

<b>Hospital-wide Policy</b>	<b>Title:</b> Moonlighting and Extra-Clinical Duty
<b>Issuing Department:</b> Educational Office	<b>Effective Date:</b> December 2018
<b>IMPORTANT NOTICE:</b> The official version of this policy is contained in the Policy and Procedure Manager (PPM) and may have been revised since the document was printed.	

**Summary**

The Tufts Medical Center Graduate Medical Education Committee (TMC GMEC) is committed to meaningful and enriching educational experiences for its residents and fellows (herein trainees). Central to this commitment is the assurance that trainee learning experience and responsibilities must be given the highest priority at all times. The TMC GMEC expects that all trainees are available, alert and fully responsive, and responsible for all of their clinical and educational training activities. This policy establishes the responsibilities, requirements and procedures regarding trainees engaging in Moonlighting or Extra Clinical Duty. Each training program must supplement this policy with a Program-specific policy available to both its trainees and the GME Office. The activities outlined in the program’s policy must not interfere with the ability of the trainee to achieve the goals and objectives of the educational program.

**Moonlighting and Extra Clinical Duty: background and definitions**

**Any professional or clinical activities for which a trainee receives pay or compensation in excess of their TMC employment contract is considered either Moonlighting or Extra Clinical Duty. These activities must be optional (voluntary), and cannot be a mandated part of a training program. All Moonlighting and Extra Clinical Duty requires pre-approval from the Program Director and the GME Office.**

**Moonlighting** is optional professional activity that is separate from the training program. Moonlighting refers to professional services performed by a trainee who is 1) acting in the capacity of an independent physician and 2) performing work in a setting completely outside the scope of their training program.

**Extra Clinical Duty (ECD)** is optional, compensated, trainee-level clinical service that occurs within the scope of the trainee’s current training program. ECD refers to professional services performed by a trainee who is 1) acting in a capacity consistent with their post-graduate (PGY) level of training, 2) working under a level of supervision commensurate to that provided within the training program, and 3) voluntarily working within the training environment beyond that required by the curriculum. The cost of ECD is borne by the Program or its sponsoring clinical department and it is not the responsibility of GME or the hospital.

**Each training program is responsible for oversight of their trainees' Moonlighting and ECD activities.** Each training program must have its own program-specific Moonlighting/ECD policy (template provided in the Appendix of this policy) that supplements this GME policy. For programs that allow ECD the policy must include a list of all approved ECD activities.

**Program directors have the authority and discretion to prohibit or limit moonlighting and extra clinical duty for any program, trainee, or site** (if applicable) in the event that they find the activity to not be in the best interests of the program or the trainee. It is the responsibility of the trainee and the Program Director to appraise the appropriateness of the proposed Moonlighting or ECD as it relates to the individual trainee and their training program. It is the Program Director's responsibility to assure that any trainee Moonlighting and ECD activity is compliant with this policy.

### **GME Policy on Moonlighting and Extra Clinical Duty (ECD)**

This policy defines the minimal components required for effective oversight of trainee Moonlighting and ECD.

#### **Program requirements**

- Program-specific policy on Moonlighting and ECD on file in GME
- ECD form completed and on file in GME
- WebADS program participating sites (required rotations) accurate and up to date

#### **Trainee requirements**

- PGY1 trainees are not eligible for Moonlighting or ECD.
- Immigration considerations
  - J-1 and H1-B visa holders cannot be paid for ECD.
  - J-1 and H1-B visa holders are not eligible for Moonlighting.
- Moonlighting requires a full MA medical license.
- Trainees participating in Moonlighting and/or ECD are **required to log all duty hours**. All time spent by trainees in Moonlighting and ECD must be *counted towards and compliant with* ACGME and TMC GMEC duty hour policies. The GME Office will perform random duty hour audits to assure compliance reporting.
- Trainees must be in good clinical standing in their training program (specifically not on probation or remediation) in order to be eligible for Moonlighting or ECD. There may be circumstances in which participation in Moonlighting or ECD activities is not felt to be the best interests of trainees who are not on probation and or remediation – ultimately the determination of 'good clinical standing' is at the discretion of the Program Director.
- Trainees cannot engage in any Moonlighting or ECD while on leave of absence (LOA or FMLA).
- It is the responsibility of the trainee to secure professional liability insurance for all Moonlighting activities.

