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Next Scheduled Review Date	December 1, 2024

Vacation and Leave Policy for Resident and Fellow Physicians

Type & Status

Graduate Medical Education Policy

I. Rationale

This policy describes the various categories of paid time off and leave of absence that Baylor College of Medicine makes available to all Benefits Eligible Resident and Fellow Physicians accepted to its Graduate Medical Education Training Programs.

II. Stakeholders Affected by this Policy

Compliance with this policy is mandatory for all Benefits Eligible Resident and Fellow Physicians as well as all GME Program Program Directors, Administrators, and Deans.

III. Definitions

- A. **BCM** – Baylor College of Medicine.
- B. **Benefits Eligible** – an individual who is qualified to participate in BCM employee benefits such as retirement, group insurance, or vacation and sick pay.
- C. **DIO** – Designated Institutional Official for Graduate Medical Education training programs sponsored by BCM.
- D. **GME** – Graduate Medical Education.
- E. **Non-Vested Time-Off** – unused paid time off that automatically expires either at the end of each academic year or when a Resident or Fellow Physician’s BCM employment ends before such paid leave is utilized (whichever is sooner). Examples of Non-Vested Time-Off include unused vacation days, sick days, Personal Time-Off (PTO) days, professional development days, bereavement days, and jury duty days.
- F. **Resident and Fellow Physicians** – individuals with an appointment in a BCM GME residency or fellowship program, and individuals who are not in an approved GME program but are authorized to practice only in a hospital setting, including interns and fellows in GME programs recognized as approved for purposes of direct GME payments.

IV. Policy

- A. **Non-Vested Time Off.** Consistent with the requirements of BCM’s [Employee Wages, Overtime, and Extra Work Policy \(02.4.05\)](#), which establishes that a “normal workweek” begins at 12:00 am on Sunday and runs through the seven day period ending at 11:59 pm the following Saturday (see 02.4.05, Section III.f), BCM Resident and Fellow Physicians are Exempt employees that are

not entitled to additional compensation for Clinical and Educational Work Hours worked in excess of 40 when such work is necessary to perform or complete their regular job duties and responsibilities. Regardless of their clinical rotation or scheduling variations among departments, all Resident and Fellow Physicians receive and are limited to allocations of Non-Vested Time Off as provided in this policy, and all GME programs must process time off requests in accordance with the normal workweek. The following categories of time-off may be requested at the Resident or Fellow Physician's discretion, however ***there is no "right" to use Non-Vested Time-Off at will—a supervisor's approval is always required to be absent from work and to receive compensation through a BCM GME training program for the absence.***

1. All paid time off from BCM work responsibilities is characterized as Non-Vested Time-Off, which does not accrue or roll over from one academic year to the next. This includes all categories of paid time off that can be used at the Resident or Fellow Physician's discretion (see [Section IV.A.2](#)), as well as other types of paid time-off that are triggered by eligibility criteria (see [Section IV.B](#), below).
2. Allocation. BCM provides all Benefits Eligible Resident and Fellow Physicians with a total of 44 paid days off per academic year (July 1 – June 30). These 44 days are allocated as described below. Paid time off used during the course of the year is deducted from the Resident or Fellow Physician's bank of days. GME training programs are not permitted to provide any additional paid time off.

Category	Description	#Days
Vacation	May be used for any purpose	21
Sick	Must be used for personal or immediate family illnesses only*	14
PTO	Must be used for special circumstances, approved at the Program Director's discretion	9
Total		44

