



# MedStar Health

Graduate Medical Education  
Institutional Policy

Approved August 5, 2010  
Pages: 5

## **Moonlighting and Outside Professional Employment**

### **I. Purpose**

To establish guidelines for employment outside of the MedStar Health System academic curriculum for residency and fellowship training.

### **II. Scope**

This policy will apply to all house officers participating in post-graduate training programs at MedStar Health hospitals.

### **III. Definitions**

House Staff or House Officer – refers to all interns, residents and fellows enrolled in a MedStar Health hospital's post-graduate training program.

Post-Graduate Training Program – refers to a structured residency or fellowship educational program accredited by the ACGME, CPME, ADA or other recognized accrediting body, or a non-accredited program which is recognized by the American Board of Medical Specialties (ABMS), for purposes of clinical education (collectively "approved programs"). For purposes of this policy, Post-Graduate Training Programs also include structured educational programs that are unapproved and unaccredited (collectively "unapproved programs").

Moonlighting – refers to any and all clinical activities outside of the scope of the defined post-graduate training program.

External Moonlighting – refers to moonlighting on behalf of an employer other than the sponsoring institution and any of its academically affiliated sites.

Internal Moonlighting - refers to moonlighting on behalf of the sponsoring institution or any of its academically affiliated sites.

Outside Professional Employment – refers to any non-clinical employment a house officer engages in outside of the defined post-graduate training program.

#### IV. **Conditions/Requirements**

##### A. **General Restrictions**

1. No house officer may moonlight without having first obtained, at their own cost, an unrestricted license to practice medicine in the jurisdiction in which the moonlighting activity will take place.
2. No house officer may moonlight without first having been appropriately credentialed by the medical staff office of the facility where the moonlighting is to occur.
3. Any house officer holding an H-1B or J-1 visa, by virtue of USCIS regulations and/or ECFMG sponsorship, is not allowed to accept work or receive income in any capacity other than that of a resident physician in the specific residency identified on the DS2019 issued by the ECFMG or the visa petition approved by the USCIS.
4. Moonlighting, whether internal or external, is prohibited if it is inconsistent with providing residents and fellows sufficient time for educational activities. Moonlighting will only be approved if, in the judgment of the Program Director, the proposed moonlighting activity will not interfere with the house officer's ability to meet his/her educational obligations in a satisfactory manner. The Program Director must prospectively approve, in writing, all moonlighting of house officers within their scope of supervision. This written approval will be noted in the house officer's institutional personnel (GME) file. The Program Director may withdraw permission for moonlighting activities if he/she determines the moonlighting activities are having an adverse effect upon participation in educational activities.

##### B. **House Staff in Approved (Accredited) Programs.**

1. A house officer in an approved program is never required to moonlight, but moonlighting may be permissible under certain circumstances.
2. **External Moonlighting**
  - a) A house officer may moonlight externally if: (i) the house officer is fully licensed and credentialed by the facility where the moonlighting is to occur; and (ii) the house officer has the prior written permission of the Program Director.
  - b) A house officer who moonlights outside of the MedStar Health System is not provided coverage of professional liability insurance by MedStar Health or its affiliates. It is the responsibility of the moonlighting house officer to obtain appropriate professional liability insurance for any moonlighting activity outside of the MedStar Health System.
3. **Internal Moonlighting**

- a) Any moonlighting occurring within the sponsoring institution (or its academically affiliated sites) must be counted toward duty hour limits (80 hour rule, 30 hour rule, and 10-hour rest period). It is the responsibility of the program director and the institution to monitor and comply with all duty hour regulations.
- b) A house officer may only moonlight within the sponsoring institution (including any of its academically affiliated sites) if:
  - (i) the house officer is fully licensed and credentialed by the medical staff office of the facility where the moonlighting is to occur; (ii) the services to be performed can be distinguished from those services that are part of the house officer's training program; (iii) the services will be performed in an outpatient department or emergency department of the sponsoring institution;<sup>1</sup> and (iv) the house officer has the prior written permission of the program director.

