

Graduate Medical Education Agreement of Appointment
DUKE UNIVERSITY HEALTH SYSTEM, INC. d/b/a DUKE UNIVERSITY HOSPITAL
2020-21

This agreement of appointment (the "Agreement") made this ___ day of _____ by and between Duke University Health System, Inc. ("DUHS"), for and on behalf of Duke University Hospital (the "Hospital"), and _____ ("Trainee"), sets forth the terms and conditions of the Trainee's appointment as Associate Medical Staff of the Hospital.

The purpose and intention of this Agreement is to assist Trainee, a physician-in-training, in the pursuit of his or her postgraduate studies. The Agreement is being made and entered into pursuant to the separate agreement between Trainee's military employer and DUHS (the "Military Agreement"). In consideration of the mutual promises contained herein, the Hospital and Trainee each agree as follows:

1. Terms of Appointment.

- 1.1. Commencement Date for DUHS in conjunction with the Department of _____ in the Program of from _____ to _____ (term may not exceed next fiscal year).
- 1.2. As a condition precedent to appointment, Trainee must provide all of the required credentialing documentation to the Office of Graduate Medical Education prior to commencement date. If Trainee fails to meet one or more of these requirements, DUHS may, in its discretion, revoke the Agreement, suspend the Agreement, alter or extend the Agreement's Term, or allow Trainee to commence work subject to conditions DUHS may establish to comply with governing laws and protect patient safety and the public interest. The required credentialing documentation includes but is not necessarily limited to the following:
 - 1.2.1. A completed current Application for Membership to the Associate Medical Staff of Duke University Hospital approved by Risk Management and Legal Counsel;
 - 1.2.2. Documentation of passage of appropriate licensing examinations as per Institutional Policy (See USMLE Policy at www.gme.duke.edu);
 - 1.2.3. Documentation of employment eligibility (Trainee must meet Federal requirements per Form I-9);
 - 1.2.4. If Trainee is an international medical school graduate, a current and valid ECFMG certificate;
 - 1.2.5. A valid license to practice medicine that complies with the applicable provisions of the laws pertaining to licensure in the state of North Carolina or any other state in which the Program may assign Trainee for clinical duties pursuant to Trainee's Program;
 - 1.2.6. Life support certification(s) ACLS, BCLS, and PALS as prescribed by Program, and/or the Hospital;
 - 1.2.7. This signed Agreement; provided, however, that the parties acknowledge and agree that this Agreement will not be effective, and Trainee's employment will not commence, until all conditions precedent to appointment (including but not limited to the satisfactory completion of the credentialing process) have been satisfied;
 - 1.2.8. Documentation showing confirmation of timely registration for National Provider Identifier (NPI) number and enrollment as an Ordering, Prescribing, or Referring (OPR) provider.
 - 1.2.9. Submission of a health examination and supplementary test(s), which includes tests for drug and/or alcohol abuse, and receive the required immunizations in compliance with DUHS policy and all applicable federal, state, and local laws and regulations. It must be determined that Trainee is in sufficient physical and mental condition to perform the essential functions of appointment. The results of all examinations shall be provided only to Employee Occupational Health and Wellness;
 - 1.2.10. Further information that DUHS may request in connection with the Trainee's credentials, not limited to, Criminal Background Check and clearance from the National Practitioner Data Bank; **and**
 - 1.2.11. Any document not printed in English must be accompanied by an acceptable original English translation performed by a qualified translator. Each translation must be accompanied by an affidavit of accuracy acceptable to DUHS.

2. Trainee Responsibilities. Trainee must meet the qualifications for trainee eligibility as outlined in the Accreditation Council for Graduate Medical Education (ACGME) Institutional Requirements (www.acgme.org), or as set forth in such other applicable accreditation requirements, or requirements the Hospital promulgates and follows as applicable to non-ACGME accredited programs, that may be in effect from time to time. In providing services and in participation in the activities of the Program, Trainee agrees to do the following:

- 2.1. Obey and adhere to the Medical Staff Bylaws, the policies and practices of the Institution and Program (accessible at <https://gme.duke.edu/policies>), the policies and requirements of all of the facilities to which Trainee rotates, the standards of all accrediting certifying or licensing organization, and all applicable state, federal and local laws;
- 2.2. Participate fully in the educational, research and scholarly activities as assigned by the Institution and Program (and/or as necessary for the completion of applicable graduate requirements), attend all required educational conferences, assume responsibility for teaching and supervising other trainees and students, and participate in assigned DUHS, Hospital, Medical Staff committee activities;
- 2.3. Use his or her best efforts to provide safe, effective and compassionate patient care, and present at all times a courteous and respectful attitude toward all patients, colleagues, employees, visitors at DUHS and other facilities/rotation sites to which Trainee is assigned. This provision includes compliance with the dress code applicable to DUHS trainees;
- 2.4. Satisfactorily fulfill the educational requirements of the Program in a timely manner;