3. Vacation and PTO Requests. ***In order to use vacation or PTO time, Resident and Fellow Physicians must request time off in advance and receive approval from their immediate supervisor.*** Supervisors may grant time off requests made in good faith and in accordance with departmental requirements and deadlines, unless granting the requested time would jeopardize department operations, quality of patient care, or safety. For example, all GME programs must process time off requests for consecutive days or weeks away from work in accordance with the normal workweek (i.e., a seven day period), however if a GME Program does not require its Resident or Fellow Physicians to work on weekends that GME program has discretion to limit the number of vacation days approved Monday through Friday to ensure schedule coverage, but may not exclude weekends when processing time off requests that span more than one week or exceed five consecutive days of scheduled Clinical and Educational Work.
4. Possible Use of Vacation Days/Extension of Training Time. Resident and Fellow Physicians who fail to log their Clinical and Educational Work Hours as provided in the Clinical and Educational Work Hours Policy (27.4.03) may be required to forfeit some of these vacation days or alternatively be required to extend their training as a consequence of persistent non-compliance (see [27.4.03, Section IV.B.4](#)).
5. Sick Time-Off: Required Notice and Documentation. In the event that the time-off extends beyond three consecutive days, the Leave Administration Division in the Office of Human

Resources may need to be consulted to determine whether job-protected leave (see [Section IV.C](#), below) applies based on the circumstances (e.g., minor illness becomes more serious).

- a. *Personal Illness*. Although Resident and Fellow Physicians have a maximum allotment of 14 paid sick days for personal illness, a limited number of those days may be used for absences necessitated by the illness of an immediate family member rather than the Physician themselves (see Section IV.A.5.b, below).
 - b. *Immediate Family Illness**. As established in the [Sick Pay Policy \(02.8.52\)](#), Resident and Fellow Physicians may use a maximum of 10 days per calendar year for family care (e.g., spouse recovery due to childbirth), or to care for an immediate family member's illness or injury. As provided in the Sick Pay Policy (02.8.52), immediate family includes the following persons only: father, mother, spouse or domestic partner (as established by legal documents), and legally dependent children or grandchildren. Resident and Fellow Physicians must consult with their Program Directors to ascertain the impact of time-off use for family care/illness on the duration of training.
 - c. *Notify Supervisor Immediately*. Resident and Fellow Physicians must give notice of the absence as provided in the Absenteeism and Tardiness Policy (see [02.5.32, Section VI.A](#)).
 - d. *Initiating Sick Time-Off: Doctor's Note*. A statement from a treating physician, who cannot be a Resident or Fellow Physician, is necessary if the absence due to personal/family illness or injury extends beyond three (3) consecutive calendar days. Resident and Fellow Physicians may submit doctor's notes directly to their supervisors. Unscheduled absences occurring immediately before or after holidays, weekends, scheduled vacation days, critical coverage days, or scheduled on-call days may be considered a lapse in professionalism unless the Resident or Fellow Physician provides notice of extenuating circumstances and produces documentation substantiating such circumstances (e.g., physician's note).
 - e. *Return from Sick Time-Off: Fitness for Duty Confirmation*. In order to return to work after an absence due to illness or injury that extends beyond three (3) consecutive calendar days, the Resident or Fellow Physician must submit a statement from the treating physician that the Resident or Fellow Physician is fit to return to duty. Further, if a Resident or Fellow Physician is absent from work for more than (four) 4 non-consecutive days in a calendar month, a statement may be required from a treating physician.
 - f. *Fitness for Duty Disputes*. The DIO for Graduate Medical Education shall resolve any disputes regarding the Resident or Fellow Physician's fitness for duty in the event that disagreements arise between the Resident or Fellow Physician, Program Director, and/or Director of the Occupational Health Program.
 - g. *Long Illnesses*. In the event of a serious illness that requires the Resident or Fellow Physician to be absent beyond three (3) consecutive calendar days, the Physician should consult the Leave of Absence sections of this policy (see [Section IV.C](#), below).
6. Professional Development. Resident and Fellow Physicians are not required to use PTO or vacation days to attend professional development and other educational events required by their clinical department and/or GME program, for the purpose of developing necessary knowledge, skill, or competency to provide healthcare services on behalf of BCM that are consistent with clinical department standards and GME program requirements. Clinical departments and GME programs that mandate Resident or Fellow Physician attendance at such educational events will approve and process the Resident or Fellow Physician's time away from the scheduled worksite. Resident and Fellow

Physicians are required to use Non-Vested Time-Off to attend educational events that are not mandated by the clinical department or GME program.

