was in 1999. This policy has been significantly revised.

Resident Harassment Policy

1. Background

The Postgraduate Medical Education Office, Queens University Faculty of Health Sciences (PGME), places the utmost importance on the safety and wellbeing of its postgraduate trainees and their right to learn in an environment of professionalism, collegiality and respect.

The Faculty of Health Science staff, faculty members, and the affiliated teaching hospitals have a joint responsibility to protect the integrity of the clinical and academic learning environment for postgraduate trainees who include residents and fellows (trainees). This Policy prohibits harassment, intimidation, and unprofessional behavior in the trainees' learning and working environment and provides the assurance that the Postgraduate Medical Education Office will respond when that environment is compromised.

2. Definitions

- 2.1. Harmful Incident is defined broadly as an incident which occurs within the context of a trainee's learning experience in which the behavior of one or more individuals causes harm to a trainee(s) or the PGME community and/or compromises the learning and working environment. Harmful Incidents include harassment, intimidation, and incidents of unprofessional behavior.
- 2.2. Harassment is defined in the Ontario Human Rights Code and the Occupational Health and Safety Act as "a course of vexatious conduct which is known or ought reasonably to be known to be unwelcome".
- 2.3. Harassment can be human-rights based; that is based on someone's race, ancestry, place of origin, color, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability, or other grounds listed in the Ontario Human Rights Code.
- 2.4. Workplace harassment includes intimidation and bullying which are not necessarily human rights based but which is offensive and unwelcome.
- 2.5. Intimidation means intentional behavior which a reasonable person would view as threatening.

- 2.6. Harassment can create an unwelcome, hostile or offensive learning and work environment, can interfere with a person's academic and work performance, and adversely affect a person's progress and opportunities.
- 2.7. Normal supervisory responsibilities, including the appropriate assessment and criticism of academic efforts and the reasonable communication of expectations of quality of academic performance, and discussion and debate about controversial topics in an academic environment, do not fall into the category of harassment.
- 2.8. Unprofessional Behavior is demonstrated when a physician does not act respectfully towards other physicians, hospital staff, volunteers, trainees, patients and their families. Such behavior has the potential to harm the learning environment. It may include making remarks of an intimidating or discriminatory nature. See CPSO definition of disruptive physician behavior.
- 2.9. The academic context is defined as the teaching and learning environment. Residents provide patient-care within an academic context. Residents must meet defined criteria in the development of their professional skills and competencies and are provided with graduated responsibilities. Residents are consistently being monitored and assessed within an academic context based on those criteria and program objectives using a variety of assessment tools (e.g. ITERS, daily assessments).

3. Purpose

The purpose of this Policy is to:

- (1) Address harmful incidents which include intimidation, harassment and unprofessional behavior which occur in a trainee's learning and working environment; and
- (2) Outline the process for trainees to report complaints of harmful incidents involving themselves or other trainees and the initiation of an investigation.

Implicit in this Policy is the recognition that there may be similar policies within the affiliated teaching hospitals (the Hospitals) and Queen's University, and that there may be circumstances where a complaint involves more than one institution in which case the PGME office will consult to determine which institution will assume jurisdiction in investigating and resolving a complaint.

Any reprisals, retaliation or threats of reprisals or retaliation for pursuing rights under this Policy is itself considered a breach of this Policy.

Allegations of behavior which fall into the category of harmful incidents will be taken seriously by the PGME office. However, those who make allegations that are reckless, malicious, or not in good faith may be subject to disciplinary action.

4. Jurisdiction

This Policy does not supersede existing policies of the University, the Faculty of Health Sciences, or a healthcare facility (e.g., hospital, community based clinic) whose authority may take precedence depending on the location and circumstances of the alleged harmful incident and the parties involved. Some situations may require a collaborative response from the University and a healthcare facility.