- 2.5. Provide clinical services:
 - 2.5.1. As and when assigned
 - 2.5.2. Commensurate with his/her level of advancement and responsibilities;
 - 2.5.3. Under appropriate supervision;
 - 2.5.4. At sites specifically approved by the Program and Office of Graduate Medical Education; and
 - 2.5.5. Under circumstances and at locations covered by the Hospital's professional liability insurance maintained for Trainee in accordance with Section 5.4 below.
- 2.6. To the satisfaction of the Program Director, demonstrate competency in Patient Care, Medical Knowledge, Interpersonal and Communication Skills, Practice Based Learning and Improvement, Professionalism, and Systems Based Practice (and reasonable progress in ACGME Milestones for specialties for which they are required, as determined by the institution in its sole discretion) for Trainee's level of training;
- 2.7. Cooperate fully as follows:
 - 2.7.1. Coordinate and complete the required submissions and activities including the legible and timely completion of patient medical records, charts, reports, statistical operative and procedure logs and/or other clinical documentation required by the ACGME, Hospital, DUHS, Department and Program; and
 - 2.7.2. Immediately report to the Office of Graduate Medical Education, any investigation or correspondence regarding issues that may impact state licensure.
 - 2.7.3. Cooperate with the North Carolina Medical Board or any other state medical board with respect to any investigation that may impact state licensure.
- 2.8. Return at the time of the expiration or termination of the Agreement, all Hospital property, including but not limited to books, equipment, and pager; complete all necessary records; and settle all professional and financial obligations;
- 2.9. Comply with and complete all required Hospital, Department and Program surveys, reviews, evaluations, quality assurance and credentialing activities;
- 2.10. Report immediately: a) to DUHS Risk Management or the Office of General Counsel any inquiry by any private or governmental attorney or investigator (including, without limitation, inquiries related to services provided at the Veteran's Administration, or any other clinic, facility, or training site), or b) to the Duke Health News Office any inquiry by any member of the press. Trainee understands that the Hospital encourages Trainee's full cooperation with any governmental investigation or inquiry. Trainee agrees not to communicate with any inquiring private attorney or any members of the press except merely to refer such private attorneys to DUHS Risk Management and/or Office of University Counsel and to refer members of the press to Duke Health News Office;
- 2.11. Cooperate fully with Hospital administration, including but not limited to the departments of Nursing, Professional Services, Financial Services, Social Services, and other ancillary services departments in connection with the evaluation of appropriate discharge and post-hospital care for hospital patients;
- 2.12. Comply with Hospital institutional policies prohibiting discrimination and harassment. <https://hr.duke.edu/policies/diversity/harassment-discrimination>;
- 2.13. Permit and assist the Hospital to obtain from and provide to all proper parties (e.g., government officers, licensing agency officials or officers, bona fide third party employers seeking information regarding credentialing or privileges, or other similar parties) any and all information as required or authorized by law or by any accreditation body. The Trainee covenants to hold harmless the Hospital, its officers, directors, or other personnel for good faith compliance with such requests for information. This covenant shall survive termination or expiration of this Agreement;
- 2.14. Maintain required immunizations consistent with DUHS policy and all applicable federal, state, and local laws and regulations; and
- 2.15. Timely and successfully complete GME Institutional Orientation.

3. Institutional Responsibilities. The Hospital has the following obligations:

- 3.1. To provide, within available resources, an educational training program that meets all standards established by ACGME or other accrediting entity, if applicable;
- 3.2. To provide, within available resources, Trainee with adequate and appropriate support staff and facilities in accordance with federal, state, local and ACGME requirements;
- 3.3. To maintain an environment conducive to the health and well-being of Trainee;
- 3.4. To provide adequate and appropriate patient and information support services;
- 3.5. To comply with its policies and procedures;
- 3.6. To provide a fair and consistent method for review of Trainee's concerns and/or grievances without the fear of reprisal;;
- 3.7. To provide processes (a) for review of Trainee's performance, deficiency(ies), or related issues of concern, and (b) in connection with any adverse or remedial actions taken, or proposed to be taken, regarding Trainee;
- 3.8. Upon satisfactory completion of the Program and its requirements as well as Hospital's Trainee responsibilities and with termination of GME Trainee status, to furnish to Trainee a Certificate(s) of Completion of the Program(s); and
- 3.8 To allow access to information related to eligibility for specialty board examinations, available at <https://www.abms.org/media/194925/abms-guide-to-medical-specialties-2019.pdf>.

4. Clinical and Education Work ("Duty Hours").

- 4.1. Trainee shall perform his/her duties under this Agreement during such hours as the Program Director may direct in accordance with the Clinical and Educational Work ("Duty Hour") Policy, available at

www.gme.duke.edu. Hours dedicated to clinical experience and education, although subject to modification and variation depending upon the clinical area to which Trainee is assigned and/or exigent circumstances, shall be in accordance with federal, state, institutional, ACGME or other applicable accreditation requirements.

