DUE PROCESS: THE IDENTIFICATION AND MANAGEMENT OF FELLOW PROBLEMS/GRIEVANCES

St. Cloud Hospital Behavioral Health Services

Introduction

This document provides Behavioral Health Fellows and staff with an overview of the identification and management of Fellow problems and concerns, a listing of possible sanctions, and a discussion of the due process procedures as well as important considerations in the remediation of problems. We encourage Fellows to discuss and resolve conflicts informally; however, if this cannot occur, this document was created to provide a formal mechanism for responding to issues of concern. This document is intended to provide a procedure to correct and/or improve a Fellow's performance and to provide guidelines for supervisory action when a Fellow deviates from the expectations of a Behavioral Health Fellow, including but not limited to CentraCare policies, procedures, rules and/or regulations which are applicable to all CentraCare employees. This document also outlines a grievance process if a Fellow has concerns or grievances during their Fellowship with CentraCare.

CentraCare requires that all Fellows abide by all CentraCare's applicable policies, procedures, rules, and regulations, in addition to the specific requirements of this Behavioral Health Fellowship Program and is the responsibility of each Fellow to abide by those CentraCare requirements. In return for those expectations, CentraCare shall provide each Fellow with the rights of the grievance procedure and due process identified in this document.

This document is divided into the following sections:

I. Definitions: Provides basic or general definitions of terms and phrases used throughout the document.
II. Procedures for Responding to a Fellow's Problematic Behavior: Provides basic procedures, including notification, hearing, and appeal processes, along with possible remediation or sanction interventions.
III. Grievance Procedures: Provides guidelines throughout which a Fellow can informally and formally raise concerns about any aspect of the training experience or work environment.

I. Definitions:

Fellow: Throughout the document, the term "Fellow" is used to describe any person in training in the Behavioral Health Clinic Postdoctoral Fellowship Program.

Training Director: Throughout this document the term "Training Director" is used to describe the staff member who oversees the Behavioral Health Clinic's postdoctoral training activities.

Due Process: The basic meaning of due process is to inform and to provide a framework to respond, act, or dispute. Due process ensures that decisions about Fellows are not arbitrary or personally based. It requires that the Behavioral Health Postdoctoral Fellowship Program identify specific procedures which are applied to all Fellow complaints, concerns, and appeals.

Director of the Behavioral Health Clinic: Throughout this document the term "Director of the Behavioral Health Clinic" is the person who has broad oversight of the Behavioral Health clinic services with a focus on psychology and psychotherapy services in a specified Behavioral Health clinic (i.e., Integrated Behavioral Health, Child and Adolescent Outpatient Behavioral Health & PHP, Adult Outpatient Behavioral Health & PHP). The Directors of the Outpatient Behavioral Health Clinics meet with a Medical Director as part of a dyad leadership model. All Directors collaborate with other Behavioral Health directors and managers.

Executive Director of Behavioral Health: Throughout this document the term "Executive Director of Behavioral Health" is the person who has broad oversight of all Behavioral Health operations, meeting with the senior leaders of CentraCare and providing support to the various directors and managers of

the Behavioral Health Services. The Executive Director meets with the Medical Director as part of a dyad leadership model in Behavioral Health.

Performance Review Committee: A committee made up of the Training Director, the Director of the Behavioral Health Clinic, another Fellowship supervisor, and, if needed, another CentraCare staff member with pertinent expertise.

Review Panel: A committee made up of the Director of the Behavioral Health Clinic, the Executive Director of Behavioral Health, and one Fellowship supervisor who is not on the Performance Review Committee.

