

# PARTNERSHIP HEALTHPLAN OF CALIFORNIA

## POLICY/ PROCEDURE

<b>Policy/Procedure Number:</b> MPCR601			<b>Lead Department:</b> Provider Relations	
<b>Policy/Procedure Title:</b> Fair Hearing and Appeal Process for Adverse Decisions			<input checked="" type="checkbox"/> <b>External Policy</b> <input type="checkbox"/> <b>Internal Policy</b>	
<b>Original Date:</b> 05/23/2018		<b>Next Review Date:</b> 03/12/2025 <b>Last Review Date:</b> 03/13/2024		
<b>Applies to:</b>	<input checked="" type="checkbox"/> <b>Medi-Cal</b>	<input type="checkbox"/> <b>Employees</b>		
<b>Reviewing Entities:</b>	<input checked="" type="checkbox"/> <b>IQI</b>	<input type="checkbox"/> <b>P &amp; T</b>	<input type="checkbox"/> <b>QUAC</b>	
	<input type="checkbox"/> <b>OPERATIONS</b>	<input type="checkbox"/> <b>EXECUTIVE</b>	<input type="checkbox"/> <b>COMPLIANCE</b>	<input type="checkbox"/> <b>DEPARTMENT</b>
<b>Approving Entities:</b>	<input type="checkbox"/> <b>BOARD</b>		<input type="checkbox"/> <b>COMPLIANCE</b>	<input type="checkbox"/> <b>FINANCE</b>
	<input type="checkbox"/> <b>CEO</b>	<input type="checkbox"/> <b>COO</b>	<input checked="" type="checkbox"/> <b>CREDENTIALING</b>	<input type="checkbox"/> <b>DEPT. DIRECTOR/OFFICER</b>
<b>Approval Signature:</b> <i>Marshall Kubota, MD</i>			<b>Approval Date:</b> 03/13/2024	

**I. RELATED POLICIES:**

MPCR602 Reporting Actions to Authorities  
 MPQP1053 Peer Review Committee

**II. IMPACTED DEPTS:**

Provider Relations

**III. DEFINITIONS:**

**A. Adverse Actions Constituting Grounds for Fair Hearing**

1. Summary Suspension, based on professional competence or conduct, of the practitioner's ability to treat Partnership HealthPlan of California (Partnership) members as a credentialed provider.
2. Involuntary revocation or termination, based on professional competence or conduct, of the practitioner's contract to provide services for Partnership members.
3. Involuntary requirement of additional clinical training within a medical specialty, which is a contingency of Partnership contract status.
4. Denial of a practitioner's application to become a provider with Partnership when said denial is based upon professional competence or conduct.
5. Imposition of significant consultation or monitoring requirements when based on professional competence or conduct.

**B. Fair Hearing**

The process for practitioners to appeal specific credentialing decisions made by Partnership.

**C. Practitioner**

Licensed Independent Practitioners (LIP) (includes MD, DO, DPM, DC, DDS, LAc), Mental Health Practitioners (MHP) (includes MFCC, LCSW, LMFT, PhD) and Allied Health Providers (AHP) (PA, NP, CRNA, PT, OT, Speech and Language Therapists and Optometrist) that are credentialed by Partnership to perform services specified in their contract.

**D. Person Who Requested the Hearing** refers to the practitioner requesting a fair hearing to appeal an adverse action that is included in the Adverse Actions Constituting Grounds for Hearing.

**E. Contracted Provider** means any LIP, MHP or AHP credentialed by Partnership and holding a contract to render services to Partnership beneficiaries.

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F. Summary Suspension means immediate suspension of credentialed status based on the need to take immediate action to protect the life or well-being of patient(s) or any person, or to reduce substantial and imminent likelihood of significant impairment of the life, health or safety of any patient or prospective patient. This can be imposed based on review of professional competence or conduct, or when a summary suspension has been imposed at a hospital or by another peer review entity. Refer to MPQP1053 – Peer Review Committee.

G. Automatic Suspension or Limitation is immediate termination or suspension of Partnership credentialed status based on probation, revocation, or limitation by the applicable licensing or certifying authority, or sanctions by the Medicare or Medicaid programs. Automatic suspension or limitation is effective immediately and is final without a right to a fair hearing or further review.

#### IV. ATTACHMENTS:

A. N/A

#### V. PURPOSE:

To provide a process to notify practitioners of potential termination, suspension or limitation of privileges and provide a process for practitioners to appeal Partnership HealthPlan of California (Partnership) adverse decisions regarding practitioner credentialing.

