

**House Officers Association
Grievance #22-11168**

RESPONSE TO ASSOCIATION GRIEVANCE

I. Introduction

On May 16, 2022, the University of Michigan (“University” or “Employer”) received House Officers Association (“HOA” or “Union”) Grievance #22-11168 on behalf of all House Officers in the Hematology-Oncology Fellowship Program (the “Program”), alleging that [t]he Employer has assigned the House Officers work that is outside their job description, has no clinical or educational value, and negatively impacts their schedules. The Union alleged a violation of:

Article XVIII [“Work Environment”] and any and all other implicated provisions of the Collective Bargaining Agreement (CBA) between the University of Michigan Regents and the University of Michigan House Officers Association (HOA).

II. Background

Article XVIII of the CBA (“Work Environment”), in paragraphs 148-149, provides a mechanism by which a House Officer, or the Union on their behalf, may raise concerns about the appropriateness of the House Officer’s work assignments:

148. [W]hen a House Officer is required or decides, on the basis of direct assignment or in the exercise of professional judgment and in the best interest of good patient care, to perform the principal duties of hospital-related job classifications, whether professional or non-professional, but the House Officer believes the task should be performed by another category of personnel because the time involved in the performance of the task prevents the House Officer from delivering other important medical care on a timely basis, the following procedure should be utilized by the House Officer.

149. Following completion of the task, immediately contact the House Officer's Program Director, or designee, who will make a decision on the appropriateness of the direct assignment or the House Officer's exercise of professional judgment, or, at the option of the House Officer, make contact with the HOA administrator and they will contact the Administrative Liaison for the University.... The Administrative Liaison will promptly investigate the situation and respond in writing[.]

On March 29, 2022, the HOA contacted the Administrative Liaison, Scott Marquette, Associate Chief Operating Officer, to raised concerns about House Officers in the Program being assigned to take outpatient calls between 7-8 pm Monday through Friday and Saturdays from 8-3 pm. The HOA asserted that this work has no educational value, is outside the scope of a House Officer's job description and is not part of their Program curriculum. The HOA later followed up to express additional concern that beginning in late April, a reduction in Nursing coverage in the Cancer Center would result in House Officers also picking up outpatient calls between 5-7 pm Monday through Friday.

Mr. Marquette investigated and responded in writing to the HOA on April 18, 2022. Mr. Marquette's response clarified that covering outpatient calls after clinic hours was, in fact, within the scope of the House Officers' training. His response noted that covering outpatient calls starting at 5 pm Monday through Friday and on weekends was, in fact, the historical practice prior to May 2017, and therefore this was not a new responsibility for the House Officers, but a return to previous long-standing practice. Mr. Marquette shared, however, that faculty had been asked to cover the outpatient call between 5-8 pm Monday through Friday.

On May 16, 2022, the HOA filed this grievance, asserting it had been informed that effective July 1, 2022, the House Officers would return to covering outpatient call after 5 pm weekdays and on Saturdays. The grievance further stated that

[t]his work, which primarily consists of answering calls and refilling prescriptions, is outside the Hematology and Oncology Fellows' job classification and description. It has no clinical or educational value for the Fellows and negatively impacts their schedules.

The grievance failed to state any remedy being sought.

III. Analysis

The various clinics in the Cancer Center operate Monday through Friday during business hours. Cancer Center patients, however, often call after clinic hours, including evenings, overnights, and weekends, when they experience complications, have questions, or need some type of assistance.

House Officers in the Program have historically covered these outpatient calls overnight between 8 pm-8 am Monday through Friday, and they continue to do so. There has been no break in this assignment.