- Moonlighting and ECD form
  - For Moonlighting: one form per 1 per site per academic year must be completed and on file in GME prior to any moonlighting activity.
  - For ECD: one form per 1 per site per academic year must be completed and on file in GME prior to performing ECD. In instances of last minute calls for coverage the form must be submitted within 1 week (grace period) of the work in order to assure that you get paid.

### **Billing Considerations**

Moonlighting activity must NOT violate Centers for Medicare and Medicaid Services (CMS) rules that govern federal government support for positions that receive CMS funding. This means that individuals who may appear on a hospital's Medicare Cost Report may NOT also bill third-party payers such as Medicare for professional services. This means that under most circumstances trainees, regardless of licensure (limited/full), cannot moonlight as an attending physician at any of their residency or fellowship training sites.

Narrow exceptions may be permitted for subspecialty fellows in selected non-ACGME-accredited programs or whose scope of work for the moonlighting activities is restricted to their primary specialty.

Furthermore trainees that intend to bill for moonlighting activities – either directly or through her/his employer/contractor – must first meet with TMC Finance and Compliance officers to assure that there will not be a liability related to CMS restrictions. Prior to granting approval for moonlighting in these cases, the GME Office requires email confirmation summarizing Finance and Compliance support for the proposed moonlighting activity.

### **Moonlighting and ECD is a privilege, not a right.**

Permission for Moonlighting/ECD can be revoked or suspended at any time by the Program Director or Associate CMO for GME. If permission is revoked, this decision will apply (at minimum) to the remainder of the current PGY/academic year. The duration of suspension is at the discretion of the Program Director.

Reasons to revoke or suspend permission for Moonlighting/ECD include, but are not limited to:

- Underperformance in the training program (includes being placed on remediation or probation)
- Failure to comply with the GME policy on Moonlighting and ECD
- During periods of FMLA or LOA

## **Moonlighting/Extra Clinical Duty Approval Process**

Required (responsible party):

- Program-specific Moonlighting and ECD policy (program)
- Completed and signed Moonlighting/ECD Request Form (trainee)
  - 1 form per site per academic year
  - The original completed Moonlighting/ECD Request Form will be filed in the GME office; a copy must be placed in the trainee's personal file at the program level.
  - Proof of professional liability insurance for moonlighting activities
  - Proof of appointment to medical staff at the proposed site (Moonlighting only)
- Approval of the GME office is indicated by the signature of the Director of GME on the completed Moonlighting/ECD Request Form.

## **Assurances**

By signing a Moonlighting/ECD Request Form the Trainee, Program Director and GME office are making the following assurances:

### **Trainee**

- The trainee understands that their ability to engage in these activities is contingent upon the following:
  - Full and unrestricted participation in all program clinical and educational activities
  - Compliance with all ACGME, institutional and program duty hour policies.
  - Maintenance of complete and accurate duty hour logs in New Innovations.
    - It is expected that trainees engaged in Moonlighting or ECD will log all hours, all months.
    - Logs should accurately document time spent in program-, ECD- and moonlighting-related activities.
    - Upon request the GME Office staff will provide guidance to trainees to proper documentation in NI.
  - Maintenance of appropriate licensure/certifications
  - Proof of professional liability (malpractice) insurance for moonlighting activities
- The trainee assumes responsibility for assuring that there is a current, updated Moonlighting/ECD Form on file at all times. Any changes in activities – for example changes of location, scope of work or time spent – require a new form and signatures.
- If the moonlighting activity will involve the trainee billing for services, trainees must secure review and approval from Finance and Compliance.

### **Program Director (PD)**

- The PD assumes responsibility for assuring that Moonlighting/ECD activities do not interfere with the ability of the trainee to meet the goals, objectives, assigned duties, and responsibilities of the educational program.
- The PD understands that prospective written approval from the Program Director and the GME Office is required for all Moonlighting and ECD activity.
- By completing the Moonlighting and/or ECD forms, the PD is making the following assurances:
  - She/he will monitor all Moonlighting/ECD activities in their program on an ongoing basis.
  - The trainee is in good clinical standing in the program and the PD supports the trainee's involvement in the proposed activities
  - Participation in these activities will not impact the trainee's ability to meet their training program's clinical and educational obligations.
  - For ECD: supervision for clinical activities is equivalent to that in the training program.
  - The trainee has been, and will continue to be, compliant with duty hour reporting.
  - The training program will maintain a copy of the completed Moonlighting/ECD Request Form as part of the resident's personnel file.
- The Program Director may withdraw permission to Moonlight/ECD if, at any time, these activities are believed to be interfering with the resident's performance in the program.

