

Queen's University
Senate Committee on Academic Procedures

**POSTGRADUATE MEDICAL EDUCATION STUDENTS AND
STUDENT APPEALS, RIGHTS, AND DISCIPLINE**

January 2013

Background

In the Fall term of 2012, the Senate Committee on Academic Procedures received a request from the Postgraduate Medical Education Program of the Faculty of Health Sciences regarding the University's *Student Appeals, Rights, and Discipline* (SARD) document. The Faculty requested that postgraduate medical education (PGME) students (i.e., residents) be excluded from the application of the SARD policy.

Residents are graduates of an M.D. program and physician trainees registered at Queen's who receive educational licenses from the College of Physicians and Surgeons of Ontario (CPSO) that permit them to work in the medical education environment. In all circumstances involving the clinical competence and professional behaviour of a resident, the CPSO looks to the School of Medicine to address shortcomings and render judgment about a resident's ability to practice medicine.

In order to ensure residents' rights to appeal decisions about competence or professional behaviour, the School of Medicine has created a Postgraduate Tribunal as a final level of appeal, which would be utilized after appeals to the PGME program and Postgraduate Dean of the Faculty of Health Sciences have been exhausted. The Tribunal is similar to other bodies at peer institutions, and is structured in its composition and function the same as the University Student Appeals Board.

Content and Analysis

This section provides a background for the appeal processes available to a resident that culminates in a final appeal to the School of Medicine Postgraduate Tribunal. A resident will have no right of appeal to the University Student Appeal Board (USAB), but will have access to an appeal process that is equivalent in rigour and adheres to the principles of natural justice.

Residents are Licensed Physicians

Residents are physician trainees who have graduated from Medical School and are registered in the Postgraduate Medical Education (PGME) Residency Program at Queen's University. They occupy a unique hybrid position, being a combination of both students and physician employees. The College of Physicians and Surgeons of Ontario (CPSO) grants educational licenses to residents that allow them to work in the medical educational environment. These environments range from large tertiary academic medical centres, community hospitals, out patient clinics, emergency departments, urgent care centres, or community clinics to private medical offices of independent physicians. As licensed physicians, they have the authority to write medical orders

in patients' medical charts and nursing staff will carry out those orders. They have the authority to write prescriptions and pharmacists will fill and dispense those prescriptions. They also undertake medical procedures as their level of expertise allows. Ultimately, residents are responsible for the care they provide to patients and must carry malpractice insurance provided by the Canadian Medical Protective Association.

Patient Safety is the Primary Priority

There is an expectation of graduated responsibility during the 2 to 6 year residency training period. However, College of Physicians and Surgeons of Ontario policies clearly stipulate that "safe and effective care of the patient takes priority over the training endeavor".

Residents are Paid Employees of our Healthcare System

Residents are employees of the Kingston General Hospital (KGH), which acts as the paymaster hospital, providing human resources and employment services for residents. Residents are appointed to the Medical Staff of and are granted privileges by the hospitals where they practice and are bound by the Medical Staff bylaws and policies of those hospitals. Residents also belong to the Professional Association of Interns and Residents of Ontario (PAIRO), which is, in effect, their union. PAIRO negotiates the residents' contract with the Council of Academic Hospitals of Ontario (CAHO). The Ontario Ministry of Health (MOH) provides KGH with the funds to pay residents' salaries and benefits negotiated between PAIRO and CAHO. As employees providing medical care, they work anywhere from 40 to 80 hours per week across various clinical settings. Salaries range from \$51,000.00 annually for first year trainees, to more than \$72,000.00 annually for sixth year trainees. Residents also receive bonuses for call duty and assuming administrative roles such as Senior or Chief Resident positions.

Residents differ from all other Queen's Students

Unlike all other Queen's students, residents pay no tuition but rather a registration fee to the Office of Postgraduate Medical Education in the amount of \$550.00 per year. This compares to tuition and registration fees ranging from \$7,000.00 – almost \$11,000.00 (MBA programs excluded) paid by Queen's graduate students. Although, residents receive student cards providing access to Bracken Health Sciences Library they have no access to other benefits that Queen's undergraduate or graduate students receive. Furthermore, upon successful completion of residency programs, residents are not awarded degrees from Queen's University, but 'Certificates of Completion' from the School of Medicine.

