I. Summary of Policy

Moonlighting commitments must be subordinate to the primary responsibility each House Staff Officer has to his/her training program and to the patients under the House Staff Officer’s care. Moonlighting is neither a clinical nor an educational responsibility for the House Staff Officer enrolled in a training program; it is an option for licensed physicians only that is neither endorsed nor entirely prohibited by the New York University School of Medicine (“NYU”), although some individual programs may forbid it. Under no circumstance will moonlighting be allowed to create a conflict of commitment with the House Staff Officer’s core training program.

The Accreditation Council for Graduate Medical Education (“ACGME”) has discouraged moonlighting in the past for reasons including:

- Moonlighting clearly competes with the opportunity to achieve the full measure of the educational objectives of the Training program; and

- The added time burden takes away from study and reduces rest and the ability for a more balanced lifestyle.

The ACGME recognizes that economic factors have led some House Staff Officers to pursue moonlighting; however, in no instance will a House Staff Officer be required to engage in such activity.

In addition, New York State and the ACGME have promulgated restrictions on the number of Duty Hours a House Staff Officer may work. The House Staff Officer is responsible for compliance with those limitations when engaged in moonlighting activities, in accordance with the provisions set forth under the NYU “Duty Hours Policy for House Staff Officers.”

All House Staff Officers must comply with this Moonlighting Policy for House Staff Officers.

II. Applicability of the Policy
All trainees, including those in ACGME and non-ACGME-accredited specialty and subspecialty programs

III. Definitions (if applicable)

A. ACGME – Accreditation Council for Graduate Medical Education

B. Application – Moonlighting Application

C. Director – The House Staff Officer’s NYU Director of Residency or Fellowship Training

D. Duty Hours – Include all clinical and academic activities of the House Staff Officer; i.e., patient care (both inpatient and outpatient), administrative duties related to patient care, transfer of patient care, time spent in-house on-call, scheduled academic activities such as conferences, and any moonlighting activities. Duty Hours do not include reading and preparation time spent away from the duty site.

E. Foreign National Physician – For the purpose of this document, a Foreign National Physician (“FNP”) is a physician who has been granted a visa to train in the United States. Restrictions on moonlighting apply and vary by visa type in accordance with Section IV, Foreign National Physicians, of this document.

F. Hiring Entity – A hospital or other employer for whom the House Staff Officer performs approved moonlighting activities.

G. Moonlighting – Any circumstance of working as a physician or healthcare provider outside the House Staff Officer’s authorized training program, including all work performed for other NYU programs and departments and for all Hiring Entities or private practice arrangements external to NYU. Extra on-call duty within the House Staff Officer’s authorized training program is not considered moonlighting.

H. NYULMC – NYU and its affiliated hospitals

I. ECFMG – Educational Commission for Foreign Medical Graduates
J. **USCIS** – United States Citizenship and Immigration Services

K. **House Staff Officer** – In this document, all references to House Staff Officers include trainees in specialty and subspecialty programs, whether or not ACGME-accredited.

L. **Office of GME** – Office of Graduate Medical Education

IV. **Policy**

The NYU *Training Program Agreement* prohibits a House Staff Officer from engaging in any moonlighting activity except upon receipt of prior written approval from his/her Director. The Director has the discretion to prohibit moonlighting activities that interfere with educational objectives, patient care responsibilities, and/or Duty Hour limitations and to develop a moonlighting policy for his/her training program that is more restrictive than the requirements set forth under this Moonlighting Policy for Residents and Fellows.

A. **Moonlighting Application.** The House Staff Officer must initiate the application process.

1. **House Staff Officer’s Submission of Application.** Prior to the acceptance and commencement of any moonlighting activity, any House Staff Officer wishing to moonlight (as defined in Section III, Definitions) must submit a completed and signed Application to his/her Director for approval. The House Staff Officer may not commence, under any circumstance, any moonlighting activity without prior written approval from his/her Director. An Application may be obtained from the Policies and Procedures page of the GME Website (http://gme.med.nyu.edu).

2. **Director’s Discretion.** The Director has the discretion to decide, categorically or individually, whether or not the proposed moonlighting activity is compatible with the training requirements for his/her program. The Director, therefore, may permit, prohibit, limit, or revoke permission to moonlight as s/he deems appropriate. In addition, NYU, or any individual Director, may deny any moonlighting activity that is deemed inconsistent with NYU policy. The Director will base his/her written approval or denial of a House Staff Officer’s application on factors that include, but are not limited to:
a. **ACGME Program Requirements.** The House Staff Officer’s proposed moonlighting activity must comply with the requirements of his/her program’s Review Committee regarding moonlighting.

b. **PGY Level.** The House Staff Officer must have completed at least one year of clinical training in an approved training program and possess a valid New York State medical license or limited permit (if applicable). Such training may include a transitional year or a year in a designated subspecialty.

c. **Academic Standing.** The House Staff Officer must be in good standing, as evidenced by his/her evaluations.

d. **Total Duty Hours.** The House Staff Officer’s total Duty Hours must not exceed the limitations set forth under NYU’s *Duty Hours Policy for House Staff Officers*.

e. **Conflict of Commitment.** Residency and Fellowship education is a full-time endeavor. The Director, therefore, must ensure that the House Staff Officer’s moonlighting workload interferes neither with the House Staff Officer’s ability to achieve the goals and objectives of his / her Graduate Medical Education program or with his / her ability to complete regular duties, including call and continuity practice.

f. **Visa Status (if applicable).** A Foreign National Physician’s (“FNP’s”) visa may permit or expressly prohibit moonlighting, as discussed under *Section IV.F.*, *Foreign National Physicians*, of this document.

