

## EDUCATION OF ASSOCIATED HEALTH PROFESSIONS

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Handbook delineates policies relating to the establishment and administration of training programs in the associated health professions in VA health care facilities. As used in this Handbook, “Associated Health” disciplines include nursing.
- 2. SUMMARY OF CONTENT:** This is a new Handbook, written with specific emphasis on:
  - a. Roles and responsibilities of individuals involved with oversight and administration of VHA’s associated health training programs.
  - b. The establishment and administration of associated health training programs at all levels of education.
  - c. Appointment and pay of associated health trainees.
  - d. Liability claims against VA in cases including trainees.
- 3. RELATED ISSUES:** VHA Directive 1400 and VHA Handbook 1400.04.
- 4. RESPONSIBLE OFFICE:** The Office of Academic Affiliations (10A2D) is responsible for the contents of this Handbook. Questions may be referred to 202-461-9490.
- 5. RESCISSIONS:** VHA Manual M-8 Part II, Chapter 2, dated January 26, 1990, and VHA Directive 2002-064, dated October 16, 2002, are rescinded.
- 6. RECERTIFICATION:** This VHA Handbook is due for recertification on or before the last working day of February 2021.

David J. Shulkin  
Under Secretary for Health

**DISTRIBUTION:** Emailed to the VHA Publications Distribution List on 2/29/2016.

**CONTENTS**

**EDUCATION OF ASSOCIATED HEALTH PROFESSIONS**

1. PURPOSE..... 1

2. BACKGROUND..... 1

3. DEFINITIONS..... 1

4. SCOPE..... 2

5. ROLES AND RESPONSIBILITIES..... 2

6. EDUCATIONAL RELATIONSHIPS AND AFFILIATIONS..... 5

7. ACCEPTANCE OF PAYMENTS, GIFTS, OR DONATIONS IN SUPPORT OF  
HEALTH PROFESSIONS TRAINEE EDUCATION PROGRAMS..... 8

8. APPOINTMENT AND PAY..... 9

9. TRAINEE SUPERVISION ..... 10

10. EVALUATION OF PROGRAMS, TRAINING SITES, TRAINEES, AND  
SUPERVISORS ..... 10

11. DUE PROCESS FOR Trainee Performance, REMeDIATION AND DISCIPLINARY  
ACTIONS ..... 11

12. LIABILITY PROTECTION IN CASES THAT INCLUDE TRAINEES ..... 13

13. DISCIPLINE SPECIFIC EDUCATIONAL REQUIREMENTS..... 14

## EDUCATION OF ASSOCIATED HEALTH PROFESSIONS

### 1. PURPOSE

This Veterans Health Administration (VHA) Handbook delineates policies relating to associated health professions training and education programs in Department of Veterans Affairs (VA) health care facilities. **AUTHORITY:** 38 U.S.C. 7302, 7405, and 7406.

### 2. BACKGROUND

a. Academic partnerships are designed to provide clinical training opportunities for health care trainees. Throughout the decades since its inception, these partnerships continue to improve health care for Veterans, enhance the nationwide supply of health professionals, assist in recruitment and retention of quality staff at VA health care facilities, and create patient care environments enhanced by clinical research and scholarship.

b. In partnership with academic affiliates, VA serves as the largest provider of advanced clinical training for medical, nursing, and associated health professions in the nation. VA offers clinical training to associated health trainees in a wide range of professions, emphasizing clinical training in areas that specifically relate to the needs of Veterans. Some advanced associated health trainees receive a stipend; however, approximately 85 percent of associated health professions trainees participate on a without compensation (WOC) basis.

c. Education of health professionals is a core VA mission, and VA's commitment to quality training is addressed in its strategic plan. As a result, VA is dedicated to the training of associated health trainees, to recognizing the professional commitment of practitioners who provide health professions training, and to administering associated health clinical training programs.

d. VHA strongly promotes a policy of cooperation and collaboration with educational institutions, especially those supporting research. This policy is based on the premise that the best health care is provided in an environment in which the spirit of inquiry and investigation exists in combination with teaching and learning.