Control and Oversight of Residency Education is External to Queen's

Medicine has the privilege, right, and responsibility of being a self-regulated profession. As physician trainees with an educational license to practice medicine residents are governed by institutions established by the medical profession. Residency Programs are accredited by and lead to certification with the College of Family Physicians of Canada (CFPC) for Family Medicine training and the Royal College of Physicians and Surgeons of Canada (RCPSC) for specialty training. Responsibility for (1) setting educational and administrative standards, (2) monitoring the quality of postgraduate medical education, and (3) administering certification examinations is shared between these Colleges. These accrediting bodies set the goals and objectives of training that guide all residency training curriculum development and assessment

processes. External accreditation reviews of programs are conducted on a six-year cycle wherein programs are required to demonstrate compliance with the General Standards of Accreditation.

Residents must meet the goals and objectives of training set by the Colleges (CFPC & RCPSC). Programs must provide evidence that residents have attained the competencies outlined in those goals and objectives. However, upon program completion residents must pass final certification examinations set by the College of Family Physicians of Canada and the Royal College of Physicians and Surgeons of Canada in order to obtain an independent license from the regulatory authorities (example; CPSO). Ultimately, Queen's University and Senate have no oversight or control over, nor any involvement in medical licensing, educational or credentialing processes.

Determinations about Physician Competence and Behaviour

The Resident Assessment, Promotion and Appeals Policy of the School of Medicine describe: assessment processes for all residents, criteria governing promotion, remediation, probation, suspension and withdrawal and appeal processes. Negative decisions about a resident's progress, potentially leading to an appeal, may result because of general concerns about clinical competence or professional behaviour more specifically, including physician-patient relations. For example, the Policy addresses urgent situations that could arise when a resident is alleged to have engaged in unethical, unprofessional or inappropriate behavior. In such circumstances, a resident would be suspended immediately pending an investigation undertaken to review the complaint. This could lead to the resident's hospital privileges and/or CPSO educational license being revoked. In such circumstances the resident would be required to withdraw from the Residency Program. The University Senate through its appeal body, USAB, could play no role in modifying such a result were a resident to appeal. These are issues that can be addressed only by the School of Medicine in conjunction with the relevant hospital and the CPSO. In all circumstances involving the competence or behavior of a resident the CPSO looks to the School of Medicine to address any shortcomings and render judgment about a resident's ability to practice medicine.

Appeals Process

The Resident Assessment, Promotion and Appeals Policy includes 3 levels of appeal. The final appeal is the Dean's Tribunal. Following are the reasons why the final appeal to the Tribunal will provide a fair process for residents:

- The rules governing an appeal to the Tribunal have been modeled on the USAB process to ensure that a resident will have the same appeal rights and opportunities.
- The Tribunal would be made up of clinical faculty members and residents from the School of Medicine who would receive legal education about the principles of natural justice and the rules of evidence. The Tribunal members would be supported during any appeal by legal counsel.
- The clinical faculty on the Tribunal would be familiar with the unique and complex medical educational and clinical environments. They would be familiar with the policies of the CPSO, the bylaws of the teaching hospitals, and the accreditation standards of the Colleges. They would understand the complex working and learning environment in which the residents both practice and learn.
- The clinical faculty have a professional responsibility to and are familiar with the importance of placing the patient as the primary priority in the clinical environment.

- The members of the Tribunal would have the expertise to fashion appropriate remediation or probationary conditions to meet the particular circumstances.

Conclusion

SCAP members agreed that the appeals process and Postgraduate Tribunal, as well as the various resources in place within the Faculty of Health Sciences and external bodies, provide appropriate procedures and support for residents who choose to submit an appeal, and agreed that residents should therefore be excluded from the application of the SARD policy.

At its December 12, 2012 meeting, SCAP voted to approve the following motion and asks that Senate consider the same motion at its January 2013 meeting:

It was moved that the phrase “This policy does not apply to persons admitted to a postgraduate medical education program at Queen’s University” be added to the Student Appeals, Rights, and Discipline document, item 1c, for a period of three years, and that the Dean (or designate) of the Faculty of Health Sciences will report to SCAP on the nature of the matters addressed by the Postgraduate Medical Education Tribunal in the third year of this change before consideration that the addition may be made permanent. It was also moved that a footnote be included referring PGME students to the PGME Assessment, Promotions, and Appeals Policy document.

Membership

T. Alm, Interim University Registrar
L. Burlock, B.A. ‘14
R. Coupland, Office of the University Registrar (Secretary)
C. Esselmont, PhD candidate, Department of Philosophy
H. Everson, Faculty of Arts and Science
J. Mennell, Department of Languages, Literatures, and Cultures
J. Morelli, Department of Physics, Engineering Physics, and Astronomy
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