3. **Director’s Approval/Denial.** The Director must indicate his/her approval or denial of a House Staff Officer’s Application by completing the appropriate section of the Application. Any House Staff Officer who moonlights in the absence of prior written approval from his/her Director is subject to disciplinary action as explained in *Section V.*, *Violations and Disciplinary Action*, of this document.

a. **Moonlighting Denied.**
i. **Not Subject to Appeal.** The Director’s decision to deny a House Staff Officer’s Application is final and not subject to appeal.

ii. **Record Maintenance.** The Director will send the original denied Application to the House Staff Officer, maintain a copy in the House Staff Officers’ department file, and forward a copy to the Office of GME.

b. **Moonlighting Approved.** In the event the Application is approved, the Director will send the original approved Application, with a copy of this Moonlighting Policy for House Staff Officers attached, to the House Staff Officer. Per ACGME requirements, the Director will maintain a copy of the approved Application in the House Staff Officers’ department file. The Director also will forward a copy to the NYU Office of GME.

B. **Payroll.** The NYU Office of GME will be responsible for establishing a Dual Job for House Staff as House Physicians for moonlighters on Bellevue or State Payroll. The Director will provide the NYU Office of GME the account number and the hourly wages for the position. The Office of GME will submit the required Requisitions to the Department for signatory approval. Paperwork must be submitted to Compensation, after obtaining signatory approval of the pay source by the Hiring Department. Compensation will set up a position as a Casual Employee and the designated department timekeeper will report to Payroll the time worked for payment. Depending upon the department’s policy, payments will be issued bi-weekly or monthly.

C. **House Staff Officer’s Responsibilities.** Upon receipt of an approved Application, the House Staff Officer must:

1. **Comply with Program Assignments.** The House Staff Officer’s commitment to his/her training program must take priority over any moonlighting activity. Failure to comply with program assignments will subject the House Staff Officer to disciplinary action, as discussed in *Section V, Violations and Disciplinary Action*, of this document.

2. **Obtain Assistant in Service Appointment if Required.** The House Staff Officer must apply for, and obtain appointment to the Medical Staff as an Assistant in Service if
moonlighting activity is outside the scope of practice for current training program. The Department must request, and process, the application for Assistant in Service.

3. **Obtain Malpractice Coverage.** The House Staff Officer must either purchase sufficient malpractice insurance to cover his/her moonlighting activities or obtain written assurance from the Hiring Entity that it will provide malpractice insurance and workers’ compensation coverage to the House Staff Officer. That insurance is separate from the coverage provided by NYU for the House Staff Officer’s core training program. NYU’s malpractice policy for House Staff Officers does not extend to medical services rendered outside of officially scheduled assignments, duties, or rotations.

4. **Obtain License or Limited Permit and DEA Registration Number.** In accordance with New York State Education Law, the House Staff Officer must obtain a license or limited permit before s/he may begin any moonlighting activity. Pursuant to Drug Enforcement Agency regulations, the House Staff Officer may not use, under any circumstances, a DEA Registration Number assigned to the House Staff Officer by NYU while engaged in moonlighting activities outside the NYU System.

5. **Refrain from Moonlighting During Regular Duty Hours.** The House Staff Officer may not moonlight during regular Duty Hours, as defined by his/her Director.

6. **Adhere to Duty Hour Limitations.** The House Staff Officer is responsible for complying with the Duty Hour limitations set forth under the NYU GME “Duty Hours Policy for House Staff Officers” when moonlighting and, as such, must assure his/her NYU Director that the combined training program and moonlighting hours do not exceed those Duty Hour limits. Time spent moonlighting must be included in the calculation of Duty Hours.

7. **Submit Weekly Schedule.** The House Staff Officer must provide the Director with the House Staff Officer’s total working hours for any and all moonlighting activities each week. Under no circumstance will any House Staff Officer be allowed to work in excess of Duty Hour limitations.
8. **Arrange for Direct Remuneration.** Each Hiring Entity must remit remuneration and benefits earned by the House Staff Officer while moonlighting directly to the House Staff Officer.

9. **Submit Ad Hoc Changes/Annual Renewal.** The House Staff Officer must submit a new Application to his/her Director annually and as changes to his/her training program requirements or previously approved moonlighting activities occur. Changes include any modification to the a) training program schedule (e.g., due to promotion to next PGY level); b) number of moonlighting hours worked; c) supervisor(s) to whom the House Staff Officer is assigned while engaged in an approved moonlighting activity; and/or d) sites where the moonlighting activity occurs. The Director must approve or deny each request for continued or amended moonlighting activity in writing, per the procedure established in this document.