7. Effect of Resignation and Termination. Non-Vested Time-Off is forfeited when a full or part-time Resident or Fellow Physicians resigns, is terminated, or otherwise removed from employment at BCM upon the effective date of such resignation, termination, or removal. Paid or unpaid leave time may not be used to fulfill any required notice period, unless allowed by the Resident or Fellow Physician's department (see [Section IX, 02.5.40](#)).

B. Other Paid Time-Off: Eligibility Requirements & Circumstances. A Resident or Fellow Physician seeking time off in these categories must direct time off requests to both their immediate supervisor and the Office of GME, and must provide documentation to demonstrate their eligibility.

1. Bereavement. A Resident or Fellow Physician who experiences the death of an immediate or extended family member must request time off from work to attend funeral services, and must use PTO or Vacation days for this purpose. Resident and Fellow Physicians do not qualify for bereavement pay as provided in the [Bereavement Policy \(02.8.58\)](#).
2. Jury Duty. A Resident or Fellow Physician who receives a summons for jury duty and/or is selected for jury service must request time off from work to meet the obligation, and may qualify for jury service pay as provided in [the Jury Duty and Other Summons to Court Policy \(02.8.56\)](#).

C. Leave of Absence and Effect on Non-Vested Time-Off. ACGME training programs are not permitted to provide any additional unpaid time-off. Because Non-Vested Time-off (see [Section IV.A.2](#), above) cannot be carried over into a new academic year, processing of any approved leave of absence request (regardless of type) automatically triggers the exhaustion of all remaining Non-Vested Time-Off for which the Resident or Fellow Physician is currently eligible as of the date the request is approved by Office of Human Resources' Leave Administration Division, except as provided below (see Section IV.C.1.f). ***After exhaustion of available Non-Vested Time-Off, all other days spent on leave (whether due to family medical leave, medical leave, military leave, or personal leave) will be unpaid. Leave requests for foreseeable absences should be made 30-45 days before the anticipated start of the absence, and as soon as possible for unforeseeable absences.***

1. Family Medical Leave Act (FMLA).
 - a. Eligibility. Employees are protected under the FMLA if they have worked at BCM for at least 12 months (does not have to be consecutive) and have provided at least 1250 hours of service in the previous 12 months. Eligible employees can request leave under the FMLA for any of the following reasons:
 - 1) A serious health condition that prevents the employee from performing their job;
 - 2) Acting as a caregiver for an immediate family member (including the employee's child, spouse, or parent) who has a serious health condition;
 - 3) Leave for purposes of childcare after birth, adoption, or foster care placement (available to birthing and non-birthing parents, adoptive/foster parents, and surrogates); or
 - 4) Pregnancy, prenatal care, or childbirth (available to birthing and non-birthing parents, adoptive/foster parents, and surrogates).
 - b. Duration. Consistent with BCM's [FMLA Policy \(02.8.25\)](#), BCM provides eligible Resident and Fellow Physicians with job-protected leave for a maximum of 12 weeks. For more information on employee rights and responsibilities under the FMLA, consult [guidelines published by the U.S. Department of Labor](#).

