

Tilman J. Fertitta Family College of Medicine

Graduate Medical Education Policies

RESIDENT/FELLOW MOONLIGHTING

ACGME Policies

IV.K.1. Moonlighting: The Sponsoring Institution must maintain a policy on moonlighting that includes the following:

IV.K.1.a) residents/fellows must not be required to engage in moonlighting;

IV.K.1.b) residents/fellows must have written permission from their program director to moonlight;

IV.K.1.c) an ACGME-accredited program will monitor the effect of moonlighting activities on a resident/fellow's performance in the program, including that adverse effects may lead to withdrawal of permission to moonlight; and,

IV.K.1.d) the Sponsoring Institution or individual ACGME-accredited programs may prohibit moonlighting by residents/fellows.

Background

The Tilman J. Fertitta Family College of Medicine and its ACGME-accredited training programs are committed to graduating well-trained physicians, ready to practice independently and without supervision in the specialty of their choice. To that end, the COM will focus all training efforts on education and the development of a strong and nurturing educational environment.

Moonlighting by any trainee is prohibited.

Procedure

Moonlighting is defined as additional professional duties for extra pay or benefits, beyond those required to successfully complete one's training program. *Working as a physician* shall be defined as engaging in any activity, whether compensated or not, that involves direct patient care, or that might affect the future care of a specific patient, or that might affect a specific patient's ability to obtain care or insurance. It may also be described as doing extra work for extra pay.

Examples of activities that **would be** considered *working as a physician* include, but are not limited to:

- Working in an emergency room, medical or health facility caring for patients
- Working as a physician for a non-profit organization, such as a Little League team
- Interpreting laboratory tests or X-rays
- Working for an insurance carrier determining which patients should be covered or which procedures are necessary

- Reviewing charts or cases for lawyers

Examples of activities that **would not** be considered *working as a physician* include, but are not limited to:

- Tutoring medical students
- Writing a chapter in a medical text
- Giving violin lessons

Moonlighting activities of any kind are not permitted for anyone in the United States on a visa. Those residents/fellows on a visa may not participate in any kind of extra work for extra pay, or be required to participate in extra work without pay, outside of the boundaries of the training program. As an example, if a residency program is short-staffed for a particular month due to maternity leaves, and all residents are picking up one additional call, then it is expected and within the boundaries of the training program for all trainees to do this work, including those on a J-1 or H-1B visa. However, if a program offers extra call for pay to its residents to decrease the reliance on physician extenders, those on visas cannot participate for extra pay. Nor can they be forced to participate without receiving extra pay, as this type of work is not required for their training.

Moonlighting activities are broken down into three types:

- Those which are internal to the institution (Baylor College of Medicine [BCM] or a BCM-affiliated institution) and the residency/fellowship program,
- Those which are internal to the institution, but not the residency/fellowship program,
- Those which are external to both.

An example of an activity which is **internal to the institution and the residency program** would be psychiatry residents taking extra call at Menninger Clinic. Because Menninger Clinic is part of the BCM affiliated hospital list, it is internal to the institution. And since psychiatry residents rotate through Menninger Clinic as part of their required residency training, it is internal to the program.

For these types of activities, the Program Director needs to complete an Internal Moonlighting Reporting Form (see addendum A). BCM Professional Liability Insurance (PLI) will be in effect, and a Texas Medical Board Physician-in-Training Permit is sufficient licensure. Residents/fellows will need to report these activities through the duty hours' portion of E*Value, and they must be counted within the Accreditation Council on Graduate Medical Education (ACGME) 80-hour limit. The department will need to make contractual arrangements with the affiliate for pay to be directed through the resident's BCM paycheck.

An example of an activity which is **internal to the institution yet external to the program** would be ob/gyn residents taking call at the Menninger Clinic. The Menninger Clinic is part of the BCM affiliated hospital list; however, the ob/gyn residents do not rotate there as part of their training program. Thus, while BCM PLI will cover the ob/gyn resident who does this moonlighting at Menninger and is supervised by a BCM faculty member, these residents must hold a full Texas Medical License (TML) to participate in such activities. In addition, the trainee

must hold their own DEA and DPS certificates. The Program Director is required to complete an Internal Moonlighting Reporting Form (see Addendum A). Residents/fellows must still report these activities through the duty hours portion of E*Value, and they must be counted within the AGCME 80-hour limit. The department will need to make contractual arrangements with the affiliate for pay to be directed through the resident's BCM paycheck.

An example of an activity which is **external to both the institution and the program** would be medicine residents working at Case de Esperanza, since it is not affiliated with BCM, nor do the medicine residents train there for any required elements of their residency training. In this case the residents/fellows would be functioning as an independent contractor, without any BCM PLI. He/she would be required to hold a full TML and complete the standard moonlighting request form that requires Graduate Medical Education (GME) Office approval (see Addendum B). In addition, the trainee must hold their own DEA and DPS certificates. The external moonlighting is required to be a part of the E*value duty hours documentation, and does fall within the course and scope of the AGCME duty hours requirements.

Another example of an activity which is external to both the institution and the program would be activities for a voluntary faculty member outside the course and scope of the training program. For example, the most common of these would be chart dictation. On face value, this would not appear to be external since the physician does have a faculty appointment. But since the voluntary faculty member is not covered by BCM PLI and the activities usually involve private patients seen in a private office, a full license, and external malpractice insurance is required.

Since it is impossible to produce a complete list of examples, if a program director is approached about an activity which does not clearly fit into the above categories, please contact the Senior Associate Dean for GME, to ensure that the trainee is adequately protected.

Evidence of poor performance by a resident/fellow should be reviewed by the Program Director with specific attention paid to the possibility of moonlighting being the cause. If the Program Director believes that a resident/fellow is performing poorly secondary to *working outside of the training program as a physician*, the Program Director must require the resident/fellow to cease all such activity in order to perform required work to an acceptable level of satisfaction as stipulated by the residency program.

Licensure

Internal Moonlighting can be performed while under the auspices of either a TMB PIT Permit, or a full Texas Medical License (TML). **External Moonlighting** can only be performed under a full TML. In either circumstance, once a full TML has been obtained by the resident/fellow, the resident/fellow must also obtain and maintain current DPS and DEA registration. No approval for moonlighting will be given until these documents are provided, and approval will be considered to be revoked if these expire.

Once a TML license is obtained, it is the resident/fellow's responsibility to ensure that all licensure documents are current at all times. Failure to do so can result in termination of moonlighting privileges and may interfere with the resident/fellow's completion of the training program.

Reporting Requirements

As of July 1, 2011 all moonlighting hours, either external or internal, must be logged into E*Value.

Internal moonlighting hours must be logged into E*Value by the 5th of a given month. For example, on August 5th, the duty hours for training plus the internal moonlighting hours for July must be entered into E*Value. This reporting is vital for each program and the sponsoring institution to assure compliance with ACGME requirements. Failure to report internal moonlighting as required will result in:

- First offense: Written warning and notation in resident/fellow's file
- Second offense: Suspension of moonlighting privileges for 90 days
- Second offense: Suspension of moonlighting privileges for six months
- Third offense: Termination of moonlighting privileges

Length of Privileges

Moonlighting privileges, once granted, are valid for the remainder of that academic year or less, depending on the period requested on the moonlighting approval form. It is the resident/fellow's responsibility to ensure that an updated packet for approval is filed with the GME Office at least 60 days prior to the start of a new academic year if the resident/fellow wishes to continue moonlighting.

EFFECTIVE DATE: September 1, 2021

APPROVAL DATE: August 31, 2021

NEXT REVIEW DATE: January 31, 2024