Due Process:

1. During the Fellow orientation period, Fellows will receive in writing the Behavioral Health Clinic expectations related to professional functioning which will include a review of this document. The Training Director will discuss these expectations in both group and individual settings.
2. The procedures for evaluation, including when and how evaluations will be conducted, will be described during orientation of the Fellows. Such evaluations will occur at meaningful intervals.
3. The various procedures and actions involved in decision-making regarding the problem behavior or Fellow concerns will be described during orientation of the Fellows.
4. The postdoctoral Fellowship will communicate early and often with the Fellow if any difficulties are identified to be interfering with performance.
5. The Training Director will institute, when appropriate, a remediation plan for identified difficulties, including a timeframe for expected remediation and consequences of rectifying the difficulties.
6. If a Fellow wants to institute an appeal process, the document describes the steps of how a Fellow may officially appeal to this program's action.
7. The postdoctoral Fellowship due process procedures will ensure that Fellows have sufficient time (as described in this due process document) to respond to any action taken by the program before the program's implementation, including but not limited to a hearing with the Performance Review Committee.
8. When evaluating or making decisions about a Fellow's performance, postdoctoral Fellowship staff will use input from multiple professional sources.
9. The Training Director will document, in writing, and provide to all relevant parties the actions taken by the program and the rationale for all actions.

Problematic Behavior: Fellows may exhibit behaviors, attitudes, or characteristics which, while of concern and remediation, are not unexpected or excessive for professionals in training. It is a matter of judgment as to when behavior of concern is serious enough to constitute problematic behavior. Problematic behavior is broadly defined as an interference in professional functioning which is reflected in one or more of the following ways:

1. An inability and/or unwillingness to acquire and integrate professional standards into one's repertoire of professional behavior.
2. An inability to acquire professional skills to reach an acceptable level of competency.
3. An inability to control personal stress, strong emotional reactions, and/or psychological dysfunction which interfere with professional functioning.
4. The Fellow does not acknowledge, understand, or address the problem when it is identified.
5. The problem is not merely a reflection of a skill deficit which can be rectified by academic or didactic training.
6. The quality of services delivered by the Fellow is sufficiently negatively affected.
7. The problem is not restricted to one area of professional development.
8. A disproportionate amount of attention from training personnel is required.

9. The Fellow's behavior does not change as a function of feedback, remediation efforts, and/or time.
10. Violation of any policy or procedure required by all CentraCare employees may result in corrective action and/or discipline, including but not limited to absenteeism, dishonesty, offensive behavior, etc.

Fellow Grievance: Any request or matter that is brought to the attention of a supervisor regarding any condition of employment, except termination of employment, that the employee believes is unjust or inequitable.

Retaliation: Any adverse employment action improperly taken against a Fellow who has asserted rights.

Appropriate Response Time: When the term "appropriate response time" is used in this policy, it means within five (5) business days of the receipt of the document. Human Resources may use its discretion to extend the appropriate response time, for example, due to schedule conflicts, etc.

II. Procedures to Respond to Problematic Behavior:

A. Informal Responses to Problematic Behavior:

1. At any time, a Fellow may be given verbal feedback that they are not performing up to expected standards. At the scheduled evaluation periods, supervisors are expected to give verbal notice if they believe the Fellow is not performing up to expected standards, that is, if the Fellow is likely to be rated below the expected level on any of the competencies evaluated.
2. It is CentraCare policy that supervisors and supervisees, when appropriate, first seek informal resolutions to performance concerns:
    a. Supervisors should first coach and counsel the employee to improve their performance or change their conduct or behavior. An effective system emphasizes correcting the problem before formally disciplining the employee.
    b. Such informal efforts in this manner may involve the Training Director and/or the Director of the Behavioral Health Clinic as intermediaries, when necessary.
    c. If the Fellow addresses the feedback appropriately and brings their performance up to the expected standard, then no further action is necessary.
    d. If the Fellow continues to have difficulties with performance, then the concern may be brought to the Performance Review Committee (see process below).
3. If a staff member, other than the Fellow's supervisor, or another Fellow has concerns about a Fellow's behavior (ethical or legal violations, professional incompetence), these should be brought to the attention of the Training Director. This information will also be communicated to the Fellow's supervisor(s) and the Performance Review Committee.
4. The Performance Review Committee will meet within 5 working days of receipt of any concerns to determine what action needs to be taken to address the concerns.
    a. The Fellow will be informed in writing that the concern(s):
        i. Have been brought to the attention of the Performance Review Committee.
        Ii. That the Training Director and Performance Review Committee are concerned about the behavior.
        Iii. That concern has been brought to the attention of the Fellow.
        Iv. That the Training Director and supervisor(s) will work with the Fellow to rectify the problem or skill deficit.
            a. If the Performance Review Committee determines that the expressed concerns are not significant enough to warrant disciplinary action, an informal resolution will be sought. If the Fellow addresses the feedback appropriately and brings their performance up to the expected standard, then no further action is necessary.