### 3. DEFINITIONS

a. **Accreditation.** Representing a professional opinion about the quality of an educational program, accreditation is public recognition that an accrediting agency grants to an educational program that meets the agency's established standards.

b. **Accrediting Agency.** An accrediting agency is an external educational association of regional or national scope that develops and publishes educational program standards and conducts evaluations to assess whether those standards are met. Accrediting agencies are designated by the United States Department of Education (ED) or the Council for Higher Education Accreditation (CHEA). These accrediting bodies may be found on their respective Web sites.

c. **Affiliation**. An affiliation is a relationship between VA and an educational institution or other health care facility for the purposes of education and enhanced Veteran care.

d. **Affiliation Agreement**. An affiliation agreement is the legal document that enables the education of trainees at a VA or non-VA health care facility.

e. **Graduated Levels of Responsibility**. Trainees acquire progressive responsibility for providing care commensurate with their skills, experience, and level of training. Graduated levels of responsibility are formally assigned by the VA Training Director for the program.

f. **Health Care Facilities**. Health care facilities are locations for the provision of care services to Veterans including CBOCs, other outpatient facilities, medical facilities or medical centers, inpatient sites, etc.

g. **Supervision**. Supervision is an educational experience provided by a qualified supervising practitioner with a trainee. This relationship is evaluative, extends over time, and has the simultaneous purposes of enhancing the professional functioning of the trainee while monitoring the quality of services delivered (see VHA Handbook 1400.04).

#### 4. SCOPE

a. **Associated Health and Nursing Trainees**. This Handbook applies to the operations of all associated health and nursing training programs in VA and to all associated health and nursing trainees receiving education and training from VA. As used in this Handbook, "Associated Health" disciplines include nursing.

b. **Excluded Trainees**. This Handbook does not pertain to allopathic and osteopathic physicians or dentists trainees. In addition, it does not apply to administrative training programs for employees or to work-study employees.

#### 5. ROLES AND RESPONSIBILITIES

Associated health training occurs in the context of different disciplines and in a variety of clinical settings, including inpatient, outpatient, long-term care, and community settings. Although specific titles for positions within these settings may vary by health care facility and Veterans Integrated Service Network (VISN), the following functions must be assigned.

a. **Chief Academic Affiliations Officer**. The Chief Academic Affiliations Officer, appointed by the Under Secretary for Health, is the national leader of VHA's teaching mission and is responsible for defining national policies pertinent to health professions education in VA. The Chief Academic Affiliations Officer annually reviews all VISN and health care facility training reports and shares results with VHA leadership to ensure that VA continuously improves Veteran care while providing excellent educational opportunities for future practitioners. The Chief Academic Affiliations Officer has

oversight responsibility for allocation of funded trainee positions in associated health disciplines.

b. **Veterans Integrated Service Network Director.** The VISN Director is responsible for addressing associated health program needs and obligations in VISN planning and for making necessary resources available for quality education and training.

c. **Network Academic Affiliations Officer.** Appointed by the VISN Director, the Network Academic Affiliations Officer is the designated education leader at the VISN level and is responsible for assisting the VISN Director in overseeing educational programs within the VISN. This individual serves as an advocate for educational needs and obligations, encourages the completion of network educational goals, and sees that VISN efforts complement VA national education policies. This individual assists facilities within the VISN to complete education affiliation agreements, assists in implementing education policies, and shares best practices to accomplish these goals.

d. **Medical Facility Director.** The medical facility Director is responsible for establishing local policy to fulfill requirements of this Handbook and of accrediting and certifying bodies, appointing the Designated Education Officer (or another appropriate individual such as the facility Chief of Staff), ensuring that a local monitoring process exists for trainee supervision, and reviewing data on trainee supervision, and oversight responsibility for implementation of any education policies.

e. **Chief of Staff.** The facility Chief of Staff (COS) is responsible for the quality of care provided by supervising practitioners and trainees.

f. **Designated Education Officer.** The Designated Education Officer (DEO) (often with the position title of Associate Chief of Staff for Education, or ACOS/E) has direct oversight responsibility for all clinical training at each VA health care facility with training programs. The DEO assists the Chief of Staff in assessing the quality of training programs and the quality of care provided by supervising practitioners and trainees. The DEO ensures that a facility supervision policy is in place.