#### VI. POLICY / PROCEDURE:

Providers will be given the opportunity to appeal certain adverse credentialing decisions made by Partnership. The Partnership Board of Commissioners has the ultimate authority for final decisions regarding credentialing and appeals.

##### A. Initiation of Adverse Actions

Recommendations for adverse action are initiated by the Credentials Committee as a result of its review process for initial credentialing or re-credentialing, by referral and recommendation for action from the Peer Review Committee, or as a result of a summary suspension. In the case of summary suspensions, the Credentials Committee reviews and ratifies, or discontinues, the summary suspension. Only adverse actions included in the Adverse Actions Constituting Grounds for Hearing are afforded the right to a fair hearing.

##### B. Notification of Proposed Adverse Actions and Appeal Process

The Credentials Committee notifies the practitioner in writing of its proposed action within five (5) working days of taking action and provides a summary of the Fair Hearing rights and process.

The notification will set forth the proposed action and a statement of the reasons for the proposed action. The notification will also contain a summary of the appeal rights and hearing process and, at a minimum, will advise the practitioner of the following:

1. The practitioner has the right to review the credentialing file for accuracy and the right to request reconsideration through an informal meeting with the Credentials Committee by submitting a written request within ten (10) calendar days from the date of the Credentials Committee's notification.
2. If Reconsideration through an informal meeting is not requested, the practitioner has 30 calendar days from the date of receipt of the Credentials Committee's notification of the initial decision to request a Fair Hearing by a Professional Review Committee.
3. To request a fair hearing, the practitioner must be by written notice to the Partnership Chief Medical Officer (CMO).
4. The practitioner may be represented at the Fair Hearing by an attorney or another person of the practitioner's choice.
5. If the Adverse Action of the Credentials Committee is adopted by the Partnership Board of

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Commissioners (BOC), the action will be reported to the Medical Board of California or other applicable licensing board (pursuant to Business and Professions Code Section 805) and the National Practitioner Data Bank as required by law.

**C. Request for Reconsideration**

1. Within 10 calendar days of receipt of notification from Credentials Committee of the adverse decision, practitioners may:
  - a. Request Reconsideration through informal meeting with the Credentials Committee and/or
  - b. Request review of Partnership's File upon which determination was made.
2. A request for Reconsideration takes precedence over the request for hearing timeline.
3. The informal Reconsideration meeting with the Credentials Committee must take place within 20 calendar days of the practitioner's request.
4. The Credentials Committee must provide a decision within 10 calendar days of the informal meeting with the practitioner.
5. If Reconsideration is not requested, the practitioner has 30 calendar days from receipt of notification of the initial decision to request a Fair Hearing. If the Credentials Committee reconsiders the decision at an informal meeting, the practitioner may not request a second reconsideration, and has 30 calendar days from receipt of notification from the Credentials Committee on the outcome of the reconsideration to request a Fair Hearing.
6. When a Credentials Committee action is not submitted for Reconsideration or appealed in the timelines specified in this policy, the action is presented to the Partnership Board of Commissioners in closed session at the next regularly scheduled board meeting for final approval.

**D. File review:** Practitioners have the right to access certain information contained in the credentialing file in order to verify accuracy and/or petition the Partnership to correct erroneous information submitted by the practitioner or a third party.. This information includes:

1. Documents authored by the practitioner
2. Documents addressed to the practitioner
3. NPDP, MBOC, or Medicare/Medicaid sanction reports
4. A summary, prepared by Partnership, of the remaining contents of the credentialing file.

**E. Informal Meeting:** A meeting may be conducted by the Credentials Committee in the form of an informal discussion among colleagues. The meeting is not conducted according to any formal rules or procedures. Neither party is represented by counsel at the informal meeting. Contemporaneous minutes of the informal meeting are recorded.

**F. Fair Hearing Procedure**

1. Fair Hearing Time Frames
  - a. Upon receipt of a request for a Fair Hearing, the Chief Medical Officer (CMO) informs the Physician Advisory Committee (PAC) Chair, who appoints a Professional Review Committee (PRC) and Presiding Officer (PO).
  - b. Within twenty-one days after receipt of the practitioner's request for a Fair Hearing, the CMO must schedule and arrange for a hearing within 21 calendar days after receipt of provider's request for Appeal.
  - c. The date of commencement of the Hearing must be at least 30 calendar days, but not more than 45 days, from the date of written notification to the provider of the hearing date.
  - d. Within 15 calendar days after the hearing, the Professional Review Committee must render and issue a written decision to the practitioner with specific reasons for the decision.