(i) House staff in post-graduate training programs may not moonlight within the sponsoring institution or any academically affiliated site, unless the services to be provided during moonlighting are clearly distinguishable from the services furnished by the house officer in his/her approved or recognized medical training program. Any proposed services that fall within the scope of the house officer's training program or within the house officer's department is presumptively forbidden. Factors to be considered in determining whether proposed services are distinguishable from the services furnished by the house officer in an approved or recognized medical training program include, but are not limited to:

(One) Whether the house officer is working on the same unit during moonlighting activities and during the activities of the training program;

(Two) Whether the house officer is seeing the same patients during moonlighting activities and during the activities of the training program;

(Three) Whether the house officer is performing work for which he/she would require supervision if the work were performed during the regularly scheduled hours of the residency training program

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<sup>1</sup> If these criteria are not met, there can be no reimbursement for the house officer's moonlighting activities under Medicare Parts A or B. The house officer cannot bill Medicare Part B, and in order for the attending physician to bill Medicare Part B the attending physician must have: (1) participated in the service; and (2) the attending physician's provision of services must be properly documented in accordance with applicable reimbursement guidelines. In addition, all costs associated with the house officer's moonlighting activities must be separated out and not included on the cost report line relating to residency training on the Hospital's Medicare cost report.



(Four) Whether the house officer will be evaluated for the moonlighting activities through the residency/fellowship program evaluation process; and

(Five) Whether the house officer is using any of the patients seen during the moonlighting activities as case studies for residency/fellowship program papers.

4. The VPMA of the hospital must review the aforementioned five criteria to determine if services are separate and distinguishable. If that determination is made, then the decision should be memorialized by way of a memo to the file and made available for future review.
5. House staff in approved programs who meet all of the above criteria and who wish to moonlight must have a separate contract that specifies the services they are permitted to provide independently. The contract must specify that these services are not part of their residency/fellowship program. The contract also must indicate a separate salary that will be paid at fair market value for these services. The contract must be terminable at the discretion of the training Program Director, if at any time he or she concludes that the moonlighting services are interfering with the house officer's educational responsibilities. Such contracts must meet all requirements of the Hospital's Contract Administration Policy, including review by the Legal Department, as necessary.
6. A house officer who engages in internal moonlighting activities at an academically affiliated site that is not part of the MedStar Health System is not provided coverage of professional liability insurance by MedStar Health. It is the responsibility of the moonlighting house officer to obtain appropriate professional liability insurance for any moonlighting activity outside of the MedStar Health System.

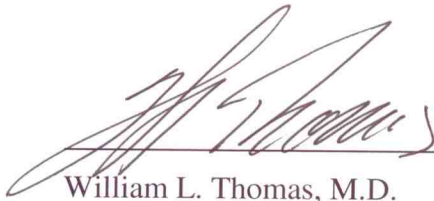
**C. House Staff in Unapproved (non-Accredited) Programs.**

1. External Moonlighting
  - a) A fellow who is enrolled in an unapproved program may moonlight externally if: (i) the fellow is fully licensed and credentialed by the facility where the moonlighting is to occur; and (ii) the fellow has the prior written permission of the Program Director.
  - b) A fellow who is enrolled in an unapproved program who moonlights outside of the MedStar Health System is not provided coverage of professional liability insurance by MedStar Health or its affiliates. It is the responsibility of the moonlighting fellow to obtain appropriate professional liability insurance for any moonlighting activity outside of the MedStar Health System.
2. Internal Moonlighting

A fellow who is enrolled in an unapproved program may moonlight within the sponsoring institution (or its academically affiliated sites) under the following circumstances:

- a) A fellow who is enrolled in an unapproved program may moonlight in any position within the institution for which he or she is qualified, if (a) the house officer is fully licensed and credentialed; and (b) the house officer's position is not included in the sponsoring institution's GME Cost Report.
  - b) In the judgment of the Program Director, the proposed moonlighting activity does not interfere with the fellow's ability to meet his/her educational obligations in a satisfactory manner.
  - c) Any moonlighting occurring within the sponsoring institution (or its academically affiliated sites) must be counted towards the 80-hour weekly limit on duty hours.
3. Fellows enrolled in an unapproved program who meet all of the above criteria and who wish to moonlight internally must have a separate contract that specifies the services they are permitted to provide independently. The contract must specify that these services are not part of their fellowship program. The contract also must indicate a separate salary that will be paid at fair market value for these services. The contract must be terminable at the discretion of the training Program Director, if at any time he or she concludes that the moonlighting services are interfering with the house officer's educational responsibilities. Such contracts must meet all requirements of the Hospital's Contract Administration Policy, including review by the Legal Department, as necessary.
  4. Fellows enrolled in an unapproved program who meet all of the above criteria and engage in moonlighting may bill for any services within the scope of his or her license and employment contract.

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