g. **Service Chief or Discipline Lead.** The Service Chief or Discipline Lead is responsible for the clinical training program and the relationship of the VA training program to affiliated academic programs. Service Chiefs or Discipline Leads may delegate authority to section chiefs, team leaders, training coordinators, Training Program Directors, or other subordinates.

h. **Program Director.** The Program Director at the sponsoring institution is responsible for the quality of the training program in a given discipline and for ensuring that the program complies with policies of the accrediting or certifying bodies. Program Directors are employees of the institution sponsoring the program (academic program or VA). If the program is affiliated and not sponsored by VA, there must be a designated VA Training Program Director.

i. **VA Site (Training) Director.** For a VA-sponsored training program, the Training Program Director has responsibility for administering that training program and for

ensuring that the program complies with standards of accrediting and certifying bodies. For a program sponsored by an affiliated institution, the VA Training Program Director is responsible for the management of training program activities at the VA site. In either case, the Training Program Director:

- (1) Structures the training program consistent with requirements of the accrediting and certifying bodies.
- (2) Ensures that all trainees participate in an orientation to VA policies, procedures, and roles within the VA health care system. The Office of Academic Affiliations (OAA) has the authority to establish appropriate mandatory training modules for paid and WOC associated health trainees. The training program director ensures that trainees complete the OAA-required training modules. Trainees are not required to complete employee orientation training.
- (3) Assigns graduated levels of responsibilities for individual trainees and ensures that trainees function within their assigned levels of responsibility.
- (4) Ensures that supervising practitioners provide quality supervision to trainees.
- (5) Ensures that trainees have opportunity to give feedback regarding supervising practitioners, the training program, and the VA health care facility.
- (6) Guides actions regarding trainee related problems.
- (7) Monitors the provision and documentation of supervision at the VA health care facility.

j. **Supervising Practitioner.**

(1) The supervising practitioner is the individual responsible for directly supervising the activities of the trainee. The supervising practitioner is generally of the same discipline or specialty in which the trainee is being educated. Supervising practitioners provide Veteran care and trainee supervision only for clinical activities they are qualified and approved to perform. In some training settings, health care professionals from another discipline, with documented qualifications, may function as supervising practitioners for selected training experiences. The role of supervising practitioner differs from the defined role of a “supervisor” of VA employees defined by Human Resource policy. In the remainder of this Handbook, the term “supervisor” will be used synonymously with “supervising practitioner” relative to clinical training and does not imply supervision of VA employees.

(2) Supervising practitioners are responsible for all trainee activities occurring under supervision as delineated in Handbook 1400.04.

k. **Trainees.** Trainee is a general term used to describe vocational, undergraduate, graduate, and post-graduate students, interns, residents, fellows, , and pre- and post-doctoral fellows. The labels student, clerk, extern, intern, resident, and fellow are often also used to describe trainees.

(1) Trainees may not provide clinical services for which they are not trained. They must know their assigned graduated level of responsibility and not practice outside of that scope of service.

(2) Trainees are responsible for communicating Veteran care issues to the supervising practitioner and for documenting that communication in the record.

## 6. EDUCATIONAL RELATIONSHIPS AND AFFILIATIONS

a. **Introduction.** By virtue of close relationships between VA and academic institutions, VA plays a leadership role in health professions education. VA's affiliations with educational institutions contribute to excellence in VA's care for Veterans, education, and research. VHA strives for excellence in health professions education and training while maintaining a dedication to providing quality Veteran care. Health care professions training programs are established for educational and workforce development purposes. The primary goal of all training activities is to increase trainees' education and proficiency in health care delivery. Trainees are not intended to address a health care facility's staffing needs and should not be included in a facility's organizational chart or ceiling cap report.

b. **Accreditation Requirements.**

(1) VHA generally accepts trainees when the sponsoring educational program is accredited by the accrediting body for the discipline. Exceptions may be approved only by the Chief Academic Affiliations Officer, who will consider such factors as the status of the accreditation process for the discipline, whether the institution is regionally accredited, benefits to the health care facility of establishing the training program, and indicators of the quality of education and training provided by the unaccredited affiliated institution.

(2) In the case of a newly organized program, a VA health care facility may establish a Provisional Affiliation Agreement with that program. This affiliation agreement shall specify the period under which the program will become accredited. The VA health care facility may then accept trainees as long as there is documented evidence that the program is meeting the agreed upon period. If the program fails to make progress toward accreditation, the affiliation must be terminated.