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Note: If the practitioner is under summary suspension, the decision must be issued within five (5) calendar days.

- e. The decision of the Fair Hearing is considered final, subject only to the right of an appellate review by the Board of Commissioners.

G. Appointment of Professional Review Committee

Upon receipt of a written request for a hearing, the CMO delivers the request to the PAC chairperson who then appoints a Professional Review Committee (PRC) composed of three (3) credentialed practitioners. The PAC may also appoint one or two alternate members to the PRC. The PRC is composed of individuals who are not in direct economic competition with the practitioner involved, do not have an apparent bias, stand to gain no direct financial benefit from the outcome of the hearing, have not acted as accusers, investigators, fact finders, or initial decision makers in the matter at any previous level, and includes, where feasible, an individual practicing in the same specialty as the practitioner requesting the hearing. Knowledge of the matter involved does not preclude a practitioner from serving as a member of the PRC. Appointment of the PRC includes designation of the chairperson, who serves as the Presiding Officer (PO).

H. The Presiding Officer

The PO at the hearing is the appointed chairperson of the PRC. The PO acts to ensure that all participants in the hearing have a reasonable opportunity to be heard and to present all oral and documentary evidence, and decorum is being maintained. He/she is entitled to determine the order of procedure during the hearing. He/she has the authority and discretion, in accordance with this Fair Hearing process, to make all rulings on questions pertaining to matters of law and to the admissibility of evidence.

I. Scheduling the Hearing

The CMO schedules and arranges for a hearing within twenty-one (21) days after receipt of such request. The CMO gives written Notice of Hearing to the practitioner. The date of commencement of the hearing is at least thirty (30) days but not more than forty-five (45) days from the Notice of Hearing.

J. Notice of Hearing

The Notice of Hearing includes the date, time and place of hearing, the names of the members of the PRC, the reasons for the adverse action including acts or omissions with which the practitioner is charged, relevant documents including records of patient care, and a list of the witnesses.

K. Postponements and Extensions

Any of the time frames or deadlines pertaining to the Fair Hearing may be extended or postponed by agreement of the parties or by the PO on a showing of good cause. The date of the hearing may be delayed upon written decision issued by the PO if the practitioner or Credentials Committee fails to comply with the provisions of this procedure.

L. Prehearing Procedure

Within ten (10) days of a request by either side, the parties exchange lists of witnesses expected to testify, and copies of all documents expected to be introduced at the hearing. If, after this list is given to the other party, witnesses are added, it is the duty of that party to notify the other of the change. Failure to disclose the identity of a witness or to produce copies of all documents expected to be produced at least fifteen (15) days before the commencement of the hearing shall constitute good cause for a continuance.

The Person Who Requested the Hearing and the Credentials Committee have the right to inspect and copy, at his or her expense, any documentary information relevant to the charges which the Credentials Committee has in its possession or under its control, as soon as practical after receipt of the request for

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the hearing. The Credentials Committee has the right to inspect and copy, at its expense, any documentary information relevant to the charges which the Person Who Requested the Hearing has in his/her possession or control as soon as is practical after receipt of the Credentials Committee's request. The failure by either party to provide access to this information at least fifteen (15) days before the hearing constitutes good cause for a continuance of the hearing. The right to inspect and copy by either party does not extend to confidential information referring solely to individually identifiable practitioners, other than the practitioner under review. The PO considers and rules upon any request for access to information, and may impose any safeguards to protect the peer review process. The Person Who Requested the Hearing is entitled to a reasonable opportunity to question and challenge the impartiality of PRC members and the PO. Challenges to the impartiality of any PRC member are ruled upon by the PO. Challenges to the impartiality of the PO are ruled upon by the chairperson of the PAC.

It is the duty of the Person Who Requested the Hearing and the Credentials Committee or its designee to exercise reasonable diligence in notifying the PO of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible in order that decisions concerning such matters may be made in advance of the hearing. Objections to any prehearing decisions may be succinctly made at the hearing.