- 4.2. If a scheduled duty assignment is inconsistent with this Agreement or the Clinical and Educational Work Policy, Trainee shall bring the inconsistency first to the attention of the Program Director for reconciliation or cure. If the Program Director does not reconcile or cure the inconsistency, it shall be the obligation of Trainee to notify the Office of Graduate Medical Education who shall inform the Director of Graduate Medical Education and the GME Representative who shall take the necessary steps to reconcile or cure the raised inconsistency.
- 4.3. Trainee shall report hours spent on clinical experience and education hours in a timely and accurate manner to the Office of Graduate Medical Education.
- 4.4. Moonlighting. Employment as a physician in a professional capacity outside of what is outlined in this Agreement, whether temporary special medical activity ("T SMA") or external moonlighting, must be approved in writing, in advance, by the Departmental Chair, Program Director and Director of Graduate Medical Education (or designee). Even if approved, professional and general liability insurance as outlined in Section 5.4 is not provided to Trainee engaged in external moonlighting. Trainee acknowledges he or she has the responsibility to obtain insurance for such engagement. T SMA and external moonlighting must be included and reported as part of Trainee's hours spent on clinical experience and education. Trainee shall not be required to engage in any outside work.
- 4.5. Non-physician work or other pursuits for monetary gain unrelated to Trainee's status as a physician that do not interfere with Trainee's obligations as in Section 2, are permissible only with prior written notice to and approval by the Program Director. All such activities are subject to the provisions in the Duke guidance for reporting conflict of commitment statement (found at <https://hr.duke.edu/policies/expectations/conflict-interest>).

5. Employment; Compensation; Benefits. Per the Military Agreement, Trainee acknowledges that Trainee will continue to be employed by Trainee's Armed Services Employer. The Hospital will provide benefits and resources as follows:

- 5.1. Compensation: As a military officer and employee, Trainee will not receive any compensation, salary or stipend of any kind from DUHS.
- 5.2. Services: The Hospital shall provide uniforms, parking, access to food services 24 hours a day, and sleep/rest facilities available for Trainees on-call in the Hospital.
- 5.3. Trainee shall be eligible for vacation and leave time consistent with the policies of the Program, Department, Hospital, DUHS, and state and federal laws.
 - 5.3.1. Leaves of Absence. The Trainee expressly acknowledges that additional training after a leave of absence may be needed for successful completion of Program Requirements and/or for Board certification requirements. The amount of sick leave, leave of absence, or disability time that will necessitate prolongation of the training time for the Trainee shall be determined by the Program Director and the requirements of the pertinent Residency Committee and/or certifying Board.
- 5.4. Professional Liability Insurance. The Hospital shall provide the Trainee with professional liability insurance coverage while the Trainee is acting within the scope of his/her assigned program activities, and tail coverage (detailed information available from Risk Management). In connection with the professional liability coverage provided by the Hospital:
 - 5.4.1. The Trainee agrees to cooperate fully in any investigations, discovery related to litigation, and defense that may arise. The Trainee's failure to cooperate may result in revocation of insurance coverage;
 - 5.4.2. If the Trainee receives, or anyone with whom the Trainee works receives on his/her behalf, any summons, complaint, subpoena, or court paper of any kind relating to activities in connection with this Agreement or the Trainee's activities at the Hospitals, the Trainee agrees to immediately report this receipt to DUHS Risk Management and submit the document received to that office; and
 - 5.4.3. The Trainee agrees to cooperate fully with DUHS Administration and Risk Management in connection with the following: (a) evaluation of patient care; (b) review of an incident or claim; or (c) preparation for litigation, whether or not the Trainee is a named party to that litigation.
- 5.5. Other Additional Benefits and Resources. Per the Military Agreement, non-compensation benefits incidental to training are permissible. Therefore, DUHS will provide Trainee with the following benefits and resources. (For additional information, see GME website www.gme.duke.edu):
 - 5.5.1. Life Insurance;
 - 5.5.2. Long Term Disability Insurance;
 - 5.5.3. Workers' Compensation;
 - 5.5.4. Confidential support services including confidential counseling, medical, and psychological support services; and
 - 5.5.5. Physician Impairment and Substance Abuse. The Hospital agrees to provide the Trainee with information regarding physician impairment, including substance abuse, and shall inform the Trainee of Hospital policies for handling physician impairment, including impairment related to substance abuse.
- 5.6. Discontinuation of Benefits. The Hospital reserves the right to modify or discontinue the plan of benefits set forth herein at any time. Any such change cannot be made without first advising the affected insured.