(3) All VA sponsored programs for which there is an accreditation process will maintain accreditation. Those that fail to maintain accreditation will be discontinued. Newly established VA sponsored programs will generally have 3 years to receive accreditation. If a VA program is not accredited within 3 years, the Chief Academic Affiliations Officer has discretion whether the program may continue. For some disciplines, appropriate membership in other recognized organizations which oversee recruitment and selection practices are required such as the Association of Predoctoral and Postdoctoral Internship Centers.

(4) Nearly all reviews of programs, even those given favorable reviews, will receive some suggestions for improvement. In these circumstances, the suggested program revisions should be managed locally. Often, the site visitors make an initial report, to

which a program may respond. The Associated Health Education and/or Nursing section of OAA is available to assist programs in responding to conclusions/recommendations and interacting with accreditation bodies. In the event that a program receives a final decision to place the program on probation, provisional status or accreditation is revoked, the DEO should be alerted in addition to the Chief Academic Affiliations Officer, and the national program office lead for the relevant discipline. In such cases, OAA, often in collaboration with the program office lead or designee, may conduct further inquiry, which may include site visitation. OAA on the basis of the external review and additional inquiry, and in consultation with the program office, will make recommendations for program improvement or closure of the training program. As all training programs require accreditation, OAA may only allow continuation of a program for brief period while the health care facility attempts to rectify the identified deficits. If a program does not receive reaccreditation after a reasonable period of remediation, OAA will recommend closure of the program, and if the program has been receiving funding, funding will be discontinued.

c. **Educational Relationships.** Educational relationships thrive in a climate of communication, cooperation, and trust. Both VA and affiliated sites bring assets to the relationship and are motivated to provide high quality training. When there is an affiliate, both VA and the affiliate are involved in evaluation of the educational program for the mutual goal of educational enhancement. In VA-sponsored programs, VA accepts primary responsibility for the education programs. In affiliate-sponsored programs, the affiliated institutions accept primary responsibility for the integrated education programs conducted with VA, while VA retains full responsibility for the care of Veterans and administration of VA health care facilities and operations.

d. **Affiliations.** VA and the sponsoring institution each have specific criteria that must be addressed in the relationship created by a formal affiliation. The affiliation agreement delineates the duties of VA, the other institution, and trainees with respect to the clinical education of the trainees. An affiliation agreement is a central part of the affiliation relationship between VA and another institution and must be in place before trainees in non-VA education programs receive clinical training at VA facilities and before trainees in VA-sponsored programs receive training at non-VA facilities. A VA Affiliation Agreement must conform to the language of one of the affiliation agreement templates maintained on the OAA Web site (<http://www.va.gov/oaa/agreements.asp>). VA General Counsel must approve any wording changes in the text of these agreements. Requests for changes must be submitted to General Counsel through the Office of Academic Affiliations.

e. **VA Sponsored Programs.** VA-sponsored training programs that operate independently of an academic institution are not required to complete Affiliation Agreements with the trainees' former academic programs.

f. **Maintenance of Educational Relationships.** Systematic assessment of educational programs, usually in partnership with academic affiliates, is conducted to provide the basis for continual improvement. Criteria for maintaining educational relationships differ for individual programs and institutions that may sponsor multiple programs, though there is significant overlap between the two sets of criteria. VA health care facilities must review these criteria regularly.

(1) **Individual Program Criteria.** Review of an individual program should be completed yearly. Some items to be considered are:

(a) Each training program provides value, tangible or intangible, to VA and to Veterans.

(b) Accreditation credentials of affiliated programs and VA-based programs have been maintained.

(c) Clinical resources are sufficient to meet needs of the training program and trainees.

(d) There is adequate access to educational materials for trainee use.

(e) There is adequate space for Veteran care, trainee study, and the supervision process.

(f) There are adequate equipment and supplies to meet educational needs.

(g) There is sufficient presence of adequately credentialed supervising practitioners with time and skill for teaching clinical trainees.

(h) There is appropriate availability of stipends for trainees.