- c. *Approval of FMLA Requests.* All FMLA requests should be directed to the Resident or Fellow Physician's immediate supervisor, and must be reported to Office of Human Resources' Leave Administration Division (leaveofabsence@bcm.edu). Final approval shall be made by the Leave Administration Division.
- d. *Illness verification.* Absences due to illness, whether the Physician's or a family member's, must be verified by a completed FMLA medical certification in order to be considered for leave under the FMLA. The medical certification must be completed and signed by the treating physician.
- e. *Adoption, Birth, Foster Placement, and Surrogacy Verification.* A completed Adoption/Foster Care Form and a statement from the court system or the involved social services agency is required to confirm the foster placement or adoption of a child. A birth certificate, alone, is acceptable for non-birthing spouses and parents using surrogacy. Surrogacy agreements are also acceptable.
- f. *Special Exception.* Consistent with the [Accreditation Council for Graduate Medical Education's Institutional Requirements \(effective July 2022\)](#), Resident and Fellow Physicians may take up to six weeks Non-Vested Time-Off from training for purposes of parental, caregiver, or medical leave ONE TIME during their program, and at any time after the training program commences. Consistent with Section IV.C (above), birthing and non-birthing parents requesting parental leave under this exception should make the request 30-45 days prior to the scheduled date of the birth, adoption, or foster placement of their child. *Resident and Fellow Physicians should consult their Member Board policies, if applicable, to determine if an extension of training is required.*
 - 1) *Achievement of Competency and Learning Objectives* – the Resident or Fellow Physician's program director and clinical competency committee must document how applicable clinical experiences and educational objectives will be met (e.g., education plan), or attest that competency has been achieved without an extension of training required. Program Directors should consult their Member Boards to determine applicable standards regarding competency and length of training.
 - 2) *Reserve of Non-Vested Time-Off* – In cases where this exception applies, the Resident or Fellow Physician and/or Program Director will communicate with Leave Administration to ensure that at least one workweek of Non-Vested Time-Off is available outside the leave of absence. If any additional Non-Vested Time-Off is allowed it may be unpaid, depending on the circumstances of the request (refer to FAQs for more information). Program Directors must facilitate this reserve of Non-Vested Time-Off at the Training Program level.
 - 3) *Accommodations Based on Medical Necessity* - if accommodation is required based on medical issues, the Resident or Fellow Physician should consult the [Accommodations for Employees and Employment Applicants with Disabilities \(02.2.30\)](#).
- g. *Limits on FMLA Leave.*
 - 1) Consistent with guidelines issued by the U.S. Department of Labor for [spouses working for the same employer](#), if the Resident or Fellow Physician and their spouse are both employed at BCM, they are limited to a combined total of 12 workweeks of FMLA leave if the reason for the request is:
 - a. Birth and/or care of the same child/children (whether newborn, foster care placement, or adoption), or
 - b. Care of the same parent with a serious health condition.

- 2) These FMLA leave limitations do not apply to BCM-employed spouses (who would each be allowed to take up to 12 workweeks of FMLA leave) if the reason for the request is:
 - a. Care of a spouse or child with a serious health condition,
 - b. Serious health condition that prevents the employee from performing the essential functions of their job,
 - c. Qualifying exigency arising out of the employee's immediate family member's active-duty (see [subsection 4](#), below).
 - 3) *Military Caregivers*. If the Resident or Fellow Physician and their spouse are both employed at BCM, they are limited to a combined total of 26 workweeks of FMLA leave if the reason for the request is the care of a military service member with a serious illness or injury. Military Caregiver Leave is only available to a Resident or Fellow Physician who is the spouse, parent, child, or next of kin of the military service member.
 - 4) *Family Member Called to Active Duty*. Resident and Fellow Physicians who may not be in the military themselves but have an immediate family member that is either on active duty or called to active duty may be permitted to take leave under the FMLA to address certain exigencies associated with that active duty status or pending deployment. Consult [guidelines published by the U.S. Department of Labor](#) for more information.
2. Medical Leave (Non-FMLA). A Resident or Fellow Physician who is absent from work for more than three (3) consecutive days due to a serious health condition (including an injury, illness, surgery, pregnancy, or convalescence after childbirth) may be eligible for medical leave if they are not eligible to take leave pursuant to the Family Medical Leave Act or have already exhausted their absence allotment under the Family Medical Leave Act. Consult the [Medical Leave Policy \(02.8.20\)](#) for current eligibility criteria, the maximum compensation period, compensation rates, and job reinstatement parameters.
 3. Military Time-Off and Leave.
 - a. *Requests*. Resident and Fellow Physicians called to active duty must request time off from their immediate supervisor and must report the request to Office of Human Resources' Leave Administration Division (leaveofabsence@bcm.edu). Final approval shall be made by the Leave Administration Division. The Resident or Fellow Physician must submit a copy of his or her military orders or a written statement from the appropriate military authority as evidence of a call to training or duty to leaveofabsence@bcm.edu.
 - b. *Duration*. Resident and Fellow Physicians with U.S. military reserve obligations receive up to 14 calendar days of paid military time off per year, and should promptly request time off to address these obligations. Resident and Fellow Physician reservists whose military obligations extend beyond 14 days will be unpaid for the remainder of leave.
 4. Personal Leave of Absence. If the stated purpose of the leave relates to personal challenges, professional training (e.g., studying for board exams, fulfilling licensure requirements, dual-degree program), or the illness or injury of the Physician's immediate family member (e.g., surrogacy delivery), or the Physician is ineligible for FMLA, then Personal Leave may be granted in accordance with the guidelines set forth in this policy. Final approval shall be made by the Leave Administration Division.
 - a. *Duration*. With the approval of the Leave Administration Division and the Program Director (or their designee), a Resident or Fellow Physician may request and take a Personal Leave of Absence for up to 12 workweeks. If the