**M. Failure to Appear or Proceed**

Under no circumstances is the hearing conducted without the personal presence of the Person Who Requested the Hearing. If the Person Who Requested the Hearing fails to appear at any hearing session without proper advance notice and without good cause, the hearing is canceled and the recommendations or actions are final and sent to the Partnership Board of Commissioners for final action immediately. In order for the hearing to proceed, all members of the PRC must be present during the entire hearing. The decision of the PRC is by a majority vote of the members. The numerical vote is recorded.

**N. Representation**

The hearing at the PRC level is for the purpose of inter-professional resolution of matters bearing on conduct or professional competency.

The Person Who Requested the Hearing may be represented at the hearing by an attorney at law or another person of the practitioner's choice if he/she so chooses.

The Credentials Committee may not be represented by an attorney at the hearing if the practitioner is not so represented. The foregoing shall not be deemed to deprive any party of its right to the assistance of legal counsel for the purposes of preparing for the hearing.

The Partnership Credentials Committee appoints a representative who presents its recommendation, decision, or action taken, and the materials in support thereof.

**O. Record of the Hearing**

The hearing proceedings and the pre-hearing proceedings, if deemed appropriate by the PO, is recorded and the recording is retained for a period of three years after the proceedings. The cost of preparing the recorded record is borne by Partnership, but the cost of the transcript, if any, is borne by the party requesting it. The PRC may, but is not required, to order that oral evidence is taken only on oath administered by any person lawfully authorized to administer such oath.

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**P. Rights of the Parties**

At the hearing, both sides have the following rights:

1. to call and examine witnesses,
2. to introduce exhibits and other documents,
3. to cross examine or otherwise attempt to impeach any witness who testifies orally on any matter relevant to the issues, and otherwise to rebut any evidence,
4. to provide a written statement at the opening and close of the hearing,
5. to be provided with all information made available to the PRC and
6. to have a record made of the proceedings.
7. The Person Who Requested the Hearing may be called by the PRC and examined as if under cross-examination.

**Q. Admissibility of Evidence**

The hearing is not conducted according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence is admitted by the PO if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. Each party has the right to submit a memorandum of legal and/or medical points and authorities, and the PRC may request such a memorandum to be filed following the close of the hearing. The PRC members may question the witnesses, and the PRC may request that additional witnesses be called if the PRC deems it appropriate.

**R. Basis of Decision**

1. The decision of the PRC is based on all of the evidence produced at the hearing. This evidence may consist of, but is not limited to, the following:
2. Oral testimony;
3. Briefs of memorandum of legal and/or medical points and authorities presented in connection with the hearing;
4. Material contained in Partnership files regarding the practitioner who is the subject of the hearing;
5. Any and all applications, references, and accompanying documents;
6. All officially noticed matters; and
7. Any other evidence deemed admissible under the Admissibility of Evidence section of this procedure.

**S. Burden of Proof**

Partnership has the initial duty to present evidence that supports the charge or recommended action. Except with respect to initial applicants, Partnership bears the burden of persuading the PRC, by a preponderance of the evidence, that its action or recommendation is reasonable and warranted. Initial applicants bear the burden of persuading the PRC by a preponderance of the evidence of their qualifications by producing information which allows for adequate evaluation and resolution of reasonable doubts concerning their current qualifications for membership. Initial applicants shall not be permitted to introduce information not produced upon request of the Credentials Committee during the application process, unless the initial applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.

**T. Adjournment and Conclusion**

The PO may adjourn and reconvene the hearing at the convenience of the participants without special notice at such times and intervals as are reasonable and warranted, with due consideration for reaching an expeditious conclusion to the hearing. Upon conclusion of the presentation of oral and written evidence or the receipt of written arguments, if submitted, the hearing is adjourned.



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U. Decision of the PRC

Within fifteen (15) calendar days after final adjournment of the hearing, the PRC must render a decision that is accompanied by a written report that contains specific reasons for the decision, findings of fact and a conclusion. In the event the practitioner is currently under suspension, the decision must be rendered within five (5) business days. The written decision must articulate the connection between the evidence produced at the hearing and the decision. It shall be in sufficient detail to enable the parties and any appellate review board to determine the basis for the PRC decision on each matter contained in the notice of charges. The decision shall also contain an explanation of the procedure to request an appellate review of the decision by the Board of Commissioners as provided in Section C. of this procedure.

The decision is forwarded to Partnership Board of Commissioners (BOC) and CEO, the Person Who Requested the Hearing, and the Credentials Committee.

The decision of the PRC is considered final, subject only to the right of appeal to the BOC as provided in Section C of this procedure.