B. Disciplinary Responses to Problematic Behavior:

1. Failure to resolve issues in an informal manner may result in formal disciplinary action. Should the matter be unresolved and become a formal issue, the Fellow may be encouraged to use their primary supervisor, or in the case of conflict of interest, another designated supervisor, as a consultant following the process.
2. To ensure consistency and fairness of application, all disciplinary actions are to be reviewed by CentraCare Human Resources Employee Relations prior to issuing the discipline to the Fellow.
3. If it is determined by the Performance Review Committee and Employee Relations that problematic behavior requires more than informal resolution, the Fellow will be notified in writing that such determination has been achieved. This written notification will be issued immediately upon the Performance Review Committee's decision being approved by Employee Relations.
4. If it is determined that the problematic behavior requires more than an informal resolution, the Fellow will then have a hearing with the Performance Review Committee, providing an opportunity for the Fellow to hear concerns and to respond to the concerns of the program, prior to decisions about formal disciplinary actions are made.
5. When discipline is deemed appropriate, the disciplinary process typically consists of a Written Warning, Suspension, and Termination; however, any of these steps can be skipped depending upon the severity of the concern being addressed. These actions are designed to bring about a change in the Fellow's performance and/or behavior.
   a. The actions listed below may not necessarily occur in that order.
   b. The severity of the problematic behavior plays a role in the level of remediation or sanction.
6. The Training Director will inform the staff member who brought in the complaint that disciplinary action will be taken.
7. The decision of the Performance Review Committee will be discussed with the Fellow's supervisor(s).
8. Documentation of all evaluative and disciplinary action is required and will be maintained in the Fellow's file. This will include:
   a. The discussions with the Fellow and documentation must include the date(s) and specific explanation of the inappropriate behavior or infraction; description of previous related coaching/counseling sessions, written warnings, or suspensions; summary of corrective plans of action if the inappropriate behavior is repeated or other problematic behavior occurs.
   b. The Fellow, supervisor(s), and Training Director will sign the Employee Corrective Action Form, and a copy will be given to the Fellow. The original will be filed in the Fellow's personnel file.
   c. Except in situations where the next discipline is termination, the following language should be used in the explanation of possible action if the problematic behavior is repeated, or other problematic behaviors occur:
      i. "*Further disciplinary action up to and including termination of employment can result for any related or unrelated offenses*."
   d. Or, if applicable, the explanation of possible action if the problematic behavior is repeated might be, "*Termination*."
9. The Fellow's signature means that the situation was discussed with them, and they acknowledge receipt of the notice. It does not imply agreement or disagreement with the notice itself. If the Fellow refuses to sign, someone in a supervisory position in the organization will be asked to sign the form indicating that the Fellow received a copy of the form and refused to sign.
10. The Fellow may choose to accept the conditions or may choose to challenge the Appeal Procedures section of this document.