(i) There is sufficient protected administrative time allowed for VA Training Program Directors to support the educational program with corresponding modification of labor mapping, if appropriate.

(2) **Institution Criteria.** Criteria for maintaining relationships with individual programs are also applicable to institutional educational relationships. In addition to the program criteria, these items specific to institutional reviews must be evaluated.

(a) The number and variety of training programs is appropriate to the health care facility's mission.

(b) Accreditation credentials of affiliated programs and VA-based programs have been maintained.

(c) Recommendations from accrediting bodies are being addressed.

(d) Training programs are of high quality and graduate qualified practitioners.

(3) **Other Aspects.** Other aspects of the regular review process may be performed by communication and interaction with affiliate site personnel and in conjunction with other planned and systematic review processes such as internal reviews or yearly reviews for graduate health professions education programs. Feedback from trainees and accrediting bodies must be considered in the review process.

## 7. ACCEPTANCE OF PAYMENTS, GIFTS, OR DONATIONS IN SUPPORT OF HEALTH PROFESSIONS TRAINEE EDUCATION PROGRAMS

a. Occasionally, payments, gifts, or donations are offered to VA in support of health professions trainee educational programs. These payments, gifts, or donations may be offered from academic affiliates (including associated health professions schools), other hospitals or health care organizations, commercial vendors (device or pharmaceutical manufacturers), other entities (Federal or non-Federal, commercial or non-profit), or the trainees themselves. **NOTE:** *This policy does not apply to education programs for staff other than trainees, such as for Continuing Education of VA staff.*

b. The Standards of Ethical Conduct for Employees of the Executive Branch, Title 5 Code of Federal Regulations (CFR) Part 2635, govern VA employees' personal acceptance of gifts including payments, goods, or services. Under those standards, an employee cannot accept a gift in return for being influenced in the performance of an official act, such as the provision of health professions education services (e.g., clinical supervision). See 5 CFR 2635.202(c)(1). Contact your agency's ethics official, usually the local Regional Counsel or, in Central Office, the Assistant General Counsel, to discuss questions with a VA ethics official.

c. The offer of payments, goods, or services, either direct or indirect, to VA in exchange for allowing trainees to receive health professions education and training within VHA may not be accepted.

d. VA health care facilities and training programs may not charge tuition to trainees in exchange for VA-sponsored or VA-delivered education or training.

e. Financial relationships between VHA health care professionals and industry are addressed by VHA Handbook 1004.07, Financial Relationships between VHA Health Care Professionals and Industry.

f. Gifts and donations to VA in support of a VA health care facility's health professions education programs generally may be accepted with approval of the facility's Education Committee and the medical facility Director. Donated funds shall be handled through the local VA-Nonprofit Research and Education Corporation (NPC) or the General Post Fund (GPF), and are subject to VHA policy on acceptance and handling of gifts. (See VHA Handbook 1200.17, VA Nonprofit and Education Corporations Authorized by Title 38 U.S.C. 7361 Through 7366, VHA Handbook 1200.2, Research Business Operations, VHA Directive 4721, VHA General Post Fund and VHA Handbook 4721, VHA General Post Fund Procedures. Gifts and donations in support of a particular trainee health professions education program or programs at a VA health care facility may not be accepted. For gifts and donations for official travel to attend a meeting or similar function, see VHA Directive 4721, VHA General Post Fund Procedures.

g. Intergovernmental Personnel Agreements (IPA) may be used for faculty sharing arrangements with authorization of the facility's medical facility Director and the local Human Resources Management Service. See Title 5 United States Code (U.S.C.) sections 3371 through 3376, and VA Directive 5005, Staffing, Part I, Section C.

h. Contracts to sell VA health professions education services cannot violate the policy in paragraph 7.c. and must comply with VHA Handbook 1660.01, Health Care Resources Sharing Authority – Selling. In particular, note that contracts for the sale of services require prior approval from the VA Central Office Rapid Response Team and certification from the VISN Director or the medical facility Director that certain conditions have been met.

i. The medical facility Director is responsible for ensuring that an appropriate individual (such as the facility Chief of Staff or the Designated Education Officer) is assigned oversight responsibility for implementation of this policy. See paragraph 5.d.