Prior to January 2017, in addition to covering the overnight hours, House Officers in the Program covered outpatient calls in the early evening hours between 5-8 pm Monday through Friday, and on weekends. In January 2017, the Employer opened the Ambulatory Diagnostic Treatment Center ("ADTU") within the Cancer Center. The ADTU was staffed with Advanced Practice Providers (APPs) and Nurses, and these staff members assisted with coverage of outpatient calls between 5-8 pm Monday through Friday and on Saturdays, relieving the House Officers of the need to take outpatient calls during those periods. The University closed the ADTU in June 2020 for economic reasons. At that time, Nursing staff continued covering outpatient calls

between 5-7 pm Monday through Friday, while House Officers resumed coverage for outpatient calls beginning at 7 pm and continuing overnight Monday through Friday, and on Saturdays. More recently, in late April 2022, there was a reduction in Nursing staff coverage that resulted in nurses no longer being available to cover outpatient calls between 5-7 pm timeframe Monday through Friday.

In response to the HOA's concerns raised on March 29, 2022, the Program did ask faculty to cover outpatient calls from 5-8 pm Monday through Friday, and faculty have been assisting in this regard since May 1, 2022. The Program does intend to return to the previous practice of assigning outpatient calls to House Officers beginning at 5 pm Monday through Friday, as well as some limited Saturday coverage, on July 1, 2022. The Program, however, continues to work on plans for ensuring fair distribution of the outpatient call coverage hours.

The HOA's grievance rests on several erroneous assertions and conclusions. The HOA asserts that taking outpatient calls is outside the scope of the House Officer's training Program and has no clinical or educational value. As evidence of this assertion, HOA offers that some of the calls may be from patients seeking a refill of their prescription medication. Although the types of outpatient calls received vary, they generally include direct patient care issues that require assessment to assist patients with symptom management, handle complications or assess the need to go to the Emergency room for additional care. Part of a House Officer's educational training is related to the treatment of diseases over the telephone. This is a competency needed for practice as a Hematology-Oncology physician and is therefore a necessary part of the clinical training experience. The House Officers are offered the opportunity to submit requests for call schedule preference. House Officers are supervised by faculty to support educational growth and development. The hours that the House Officers are assigned to take outpatient call are counted as part of their clinical and educational work hours for their training Program, as defined by paragraph 64 of the CBA. These outpatient calls provide significant educational value, as determined by the Program Director.

For all the above reasons, covering these patient calls is a primary duty of the House Officers in the Program. To the extent HOA is asserting that covering outpatient calls after clinic hours is among the "principal duties" of other "hospital related job classifications," per paragraph 148, that argument is without merit. The HOA has likewise made no assertion that covering the outpatient call responsibilities after 5 pm weekdays or on weekends "prevents the House Officer from delivering other important medical care on a timely basis" per paragraph 148.

The HOA has raised no objection to these House Officers receiving outpatient calls after 8 pm, even though these calls are from the same patient population calling for the same types of issues. The time of day that the patient calls for assistance does not determine whether the work is within the scope of the House Officer's role.

Finally, the HOA has not asserted any facts demonstrating that the University failed to meet its obligations to investigate and respond to the work assignment concerns, pursuant to Article XVIII. Paragraph 149 requires that the Administrative Liaison, upon receipt of work assignment concerns from the HOA, will "promptly investigate the situation and respond in

writing.” The Administrative Liaison did so, providing a written response by the HOA’s requested deadline of April 18, 2022.

For all the reasons stated above, Union has failed to establish any violation of Article XVIII or any other provision of the CBA. In addition, the HOA’s grievance is untimely, in that it addresses actions anticipated to happen in the future.

IV. Conclusion

The grievance has not identified a violation of Article XVIII or any other provision of the CBA. Hematology-Oncology House Officers providing outpatient call service after clinic hours and on weekends is consistent with past practice, is fully within the scope of their training program, and does not represent an inappropriate work assignment. The grievance is also untimely. For the foregoing reasons, the grievance is denied.

FOR THE UNIVERSITY REVIEW COMMITTEE: s/ Wade Baughman
Lead Labor Relations Advisor

s/ Raya York
Labor Relations Advisor

Date emailed to the HOA: June 15, 2022