Physician does not return to work before the end date of the approved personal leave there is no expectation of continued employment.

- b. *Justification.* Complete the Leave Form through the residency management system, and submit any required supporting documentation. The Form must be signed (electronically) by both the Program Director and the Resident or Fellow Physician with a copy kept on file in the Leave Administration Division of the Office of Human Resources.

- 1) Enrollment with at least half-time status in a degree program at an institution of higher education that is related to the Resident or Fellow Physician's medical career is an example of a reasonable basis for a personal leave request.

5. Return to Work After Leave. The Program Director shall require a fitness for duty assessment before a Resident or Fellow Physician may be cleared to return to work from FMLA or Medical leave due to their own serious health condition. A fit for duty certificate (work release) must be presented to Leave Administration Division no later than the first day the Resident or Fellow Physician returns to work. A fitness for duty assessment may be required to return from Military Leave if indicated under the circumstances, however assessment may be waived by BCM based on available documentation (e.g., DD-214 Form). A Fitness for Duty Assessment is not required in order to return to work following a Personal Leave of Absence.

- a. *Initiating Leave: Medical Certification Form.* A statement from a treating physician, who cannot be a Resident or Fellow Physician, is necessary if the leave of absence is due to personal/family illness or injury that extends beyond three (3) consecutive calendar days. Resident and Fellow Physicians may submit Forms (e.g. doctor's note) directly to the Leave Administration Division.
- b. *Returning from Leave: Fitness for Duty Confirmation.* In order to return to work after a leave of absence due to illness or injury that extends beyond three (3) consecutive calendar days, the Resident or Fellow Physician must submit a statement from the treating physician that the Resident or Fellow Physician is fit to return to duty. This statement must be submitted to the Leave Administration Division.
- c. *Fitness for Duty Disputes.* The DIO or Designee shall resolve any disputes regarding the Resident or Fellow Physician's fitness for duty in the event that disagreements arise between the Resident or Fellow Physician, Program Director, and/or Director of the Occupational Health Program.

- D. **Disability.** Disability pay is not available at the Resident or Fellow Physician's request but may be available based on a demonstration of eligibility and submission of required documentation. If a Resident or Fellow Physician is unable to return to work following a disability-related absence, the benefit/insurance carrier will determine the Physician's eligibility for disability pay according to terms and conditions stated in the certificate of insurance.

1. Short-Term Disability (STD) and Long-Term Disability (LTD). As a core benefits, STD and LTD are provided at no cost to Resident and Fellow Physicians in the event that they are unable to return to work due to medical illness or injury that requires them to be absent from work for a requisite number of consecutive days. Consult the [Benefits homepage](#) for current STD and LTD eligibility requirements, limitations, and FAQs specific to Resident and Fellow Physicians.

- E. **Effect of Leave of Absence.** BCM strongly encourages Resident and Fellow Physicians to actively monitor personal wellness and request Non-Vested Time-Off or a leave of absence if perceived necessary to preserve well-being or recover after a period of stress. However, Resident and Fellow Physicians must acknowledge that an approved leave of absence may result

in additional training and/or makeup work mandated by the Accreditation Council for Graduate Medical Education (ACGME), other applicable program accreditors, and/or applicable certification requirements.