## 8. APPOINTMENT AND PAY

### a. Trainees Paid by VA – Either in VA-Sponsored Programs or Affiliated Programs.

(1) All paid associated health trainees must be U.S. citizens. For trainees paid directly using the VA's Personnel Accounting Integrated Data (PAID) system, an Official Personnel Folder (OPF) must be established and trainee appointments must be documented on a Standard Form (SF) 50B, Notification of Personnel Action. Trainees must be appointed and paid directly by VA from VHA centrally-allocated funds, based upon the allocation process managed by OAA. **NOTE:** *Local facilities may not use appropriated local medical care funds to pay trainees.*

(2) Pay rates for Associated Health Professional trainees are set by OAA, and vary by discipline and level of the trainee. The basic pay rates are geographically adjusted according to the same adjustment percentages used for federal employee locality pay. A health care facility-specific pay table for Associated Health Trainee Stipends is available at: <http://vaww.oaa.med.va.gov/DBReports/LocBasedStipends.aspx>. **NOTE:** *This is an internal VA Web site that is not available to the public.*

### b. Without Compensation Trainees.

(1) All trainees who are not paid must have WOC appointments. A Letter of Appointment must be issued stating the terms of the WOC trainee's appointment. The trainee must sign the letter agreeing to the conditions outlined. **NOTE:** *Trainees may not be appointed as volunteers.*

(2) Records, but not official personnel files (OPF), must be established and maintained for all unpaid trainees. These documents must be filed per local health care facility policy consistent with Privacy Act and Freedom of Information Act (FOIA) requirements. These records will be established and maintained in a location to be determined locally.

c. Trainees may not be appointed as volunteers.

**NOTE:** *Information on appointment, pay, and benefits can be found in the 5000 series of VA policies (particularly VA Directive 5005, Staffing; VA Handbook 5007, Pay Administration; VA Handbook 5011, Hours of Duty and Leave; and VA Handbook 5021,*

*Employee/Management Relations*). The information in paragraph 8 of this Handbook is intended to summarize key aspects of recruitment and compensation, but employees should rely on guidance from VA's Office of Human Resources and Administration for comprehensive, accurate, and up-to-date information.

## 9. TRAINEE SUPERVISION

Supervision of associated health trainees is covered by VHA Handbook 1400.04, Supervision of Associated Health Trainees.

## 10. EVALUATION OF PROGRAMS, TRAINING SITES, TRAINEES, AND SUPERVISORS

a. **Overview.** Assessment activities, formal and informal, provide a framework for evaluating the scope, operations, value, and outcomes of health professions education programs. Each program must have a well-defined, regular mechanism to solicit evaluative feedback from trainees. Evaluation is an integral part of every training experience and must include specific evaluations of the program, the supervising practitioner, and the individual trainee. Evaluations of clinical training experiences are structured to allow VA, the academic program, and the trainee to understand and benefit from the evaluation process. The trainee will be evaluated by the VA supervisor. Separately, the trainee will evaluate the VA supervisor and the VA training experience. Taken together, these evaluations should identify areas in which VA clinical training may be enhanced. All evaluations will be conducted in accordance with standards of the accrediting or certifying body for the specific program.

b. **Evaluation of Trainees.**

(1) Trainees must be evaluated on clinical competencies specific to the discipline, as well as on interpersonal and communication skills, professionalism, and interprofessional practice. Evaluations occur at the end of a rotation or every 6 months, or more frequently as specified by the accrediting or certifying body. These evaluations must be discussed with the trainee in a timely manner and must be shared with the affiliated academic programs.

(2) When a trainee's performance or conduct is judged to be inadequate or detrimental to Veteran care, a formal evaluation of the trainee, in consultation with the academic program representative (when relevant), must be completed. See paragraph 11.

c. **Trainee Evaluation of VA Program Supervisors.** Each trainee at a VA health care facility will be given the opportunity to complete confidential written evaluations of VA supervisors. It is generally expected that trainee evaluation of a supervisor will be shared with that supervisor, but the Director of Training may, with reason, agree to hold the evaluation confidential.

d. **Trainee Evaluation of the VA Training Site.** In addition to evaluation of VA supervisors, each trainee shall be given the opportunity to evaluate the VA training site. The VA Learners' Perceptions Survey (LPS), which each trainee is asked to complete,

allows the trainee to evaluate both the supervisory experience and the training site. Facilities should also allow trainees to complete an evaluation separate from the LPS to ensure that site-specific feedback is available.

e. **Storage and Use of Evaluations.** Secure storage of evaluations of trainees, supervising practitioners, and training sites is the responsibility of the VA Training Program Director. The VHA Records Control Schedule 10-1 (Manual RCS 10-1) states that trainee documents should be stored for at least 5 years after completion of the training program. Evaluations may be maintained for a longer period of time if required by standards of the accrediting or certifying body or by local policy. National discipline directors as well as OAA should have access to the local records when appropriate.