D. **Program Director’s Monitoring Responsibilities.**

1. **Performance.** Once the House Staff Officer has begun an approved moonlighting activity, the Director must monitor and document the House Staff Officer’s performance to ensure that factors such as House Staff Officer fatigue are not detracting from patient safety or contributing to diminished learning or performance.

2. **Duty Hours.** The Director must review the House Staff Officer’s weekly report of moonlighting hours so that the Director may monitor the House Staff Officer’s total Duty Hours. The House Staff Officer, however, is responsible for ensuring that s/he does not exceed established Duty Hour restrictions as set forth under the NYU GME *Duty Hours Policy for House Staff Officers*.

E. **Moonlighting Revoked.** Any limitations to, prohibitions against, or revocations of moonlighting privileges made subsequent to an approval must be documented in writing and presented to the House Staff Officer by his/her Director. The Director must maintain a copy of such written notice in the House Staff Officer’s department file and forward a copy to the NYU Office of GME. Once the Director has revoked the House Staff Officer’s permission to moonlight, the House Staff Officer will not be eligible for reinstatement or reconsideration of his/her moonlighting privileges for six months.
F. Foreign National Physicians: All FNPs prior to moonlighting at NYUHC or another institution must submit his/her visa documents and NYS Limited Permit/License, along with a completed Moonlighting Application, to his/her Director. Once the House Staff Officer has submitted these documents, the Director will follow the approval/denial process discussed in Section III, Policy and Procedure, of this document. FNPs have special visa restrictions that specifically relate to moonlighting activities:

A. F-1 Visa – Student/Practical Training Visa. An F-1 Visa holder is not restricted by Federal Regulations as to the compensation of their activities but are restricted to activities within their “field of study”. If approved for Moonlighting activities by his/her Director, a House Staff Officer on Optional Practical Training pursuant to F-1 student status may Moonlight within the defined parameters of the House Staff Officer’s training program.

B. J-1 Visa – Exchange Visitor. A J-1 Visa sponsorship authorizes a specific training activity and associated financial compensation. As specifically stated by ECFMG, “Federal Regulations prohibit work, training, and/or financial compensation for activities that are outside of the approved Exchange Visitor Program”; therefore, a J-1 visa holder is expressly prohibited from moonlighting.

C. H-1B Visa – Temporary Worker in a Specialty Occupation. An H-1B Visa holder will be eligible for moonlighting privileges only if the prospective Hiring Entity files an H-1B petition for concurrent employment. The same sponsor is prohibited by law form filing a second H-1B to allow moonlighting. An H-1B visa holder is eligible to request a concurrent H-1B petition at another organization only if the Director approves moonlighting privileges. It will be the decision of the new hiring Institution to sponsor the concurrent H-1B visa.

D. O-1 Visa – Alien of Extraordinary Ability. An O-1 Visa holder may moonlight only if his/her visa specifically grants that option. An O-1 Visa holder is eligible to request a concurrent O-1 visa petition only if the Director approves moonlighting activities. Upon approval, the FNP must retain legal counsel for the filing of the O-1 concurrent visa. If
applying for NYUHC privileges, the FNP’s legal counsel must provide proof of filed USCIS O-1 visa application to the NYUHC Immigration Service prior to moonlighting.

V. Violations and Disciplinary Actions

A. Institutional Violations. Violations that will lead to disciplinary action under this Section V include, but are not limited to:

   a. Unauthorized Employment. Unauthorized moonlighting is a violation of the House Staff Officer’s program status and will subject him/her to termination from the program under this Section V. Unauthorized moonlighting includes, but is not limited to:

      i. Moonlighting without prior written approval from the Director;

      ii. Continuing to moonlight without reporting changes to such activity, as discussed under Section IV., Policy, of this document;

      iii. Continuing to moonlight after permission to do so has expired;

      iv. Continuing to moonlight after permission to do so has been revoked;

      v. Misrepresenting the nature or scope of the moonlighting activity; and/or

      vi. Moonlighting without adequate and appropriate malpractice insurance coverage.

   b. Use of House Staff Officer’s NYU DEA Registration Number. Use of the DEA Registration Number assigned by NYU to the House Staff Officer for any reason or under any circumstance while moonlighting outside the NYU System.
c. **Violation of Duty Hour Limitations.** Noncompliance with *New York Codes, Rules and Regulations, Title 10,* Section 405.4, is a breach of policy that could jeopardize the accreditation status of the House Staff Officer’s program and subject NYU to considerable financial penalties.

B. **Disciplinary Actions.** Refer to the NYU GME *Corrective Action and Disciplinary Policy for House Staff Officers* for relevant disciplinary action policy and procedure.

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Reviewed:
Supercedes: 1/12/2001 (“Outside Employment,” Handbook for House Staff Officers)
Originally Adopted: N/A
Approved by: Graduate Medical Education Committee

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1 http://www.health.ny.gov/regulations/nyccrr/title_10/