11. Once the Performance Review Committee has reviewed and signed the written notice of discipline, the problem status will be reviewed within three (3) months' time, at the next formal evaluation, or sooner, if deemed necessary. In the case of a Probation Notice, the problem status will be reviewed within the timeframe set forth by the notice.
12. When the Performance Review Committee reviews the Fellow's progress in remedying the problematic behavior, a decision can be made to repeat an action(s) previously taken. The basis for repeating disciplinary actions is the Fellowship and Human Resource's judgment that a second written warning and/or suspension would be more effective in changing the Fellow's behavior than proceeding to the next level of progressive disciplinary action.
13. When the disciplinary intervention does not rectify the problematic performance or behavior within a reasonable period, or when the Fellow seems unable or unwilling to alter their behavior, the Performance Review Committee may need to take further formal action. If a Fellow has not improved sufficiently to rectify the problem(s) under the conditions stipulated by the Employee Corrective Action Plan, the Performance Review Committee will conduct a formal review and then inform the Fellow in writing that the conditions for revoking of the disciplinary actions have not been met. The Performance Review Committee may then elect to take any of the following steps or other appropriate actions.
14. Prior disciplinary action(s) will be taken into consideration when making decisions regarding performance reviews and continued employment.
15. CentraCare retains the right to invoke the level of disciplinary action necessary for the situation, including immediate suspension or termination of employment depending on the seriousness of the offense or infarction.

C. Type of Disciplinary Actions:

1. Written Warning: The written warning to the Fellow formally acknowledges that the Training Director and Performance Review Committee is aware of and concerned with the behavior, outlines the Committee's reasons for taking disciplinary action which might include a failed response to informal coaching, a failed response to counseling efforts, or deviation from required professional standards of conduct or ethics.
    a. At the time of the written warning, the Training Director is to utilize the standard "Employee Corrective Action Form" to document disciplinary actions.
    b. The Employee Corrective Action Form will contain:
        i. A description of the behaviors/skills deficit(s) of concern to the Performance Review Committee.
        ii. A description of the desired outcome of remediation, in measurable terms.
        iii. A description of the strategies or modifications to be undertaken by the Fellow and the Fellowship to remedy the concern(s). Strategies used to remediate concerns might include but are not limited to schedule modification and/or probation. The length of the schedule of modification or probation period will be determined by the Performance Review Committee in consultation with the Training Director.
        1) Schedule Modification is a time-limited, remediation-oriented, closely supervised, period of training designed to return the Fellow to a more fully functioning state. Modifying a Fellow's schedule is an accommodation made to assist the Fellow in responding to personal reactions to environmental stress with the full expectation that the Fellow will complete the Fellowship. This period will include more closely scrutinized supervision conducted by the regular supervisors(s) in consultation with the Performance Review Committee. Several possible and perhaps concurrent courses of action may be included in modifying the schedule. These include but are not limited to:
            a) Increase the amount of supervision with the same or additional supervisor(s).
            b) Changing the format, emphasis and/or focus of supervision.

c) Reducing the Fellow's clinical or other workload.
d) Requiring specific academic coursework.
e) Requiring additional reading or literature review.

2) Probation is a time-limited, remediation-orientated, more closely supervised training period. The purpose is to assess the ability of the Fellow to complete the Fellowship and to return the Fellow to a more fully functioning state. Probation defines a relationship in which the Performance Review Committee systematically monitors for a specific length of time the degree to which the Fellow addresses, changes, and/or otherwise improves the behavior associated with the inadequate performance rating.

3) If the Training Director, Director of the Behavioral Health Clinic, or Performance Review Committee suspect that psychological, medical, or physical problems may be interfering with the Fellow's ability to meet the expected standards of performance, the Fellow may be asked to undergo appropriate medical or psychological evaluation and intervention through CentraCare Employee Health Services as a contingency for continuation of the training appointment.

a) In these instances, the Fellow may be referred to the Employee Assistance Program at no cost to the Fellow as outlined in the CentraCare Medical Program Policies and Procedures.