## **11. DUE PROCESS FOR TRAINEE PERFORMANCE, REMEDIATION AND DISCIPLINARY ACTIONS**

### **a. General.**

(1) VA provides organized programs for the education and supervision of trainees, facilitating their professional and personal development, while ensuring safe and appropriate care for Veterans. Trainees come to VA with a wide range of developing competencies and are still in the formative stages of their careers. Trainees are not expected to be fully competent in all areas of professional practice, but rather to exhibit clinical knowledge, skills, and attitudes congruent with their level of training.

(2) Supervising practitioners recognize the stresses of training and the vulnerability of trainees. They must monitor the well-being of trainees and remain alert for signs of fatigue, illness, impairment, or disruptive behavior in trainees. When a performance problem is noted, a trainee's supervising practitioner must address it.

(3) If a supervising practitioner is concerned that a trainee is *not* acquiring detailed factual knowledge, developing clinical skills and professional competencies, or demonstrating professional standards of conduct to an acceptable degree, these concerns must be raised with the Program Director at VA or affiliate.

(4) Trainee performance deficiencies or failures may take a variety of forms and result from many causes. Any of the following problems or deficits may result in corrective or adverse action, including failure or termination, depending upon the severity of the problem. The specific requirements for any disciplinary action are set forth in VA Handbook 5021. Examples of performance deficiencies are not limited to this list.

(a) Violation of ethical standards for the discipline, for the training program, or for government employees.

(b) Violation of VA regulations or applicable Federal, state, or local laws.

(c) Inability to perform clinical services commensurate with educational level.

(d) Failure to develop expected skills, knowledge, and attitudes.

(e) Impaired status, a condition in which a trainee is unable to fulfill program requirements adequately due to any emotional or physical condition, including mental illness, substance use, being under the influence of drugs or alcohol, sleep deprivation, emotional distress, or altered mental status.

(f) Disruptive, abusive, intimidating, or other behavior that disturbs the workplace environment or that interferes or might reasonably be expected to interfere with Veteran care. Disruptive behaviors include profane or demeaning language, sexual comments or innuendo, outbursts of anger, throwing objects, boundary violations with staff or Veterans, inappropriate health record entries, and unethical, illegal, or dishonest behavior.

(g) Failure to function within graduated levels of responsibility or to communicate significant Veteran care issues to the supervising practitioner.

b. **Restrictions on Using Information about Trainees.** Peer or focused reviews conducted for quality improvement purposes are protected as confidential by 38 U.S.C. 5705 and its implementing regulations (38 CFR 17.500 through 17.511). In order to be “protected” under 38 U.S.C. 5705, a review must be identified as such in advance of its creation and cannot be used for disciplinary purposes. However, the results of non-protected administrative investigations or management reviews, such as administrative board investigations, may be disclosed in accordance with privacy laws. In addition, periodic trainee evaluations will be shared with the affiliate.

c. **Corrective Actions.** Performance problems that are unlikely to result in an adverse action but which require corrective action should be handled within the context of the academic training program. Such problems must be resolved at the lowest supervisory level and in a manner that enhances the professional development of the trainee.

d. **Substantive Problems.** Substantive problems based on academic or professional deficiencies often require further corrective actions, which may include formal remediation for knowledge deficits, treatment of conditions resulting in impairment, or other actions including dismissal of the trainee from further VA training. In all cases, the appropriate corrective action is determined after consultation between the DEO, the Program Director, and the service chief.

e. **Adverse Actions or Dismissal from VA Training Sites.** If a trainee has performance problems of serious or egregious nature, the training program must follow established VA procedures as described in VA Handbook 5021.