4.1 The PGME will normally have jurisdiction in the following situations:

- 4.1.1. A complaint by a resident about the behavior of a member of the teaching faculty or staff member which occurs in an academic context.
- 4.1.2. A complaint by a resident about the behavior of another learner which occurs in an academic context.
- 4.1.3. A complaint by a member of the teaching faculty about the behavior of a resident which occurs in an academic context.
- 4.1.4. A complaint by a resident about the behavior of a patient in a healthcare facility.

4.2 The PGME and the healthcare facility will normally share jurisdiction in the following situations:

- 4.2.1 A complaint by a resident about the behavior of a member of the teaching faculty or member of the healthcare facility staff which occurs in the healthcare facility context.
- 4.2.2 A complaint by a resident about the behavior of another learner which occurs in the healthcare facility context.
- 4.2.3 A complaint by a member of the teaching faculty or healthcare facility employee about the behavior of a resident which occurs in the healthcare facility context.
- 4.2.4 A complaint about the behavior of resident by a patient or member of the public which occurs in the healthcare facility context.
- 4.2.5 A complaint by a resident about the behavior of a patient or member of the public which occurs in the healthcare facility context.

5. The Process

5.1 Confidentiality and Transparency

Within the limits of the investigative process, all complaints will be treated confidentially. It should be noted that anonymous complaints are difficult to address and resolve.

- 5.1.1 For a complaint to go forward through an investigation or mediation, the complainant's identity and details about the complaint must be disclosed to the respondent, mediator and/or investigative committee. The complainant and the responding party or parties shall be advised to keep the identities of those who are parties to the complaint and the circumstances of the complaint in confidence.

- 5.1.2 It is important to address concerns about harmful incidents quickly. As a result, normally, complaints must be brought forward within 6 months of the incident complained of, or where the matter complained of consists of a series of related incidents, within six months of the most recent incidents. Timely identification of and response to a harmful incident should be the goal of all PGME programs to protect the interests of the complainant and respondent.

5.2 First steps

- 5.2.1 Any trainee who believes he or she has been the subject of or witness to a harmful incident should first bring the matter in confidence to the attention of her or his immediate supervisor, namely, chief resident, supervisor, Program Director, Director of Resident Affairs or Associate Dean Postgraduate Medical Education. If the concern relates to the trainee's immediate supervisor, the trainee should bring the matter to the attention of the individual in a position above the immediate supervisor. In these circumstances, it is important not to delay in bringing concerns about harmful incidents to the attention of the supervisor(s). Trainees are encouraged to seek advice regarding the appropriate procedures in these circumstances from the Program Manager, Postgraduate Medical Education. Trainees also have access to the resources of the Queen's University Human Rights Office (<http://www.queensu.ca/humanrights/>). Trainees may look to PARO representatives for support.
- 5.2.2 Anyone in a supervisory position has the responsibility to respond if a trainee discloses a harmful incident or if made aware of an alleged harmful incident. That person may be in a position, with assistance, if needed, to find an early resolution to the issue of concern. If such early intervention is not appropriate because, for example, the matter complained of is complex or serious warranting a more formal procedure, the person complained about is uncooperative or the complainant is dissatisfied with such an approach, the procedures set out below should be followed.

6. Procedures Following Receipt of a Complaint

- 6.1 The recipient of the complaint will:
 - 6.1.1. Clarify the details of the alleged harmful incident or incidents complained of.
 - 6.1.2. Provide the complainant with information about the process to address the complaint, including informal and formal resolution options and an explanation of any jurisdictional issues and other institutions which may be involved in the process.
 - 6.1.3. Clarify the need for other individuals to be made aware of the harmful incident in order to address the situation.
 - 6.1.4. Determine the complainant's interest in proceeding and the process to be taken (informal vs. formal).

- 6.1.5. Contact the Associate Dean, the Human Rights Office or others for advice, as needed.
- 6.2. If the trainee is agreeable, the recipient of the complaint may be in a position to resolve the complaint.