2. Suspension: Suspension requires a determination that the welfare of the Fellow's client(s) or the campus community has been jeopardized. This action involves the removal of the employee from the regular work schedule for a period of one (1) or more scheduled working days depending on the seriousness of the offense. Suspensions generally are unpaid:

a. Determination of the length of the suspension and suspensions involving an exempt employee must be made by the Performance Review Committee in consultation with Human Resources.
b. The Employee Corrective Action Form must be completed and processed.
c. When initiated, the employee is automatically put on disciplinary probation for a period determined by their supervisor(s) and the Performance Review Committee.
d. Suspension beyond a specified period may result in termination or failure to complete the Fellowship successfully.
e. The Fellowship program may communicate to the licensing board in those settings in which the Former Fellow can and cannot function adequately.

3. Discharge/Termination of Employment: Generally during a Fellow's first year of employment, there is a two-step disciplinary process such that regardless of the initial level of discipline, a second discipline shall result in termination. Following the first year of employment, the two most frequent circumstances under which discharge/termination of employment may occur are progressive discipline termination and immediate termination.

a. Progressive Discipline Termination: The employee has been through any or all steps of the disciplinary process and has not met the organization's standards of behavior or performance.
b. Immediate Termination: The employee commits an offense that is so serious that termination is appropriate, whether any disciplinary actions have been taken previously. The Employee Corrective Action Form must be completed and processed along with all the other paperwork required by Human Resources Employee Relations.

i. The Performance Review Committee will make a formal recommendation of immediate termination of the Fellow to the Director of the Behavioral Health Clinic and Employee Relations. Following the approval of the Director of the Behavioral Health Clinic and Human Resources, the Fellow will be terminated from the program and from employment by CentraCare.

ii. Dismissal from the Fellowship involves the permanent withdrawal of all CentraCare responsibilities and privileges as determined by CentraCare Policies and Procedures.

iii. Dismissal may be invoked in cases of severe violations of the APA Code of Ethics or when actions of the Fellow cause imminent physical or psychological harm to a client or CentraCare employee(s), or the Fellow is unable to complete the Fellowship due to difficulties in performance or problematic behavior.

D. Appeal Procedures:

1. If at any time a Fellow disagrees with the notifications, remediation or sanction(s), or the handling of a grievance, the Fellow can implement an appeal. The following appeal procedures should be followed:

a. The Fellow should file a formal appeal in writing with all supporting documents, with the Training Director. The Fellow must submit this appeal within five (5) working days from their notification of any of the above (notification, remediation or sanction(s), or handling of a grievance).

b. Within five (5) working days of receipt of a formal written appeal from a Fellow, the Training Director will consult members of the Performance Review Committee and then decide whether to implement a Review Panel or respond to the appeal without a Review Panel being convened.

c. In the event that a Fellow is filing a formal appeal in writing to disagree with a decision that has already been made by the Performance Review Committee and supported by Employee Relations, then that appeal is reviewed by the Director of the Behavioral Health Clinic, Training Director, and one supervisor not on the Performance Review Committee, in consultation with Employee Relations. A determination will be made if a new Review Panel should be formed to reexamine the case or if the decision of the original Performance Review Committee is upheld.

d. The Fellow has the right to hear the expressed concerns of the training program and have an opportunity to dispute or explain the behavior of concern.

III. Grievance and Procedures:

A. CentraCare's affiliated organizations strive to maintain good employee relations and ensure equal treatment of all employees. If a current employee believes an employment action affecting them is unjust or inequitable, the employee should, in a timely manner, be able to bring forward the issue for review and consideration in a prompt and consistent manner without fear of retaliation.

1. At any time, a Fellow may provide verbal feedback that they have a concern with the training program and/or another CentraCare staff member. During formal evaluations (i.e., supervisor of competency assessments, training program evaluations), a Fellow will be asked to provide evaluative feedback, regarding their supervisors, the Training Director, and/or the training program.