(1) In situations in which a trainee might benefit from a VA Employee Assistance Program (EAP) to deal with problems, the trainee may be referred to the EAP program. Though participation is voluntary, EAP offer assessment, short-term counseling, and referral services (See VA Handbook 5019, Part VI, Occupational Health Services).

(2) VA can terminate only trainees from programs sponsored by VA. Trainees enrolled in affiliated programs can be terminated from those programs only by the

affiliate. However, VA can determine and advise the affiliate that a particular trainee will not be allowed at VA.

f. **Performance Problems or Change in a Trainee's Status.** If performance problems involving a trainee occur, the health care facility in which they occur will notify the sponsoring institution and the Program Director. Similarly, the Program Director will inform the VA Program Director of any changes to the credentials of a trainee that occur during a training year, including academic probation or other adverse action, corrective action, withdrawal from the program, changes in health status that pose a risk to the safety of trainees, other employees, or Veterans, or any other adverse information that may affect a trainee's appointment (see VA Handbook 5021 for mandatory disciplinary procedures). This communication, either written or oral, should occur within 72 hours after the affiliated Program Director is informed of the change in status if the trainee is currently at VA or before the next VA rotation if the trainee is not currently at VA. For programs sponsored by VA, the VA Program Director or the VA DEO is obligated to notify other participating institutions of changes in the status or credentials of individual trainees.

**NOTE:** *Information on due process for performance, remediation, and disciplinary action can be found in the 5000 series of VA policies (particularly VA Directive 5005, Staffing, and VA Handbook 5021, Employee/Management Relations). The information in paragraph 8 of this Handbook is intended to summarize these issues, but employees should rely on guidance from VA's Office of Human Resources and Administration for comprehensive, accurate, and up-to-date information.*

## 12. LIABILITY PROTECTION IN CASES THAT INCLUDE TRAINEES

When providing professional services at a VA health care facility, supervising VA employee practitioners, trainees of a VA sponsored program, and trainees of an affiliated institution who are training at a VA health care facility are protected from personal liability under the Federal Employees' Liability Reform and Tort Compensation Act 28 U.S.C. 2679 (b)-(d). This Act does not cover contractors or their employees, who must provide their own liability coverage.

a. The government is liable, under the 28 U.S.C. 2679 (b)-(d), for malpractice claims involving trainees who were acting within the scope of their educational program at a VA health care facility. Trainees in both VA-sponsored and affiliate-sponsored programs are covered for malpractice claims under these acts.

b. All trainees must be supervised by practitioners with relevant clinical privileges during all clinical activities related to their specific educational program (see VHA Handbook 1400.04, Supervision of Associated Health Trainees). The supervising practitioner is professionally and legally responsible for the care provided by trainees.

c. The policy for notification of licensed practitioners that a claim for malpractice has occurred is specified in VHA Handbook 1100.17, National Practitioner Data Bank (NPDB) Reports. Under this policy, the VA medical facility Director must provide written notification to all practitioners identified by VHA as involved in the episode of care that led to the claim. This notification ideally will occur within 30 days from the date that

Regional Counsel notifies a director that a claim for medical malpractice has been filed under the Federal Tort Claims Act. In addition, the DEO, the training program director, and any trainees listed in the claim must be notified.

d. Trainees will not ordinarily be reported to the National Practitioner Data Bank unless an individual trainee was grossly negligent or acted with willful professional misconduct (38 CFR Part 46; Policy Regarding Participation in National Practitioner Data Bank). Generally, it is the name of the supervising practitioner that is entered into the NPDB and not the trainee.

e. VA-sponsored trainees who engage in clinical activities at a non-VA site are provided the same protection by the Federal Tort Claims Act as if they were at VA as long as this provision is appropriately addressed in the affiliation agreement with the non-VA site.

### 13. DISCIPLINE SPECIFIC EDUCATIONAL REQUIREMENTS

Education requirements differ by discipline, and are guided by each discipline's accrediting body. These requirements are updated regularly. Educational guidance for specific disciplines may be found on the OAA intranet Web site, at <https://vaww.portal2.va.gov/sites/oaa/public/SitePages/default.aspx>. **NOTE:** *This is an internal VA Web site not available to the public.*