### **Clinical Chief or Chair**

- The clinical chief or chair assumes ultimate responsibility for assuring that Moonlighting/ECD activities do not interfere with the ability of the trainee to meet the goals, objectives, assigned duties, and responsibilities of the educational program.
- The clinical chief or chair understands that prospective written approval from the Program Director and the GME Office is required for all Moonlighting and ECD activity.
- Requests for extension of Tufts-provided malpractice coverage to be extended for Moonlighting activities must be initiated by the Clinical Chief or Chair on behalf of the trainee. These requests should be directed to the Office of Risk Management.

### **GME Office**

- The GME Office is responsible to assure the primacy of the educational mandate by overseeing Program and trainee compliance with this policy.
- GME will coordinate with the Risk Management Office to assure that there is an accurate list of the trainees approved for Moonlighting and ECD. This will also include documentation of individual malpractice coverage, where applicable.
- The GME Office will audit compliance with this policy through random duty hour log review.

### Moonlighting/Extra Clinical Duty Reference Guide

	<b>Moonlighting</b>	<b>Extra Clinical Duty</b>
<b>Voluntary</b>	Yes	Yes
<b>Duty Hour Logging</b>	Required – all hours, all months	Required – all hours, all months
<b>Definition</b>	<ul style="list-style-type: none"> <li>• Independent practice</li> <li>• Distinct from training program</li> </ul>	<ul style="list-style-type: none"> <li>• Extra work within training program</li> <li>• PGY level appropriate work</li> <li>• Supervision equal to that in training program</li> </ul>
<b>Visa holders</b>	Not eligible	Eligible (cannot be paid)
<b>MA Medical License</b>	Full	Limited or Full
<b>WIC Malpractice</b>	Not covered (appeal possible)	Covered
<b>Site of clinical activity</b>		
<b>1. TMC</b>	ED or Outpatient Clinic only	Allowed
<b>2. Program participating site</b>		
Circle Health hospital	ED or Outpatient Clinic only	Allowed (change)
Hallmark hospital	ED or Outpatient Clinic only	Allowed (change)
Non Wellforce	Not allowed	Allowed (change)
<b>3. Other</b>	Allowed	Not applicable

#### Definitions

- Moonlighting = independent clinical practice on a full medical license and not under supervision.
- Circle Health hospitals (Wellforce) = Lowell General Hospital and Saints Memorial Hospital
- Hallmark hospitals (Wellforce) = Melrose Wakefield and Lawrence Memorial
- Program participating sites are program specific, and include all sites where a training program required rotation takes place.

## **Appendix**

- 1. Policy Template: Program Moonlighting/Extra Clinical Duty Policy**
- 2. Letter Template: Revoked Moonlighting/ECD privileges**
- 3. Moonlighting/ECD Request Form**
- 4. Moonlighting/ECD FAQs**

**1. Policy template: Moonlighting/Extra Clinical Duty Policy**

\_\_\_\_\_ **Program Moonlighting/Extra Clinical Duty Policy**

The Program Director has the authority and discretion to prohibit or limit moonlighting for any trainee or site (if applicable) in the event that they find the moonlighting to not be in the best interests of the program or the trainee.

Moonlighting is/is not allowed for trainees in the \_\_\_\_\_ program.

Extra Clinical Duty is/is not allowed for trainees in the \_\_\_\_\_ program.

**[Insert additional program-specific details and/or modules, see below]**

The Program Director supports the following Extra Clinical Duty opportunities for trainees in this program:

Description	Days/Hours
<i>Tufts Medical Center MICU</i>	<i>Sa-Su, M-F 1700 - 0600</i>

Please see the GME policy on Moonlighting and Extra Clinical Duty if you have additional questions about these activities.

Date: \_\_\_\_\_

PD Signature: \_\_\_\_\_

Chief/Chair Signature: \_\_\_\_\_

**Optional modules** for Program policies:

- Any professional or clinical activities for which a trainee receives pay or compensation in excess of their TMC employment contract is considered either Moonlighting or Extra Clinical Duty. These activities must be optional (voluntary), and cannot be a mandated part of a training program. All Moonlighting and Extra Clinical Duty requires pre-approval from the GME Office.
- Participation in any Moonlighting or Extra Clinical Duty activities is not permitted during the following time periods [specify] and rotations [specify].
- Participation in any Moonlighting or Extra Clinical Duty activities is only permitted to trainees PGY \_\_\_\_ and higher.