2. If the Fellow encounters problems and/or has a complaint, they shall attempt an informal resolution with their supervisor and/or the Training Director, whichever is most appropriate to handle the concern. To do this a Fellow shall:

a. First, discuss the matter with their supervisor and the Training Director. (If concerns involve the Training Director, the Fellow can consult directly with the Director of the Behavioral Health Clinic). The Fellow may choose to share their concerns in oral or written format.

b. The Training Director may act as an intermediary and/or consultant with the Director of the Behavioral Health Clinic or other pertinent staff members as appropriate to help resolve Fellow concerns and/or complaints informally.

c. If the Fellow wants additional guidance in presenting their concern, they are entitled to communicate with and seek consult with the Association of Psychology Postdoctoral and

Internship Centers via their Informal Consultation Process service at Problem-Consultation.

3. If the issue cannot be resolved informally, a Fellow may:
   a. State the formal grievance complaint in writing, within fifteen (15) days of the time of the occurrence of the problem, a copy of which will go to Human Resources Employee Relations, the primary supervisor, and the Training Director.
   b. The Training Director and/or Human Resources representative may facilitate a meeting with the appropriate parties to resolve concerns.
   c. The Training Director shall reply in writing to the Fellow within the appropriate response time.
   d. If the complaint is resolved at this step, documentation will be placed in the Training Director files.
   e. If the complaint is directly related to the Training Director, the Fellow may proceed to the next step in the process.
4. If the Training Director's reply is not acceptable to the Fellow, a Fellow shall:
   a. Submit a written grievance to the Director of the Behavioral Health Clinic with a copy sent to Human Resources within an appropriate response time.
   b. The Director of the Behavioral Health Clinic and/or Employee Relations representative may facilitate a meeting between the Fellow and the Training Director and/or primary supervisor.
   c. Within five (5) days of receiving the grievance, the Director of the Behavioral Health Clinic will discuss grievance with the supervisor and/or Training Director and initiate a review of the grievance with the Review Panel.
   d. The Review Panel may then consult Human Resources and/or other staff members.
   e. A response to the grievance will be put in writing and given to the Fellow within five (5) working days. This will include a description of any action taken.
   f. If the grievance is resolved at this step, the documentation will be filed in the department's files and Employee Relations files.
5. If grievance is not resolved at this step, the process may continue through the next level of the department's chain of command.
6. If the grievance is not resolved through the chain of command, the Fellow may request a meeting with a grievance committee. A written request for a meeting should be submitted to Employee Relations within the appropriate response time. If deemed appropriate, Employee Relations will coordinate a grievance committee to review the grievance:
   a. A four-member committee consisting of active employees will be selected. The committee shall consist of one member selected by the employee, one member selected by the employee's department head (person cannot be in the department's chain of command), one member selected by an Employee Relations representative at the management level, and one member selected by Employee Relations representative at the staff level.
   b. Employee Relations will facilitate the committee, arrange the date and time of the meeting, and attempt to have it held within the appropriate response time.
   c. If necessary, an investigation conducted by Employee Relations may be requested by committee members prior to its meeting to determine facts and information about the statements.
   d. Each party in the dispute will have a maximum of 30 minutes to present their position on the issue. If more time is needed, a request should be made to Employee Relations prior to the meeting. The employee will present first.
   e. Exhibits, when offered, may be received as evidence by the committee.
   f. Any witnesses attending the meeting to present their information must be disclosed to the Employee Relations representative at the time the request for a meeting is submitted. Witnesses must be current employees of the organization.

g. The grievance committee members may ask questions of the employee, supervisor, or witnesses pertinent to the dispute to assist them in their recommendation(s).
h. No statements, witnesses, or evidence may be presented at this meeting which has not been previously disclosed or presented in the earlier steps of this process.
i. The grievance committee may, at its discretion, vary by procedure, but shall afford full and equal opportunity to all parties for the presentation of any material or relevant data.
j. The grievance committee will make written recommendation to the highest level of management authority for the organization who in turn will make a final, written determination regarding the dispute within approximately ten (10) business days of the meeting.

7. Final Decision: This highest level of management decision will be final and binding. A copy of the decision will be given to the employees, department management, and to Human Resources for Employee Relations. No decision shall be made in conflict with any laws, or which are not in compliance with CentraCare's policies.