7. Procedures for Resolution

- 7.1. Early Informal Resolution Process: A trainee may choose to resolve a complaint through the Early Informal Resolution Process, calling on the resources offered by the Postgraduate Medical Education Office. Problem resolution mechanisms may include mediation, coaching, counseling and facilitation. An advisor can be selected by the complainant to provide advice where appropriate. The advisor may be a PARO representative.
- 7.2. Formal Resolution Process: If informal resolution is not successful or appropriate for the circumstances, a trainee may file a written, formal complaint with either the Associate Dean, PGME or the Director of Resident Affairs. The Associate Dean, PGME and the Director of Resident Affairs will review the nature of the complaint and determine if an investigation is required.
- 7.3. If the Associate Dean determines that an investigation is not warranted, he or she will so advise the complainant in writing. The complainant will be provided with whatever assistance and resources are considered necessary in the circumstances.
- 7.4. If an investigation is warranted, in the opinion of the Associate Dean, depending on the circumstances, the investigation will be conducted either by the Associate Dean or by a committee of two faculty and a resident, selected by the Associate Dean. The investigation will involve:
 - 7.4.1. Providing the person or persons complained about (the respondent) with the substance of the complaint and advising the respondent of available support;
 - 7.4.2. Gathering all pertinent information from the complainant, respondent and relevant witnesses, including witnesses identified by the complainant and/or respondent;
 - 7.4.3. Reviewing any relevant documents or physical evidence;
 - 7.4.4. Determining procedural issues regarding the conduct of the investigation;
 - 7.4.5. Providing the complainant and respondent with particulars of allegations to enable full responses as required in the course of the investigation;
 - 7.4.6. Assessing the evidence including consideration of conflicting evidence, direct knowledge, relationship of witnesses to complainant or respondent, opportunity for observation, ability to recall, and other relevant factors;
 - 7.4.7. Determining the allegations/issues relating to the complaint and deciding whether, on a balance of probabilities, the reported harmful incident occurred;

- 7.4.8. Recommending appropriate remedies, disciplinary action(s), or other measures, keeping the parties informed about the progress of the complaint; and,
 - 7.4.9. Providing reasons for the final decision.
- 7.5. If the investigation corroborates the allegations of a harmful incident, the Associate Dean will take prompt and effective measures to remedy the matter.
- 7.6. Mediation may be used at any stage of the proceedings if the parties are agreeable.

A complainant has the right at any time to withdraw from further participation in any investigation or other resolution related action. The investigation may continue without the participation of the complainant depending on the circumstances. If the complainant declines to participate further, he or she will forgo the right to be informed of any developments in the matter

8. Appeals

- 8.1. The complainant or the respondent may appeal the Associate Dean's decision to the Vice-Dean Education requesting re-consideration.
- 8.2. In the case of harassment based on a human rights ground, the complainant retains the right to bring the complaint to the Queen's Human Rights Office or the Ontario Human Rights Commission in accordance with the provisions of the *Ontario Human Rights Code*.

Related Standards

Government:

- The Ontario Human Rights Code

Faculty of Health Sciences, Queen's University

- Code for the Ethical Conduct of Clinical Teaching Encounters (Policy # CC-04)

College of Physicians and Surgeons of Ontario

- Professional Responsibilities in Postgraduate Medical Education
- CPSO-Physician Behaviour in the Professional Environment
- CPSO Guidebook for Handling Disruptive Physician Behaviour, April 2008

PARO-CAHO Collective Agreement

- No Discrimination/Harassment/Intimidation

RCPSC/CFPC

- Accreditation on the Issues of Intimidation and Harassment in Postgraduate Medical Education Guidelines for Surveyors and Programs

Hospitals affiliated with Queen's University

- Consult the policies on conduct within the appropriate affiliated hospital or research institute

Source Material

University of Toronto, Faculty of Medicine, Postgraduate Medical Education, *Guidelines for Addressing Intimidation, Harassment and Other Kinds of Unprofessional or Disruptive Behaviour in Postgraduate Medical Education*, October 2012.

McMaster University, Postgraduate Medical Education, *Harassment Policy*, http://fhs.mcmaster.ca/postgrad/harassment_policy.html.

Northern Ontario School of Medicine, *Postgraduate Harassment & Discrimination Protocol*, September 2007.