**Letter Template: Revoked Moonlighting/ECD privileges**

Dear Dr. \_\_\_\_\_,

This letter serves notice that your permission to engage in Moonlighting/Extra Clinical Duty has been revoked for the following reason(s):

- Duty Hour reporting non-compliance
- Clinical standing in training program at risk (i.e., on remediation or probation)
- Other: \_\_\_\_\_

This decision is valid from today's date through \_\_\_\_\_ (the end of the current PGY year). In the event that you wish to learn more about this decision, you should contact the (Program Director/GME Office) for additional information.

Sincerely,

\_\_\_\_\_  
Program Director

\_\_\_\_\_  
Associate CMO for Graduate Medical Education

cc: Program Director  
Clinical Chief or Chair



2. **Moonlighting Request Form (separate file)**

### 3. Moonlighting/ECD FAQs

- Why is important that the trainee participating in Moonlighting and/or ECD be in good clinical standing in the training program?

A trainee's primary responsibility is to the training program. The training program's primary responsibility is to educate. Moonlighting and/or ECD cannot impinge upon the educational mandate as outlined by the Program, TMC GMEC and the ACGME.

This GME policy stipulates that:

- Trainees on probation or remediation are not eligible to engage in Moonlighting or ECD.
  - There may be circumstances in which participation in Moonlighting or ECD activities is not in the best interests of trainees who are not on probation and or in a remediation program – ultimately determination of 'good clinical standing' is at the discretion of the Program Director.
- Why is the trainee's immigration status relevant?

Allowable activities for individuals with non-immigrant visa (i.e., H1-B and J-1) are dictated by US immigration policy. Trainees on a non-immigrant visa may not receive additional pay beyond their current stipend; however programs could reward them by covering the cost of attending conferences or book purchases. Trainees in receipt of payment in excess of that stipulated in their employment contract are at risk to be violating the terms of their visitor status in the US. The trainee is responsible to assure that they are compliant with their status.

This GME policy stipulates that:

- Non-immigrant visa holders are not eligible for Moonlighting.
  - Non-immigrant visa holders cannot be paid for ECD.
- What type of Massachusetts medical license is needed for Moonlighting and ECD?
    - ECD can be performed on a limited Massachusetts medical license.
    - Moonlighting requires a full Massachusetts medical license.
  - What are the Duty Hour reporting requirements for trainees engaged in Moonlighting and ECD?

Complete and comprehensive duty hour reporting is required by the Program, TMC GMEC and the ACGME – this includes all hours worked during all months – regardless of if the work is program, ECD, or Moonlighting. Duty hour reporting and monitoring is one way that trainees and patients can be protected from the risks associated with excessive work hours and fatigue.

This GME policy stipulates that:

- Trainee must provide assurance that Moonlighting and/or ECD activities will not cause them to exceed the 80 hour per week duty hour threshold.
  - Thus participation in either Moonlighting or ECD requires that the trainee report ALL duty hours.
  - Non-compliance with these expectations may result in revocation of the privilege to participate in Moonlighting and/or ECD.
- Is my Moonlighting or ECD covered by my Tufts-provided (administered by Wellforce Indemnity Corporation, WIC) malpractice insurance?

Trainees engaged in ECD will be eligible for Tufts-provided malpractice coverage for these activities if, and only if, they are compliant with the entirety of the GME policy on Moonlighting and ECD. Moonlighting activities are not covered by Tufts-provided malpractice policy. A trainee who intends to engage in Moonlighting activities must ensure that she/he will be covered by professional liability insurance either through the location where the moonlighting will take place, or through independently obtained coverage. Under certain circumstances the Tufts-provided malpractice policy may be extended to cover moonlighting activities, but this is only considered on a case-by-case basis, and requires that Clinical Chief or Chair initiate an appeal to WIC. Proof of insurance coverage must be filed with both the Program and the GME office prior to the performance of duties covered in this policy.

- ECD: Professional liability coverage will be extended only if the trainee and Program are compliant with this GME policy.
- Moonlighting: Trainees are responsible for arranging their own professional liability coverage for moonlighting activities.