6. Reappointment & Promotion to Subsequent PGY Level. The duration of this Agreement is for the academic year specified in the heading of this agreement, not to exceed the equivalent fiscal year. Re-appointment and/or promotion to the next level of training is not automatic. It is conditional upon; (a) satisfactory completion of all training

components and satisfactory academic progress as mandated by the Program and the Institution, (b) the availability of a position, (c) full compliance with the terms of this Agreement, (d) the continuation of the Hospital's and Program's accreditation by the ACGME if applicable, (e) the Hospital's financial ability, (f) furtherance of Hospital objectives, and (g) satisfactory performance evaluations and documentation of passage of appropriate licensing examinations. The Program maintains a confidential record of the evaluations in accord with North Carolina law pertinent to peer review (NCGS 131E-95).

6.1. A decision not to re-appoint or promote Trainee is an adverse corrective action under the Corrective Action and Hearing Procedures for Associate Medical Staff of Duke University Hospital ("CAHP"), available at www.gme.duke.edu. Trainee's rights as to challenging the decision are set forth in CAHP.

6.2. If non-reappointment is based on reasons other than the Trainee's performance, the Closures and Reductions policy, available at www.gme.duke.edu, describes the Hospital obligations to the Trainee.

7. Grievance Procedures. Trainee is encouraged, through the Grievance Process for Trainees, to seek resolution of grievances relating to his/her appointment or responsibilities, including any difference between the Trainee and the Hospital and/or Program and/or any representative thereof, with respect to the interpretation of, application of, or compliance with the provisions of this Agreement. The policy is available at www.gme.duke.edu.

8. Corrective Action, Dismissal and Suspension. During the term of this Agreement, the Trainee's appointment is conditional upon Trainee's satisfactory performance of all Program requirements. Pursuant to CAHP, if Trainee's actions, conduct, or performance, professional, academic, or otherwise, are deemed unsatisfactory, corrective action, whether routine or adverse, including dismissal, may be taken, or suspension may be imposed. Trainee may use processes set forth in CAHP, available at www.gme.duke.edu, to challenge such action.

9. Reporting Obligations. Nothing herein shall affect or interfere with any right or obligation of Duke University, the Program, any Hospital or the Associate to make any report pursuant to state or federal law.

10. Miscellaneous.

10.1. **Restrictive Covenants.** The Hospital and its Graduate Medical Education Programs will not require trainees to sign a noncompetition guarantee.

10.2. **Severability.** In the event any provision of this Agreement is held to be unenforceable for any reason, that unenforceability shall not affect the remainder of this Agreement, which shall remain in full force and effect and shall be enforceable in accordance with its terms.

11. Trainee by signing this Agreement, agrees to protect the confidentiality, privacy and security of patient, student, personnel, business, peer review, and other confidential, sensitive electronic or proprietary information (collectively, "Confidential Information") of Duke University, DUHS and the Private Diagnostic Clinic (collectively, "Duke") from any source and in any form (talking, paper, electronic). As a condition of this Agreement, Trainee shall execute the accompanying Confidential and Proprietary Information Agreement.

12. I understand that my failure to comply with this Agreement may result in the termination of my relationship with Duke and/or civil or criminal legal penalties. By signing this, I agree that I have read, understand and will comply with the terms of the accompanying Confidential and Proprietary Information Agreement in addition to all the other terms of this Agreement.

13. I understand that my Program may require that I participate in providing clinical care at Duke Regional Hospital, Duke Raleigh Hospital, and other Health System hospitals, facilities and/or programs. This statement is to authorize Duke University and DUHS to provide any information including, but not limited to, information from my personnel file as maintained by the Office of Graduate Medical Education at the Hospital, insurance and claims history information, and any other information relating to my service as a graduate medical trainee at the Hospital to these facilities. To the extent this provision of the Agreement conflicts or is substantively inconsistent with the provisions of the Military Agreement, the Military Agreement shall supersede this provision.

14. Entire Agreement. Unless otherwise expressly set forth herein, this Agreement embodies the complete agreement and understanding between the Parties hereto with respect to the subject matter hereof and supersedes and preempts any prior understanding of the Parties, written or oral, which may have been related to the subject matter hereof in any way.

15. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of North Carolina.

16. Forum. Both Trainee and DUHS hereby irrevocably and unconditionally agree that any legal or equitable action or dispute arising from, in connection with, or relating to this Agreement and/or DUHS's employment of Trainee, which is or may be within the jurisdiction of federal courts in the State of North Carolina, must be commenced in said federal courts. Nothing in this provision is intended to discourage or interfere with the rights or obligations of Trainee to file administrative claims or charges with government agencies prior to any related action being initiated in the courts.

ACCEPTED AND AGREED:

Jane Smith Doe
Trainee

Jason Smith, M.D.
Program Training Director

Catherine M. Kuhn, M.D.
Director, Graduate Medical Education

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