1. Extended Training Time.
 - a. Resident and Fellow Physicians must acknowledge that additional training after a leave of absence may be needed for successful completion of their GME program's requirements and/or Board certification requirements. The amount of STD leave, medical leave, or other leave of absence time that will necessitate additional training time for the Resident or Fellow Physician shall be determined by the Program Director and the requirements of the clinical competency committee and/or Certifying Board.
 - b. When total length of training time lost (for any reason) exceeds that permitted by the appropriate certifying Board, the Resident or Fellow Physician's promotion to the next level of training will be delayed by an amount equal to the time that needs to be made up. This delay supersedes any existing letter of appointment regarding dates, year of appointment, and stipend, but does not negate the reappointment.
2. Makeup Work. GME programs shall provide Resident and Fellow Physicians with certifying Board requirements. Time missed for any reasons beyond that permitted by the relevant certifying Board must be made up. All made up time required for GME program completion will be paid. Each GME program shall abide by these requirements and provide a copy of this policy to its Resident and Fellow Physicians.
3. Contract Amendment. If a Resident or Fellow Physician's use of paid or unpaid leave time results in an extended training or makeup work, an amendment to the Resident or Fellow Physician's contract may also be required.
4. Reporting Leave of Absence to the Texas Medical Board (TMB)/Completing TMB or other states' licensing boards' verification of training forms.
 - a. *TMB-Reportable Leave of Absence, Defined.* Unless an exception applies, the TMB requires the Training Program to report a leave of absence that exceeds 21 consecutive days, and the report must include the reasons for leave. However, use of Non-Vested Time off, family leave unrelated to a Resident or Fellow Physician's own medical condition, and military leave are the exceptions to the TMB's mandatory reporting requirement (hereafter referred to as the **TMB Reportable Leave of Absence**).
 - b. *How to Complete a TMB or Another State's Verification of Training Form.* For purposes of completing verification of training forms received from the TMB that inquire as to whether a trainee had a "leave of absence or break from training," Training Programs, GME or other BCM officials completing these forms will use the **TMB Reportable Leave of Absence** definition. This definition will also be used when completing similar forms received from other states' licensing boards, unless another state's licensing board has a different definition for leave of absence (e.g., leaves of absence of a specified duration greater or lesser than 21 consecutive days). In such instance, the other state's definition will be used by BCM persons in completing the forms.

V. Responsibilities

GME Training Programs are responsible for documenting and reporting all Resident and Fellow Physician time off as required by BCM Human Resources and Payroll policies. Resident and Fellow Physicians and Program Directors are responsible for notifying appropriate Human Resources personnel in the Leave

Administration Division to approve and/or facilitate leave of absence as described in [Section IV.C](#) (above).

VI. Procedures for Implementation and Review

This Policy shall be reviewed every five years, but may be updated as necessary to maintain compliance with applicable laws, regulations, standards, or administrative urgencies identified by GME leadership.

VII. Stakeholder Compliance

N/A

VIII. Tools

- A. [Benefits homepage](#);
- B. Texas Workforce Commission: [Information on Vacation and Sick Leave](#) (explains legal requirements for private employer vacation and sick leave policies);
- C. More information on the Family and Medical Leave Act (FMLA) can be found on the Human Resources Regulatory Compliance website; by calling (713) 798-3310; or emailing leaveofabsence@bcm.edu.

IX. Related Policies

- [02.2.30 – Accommodations for Employees and Employment Applicants with Disabilities](#);
- [02.5.32 – Absenteeism and Tardiness Policy](#);
- [02.5.40 – Notice of Resignation Policy](#);
- [02.8.20 – Medical \(Non-FMLA\) Leave Policy](#);
- [02.8.25 – FMLA Policy](#);
- [02.8.52 – Sick Pay Policy](#);
- [02.8.56 – Jury Duty and Other Summons to Court Policy](#);

X. Applicable Laws, Regulations & Standards

- [Accreditation Council on Graduate Medical Education: Common Program Requirements](#); see Well-being (Sections VI.C.1.d; VI.C.1.d.1; and VI.C.2 – VI.C.2.b); Fatigue Mitigation (Section VI.D.1.c)