V. Appellate Review by the Board of Commissioners

Within fifteen (15) calendar days after receipt of the decision of the PRC, either the Person Who Requested the Hearing or the Credentials Committee may request an appellate review by the BOC. To request an appellate review, the Credentials Committee or the Person Who Requested the Hearing must submit a written request for an appellate review to the Partnership BOC, with a brief statement as to the grounds for appeal. If such appellate review is not requested within such period, both sides are deemed to have waived the right to appeal. Thereafter, the BOC shall consider whether to adopt, modify, or reject the PRC decision as the final action of Partnership. The scope of the appeal shall be one of the grounds included in the Grounds for Appellate Review section of this procedure.

1. Grounds for Appellate Review

The grounds for appeal of the decision of the PRC are:

- b. Substantial failure of the PRC, Credentials Committee or BOC to comply with these procedures in the conduct of the hearing so as to deny due process and a fair hearing; or
- c. Action taken arbitrarily, capriciously, or with bias; or
- d. The decision is not supported by substantial evidence based upon the hearing record or such additional information as is permitted pursuant to this procedure.

2. Scheduling BOC Appeal

In the event of any appeal to the BOC, the BOC schedules and arranges for an appellate review, and notifies the Person Who Requested the Hearing of the date, time and place of the appellate review within ten (10) days after receipt of such notice requesting appeal. The date of the appellate review is not less than thirty (30) days or more than forty-five (45) days from the date of receipt of the request for appellate review. When a request for appellate review is from a practitioner who is currently under suspension, the appellate review is held as soon as arrangements may reasonably be made. The time for appellate review may be extended by the chairperson of the BOC for good cause where the rights of either party will not be impaired.

3. Postponements and Extensions

During the appeals procedure, postponements and extensions of time beyond the times expressly permitted in this procedure may be requested by either party and may be permitted by the BOC or its chairperson acting on its behalf if there is good cause and the rights of either party will not be impaired.

4. Nature of Appellate Review

The proceedings by the BOC are in the nature of an appellate review of the record of the hearing before the PRC with the same procedural rules, and are conducted in a closed session. The BOC

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may, at the discretion of the chair of the BOC, appoint an Appellate Review Committee (ARC) composed of members of the BOC, to conduct the appellate review on behalf of the BOC.

The BOC or the ARC may accept additional oral or written evidence, if it is demonstrated that such evidence could not be made available to the PRC in the exercise of reasonable diligence, and subject to the same rights of cross-examination or confrontation provided at the PRC hearing. The BOC or the ARC may remand the matter to the PRC to consider the additional evidence and render a decision.

Each party has the right to present a written statement in support of his or her position on appeal, the right to appear and present oral argument, and the right to be represented by an attorney or any other person of their choice.

At the conclusion of oral arguments, the BOC or ARC may conduct, at a time convenient to itself, deliberations outside the presence of the appellant and respondent and their representatives.

If an ARC is appointed, it presents its written recommendations to the BOC indicating whether the BOC should affirm, modify or reverse the PRC decision or remand the matter to the PRC for further review and decision. In that case, the PRC conducts its review and makes a recommendation to the BOC within fifteen (15) days. The BOC reviews the recommendations of the ARC and renders a final decision (in closed session, at the next regularly scheduled BOC meeting).

#### 5. Appellate Decision

Within ten (10) days after the BOC renders a final decision, written copies will be delivered in person or by certified mail, to the Person Who Requested the Hearing, the Partnership CEO, and the Credentials Committee. The written notification of the appellate decision includes specific reasons for the decision.

The final decision of the BOC following the appeal constitutes the final action of Partnership and is effective immediately and is not subject to further review.

The ARC or the BOC maintains a record of any review proceedings by tape recording the proceedings. The cost of any report of the proceeding is borne by the party requesting preparation of the transcript. The ARC or the BOC may, but is not required to, order that oral evidence be taken only on oath administered by any person lawfully authorized to administer such oath.

Except as otherwise provided in this procedure, no practitioner is entitled to more than one (1) informal meeting with the Credentials Committee, one (1) PRC hearing and one (1) appeal to the BOC on any single matter which is the subject of a hearing or appeal, regardless of whether the matter is a result of action by the Credentials Committee, BOC, or a combination of acts of these bodies.

#### 6. Exhaustion of Remedies

If adverse action is recommended or taken, the practitioner must exhaust the remedies afforded by this Fair Hearing and Appeal procedure before resorting to legal action.

In the event the practitioner does not request a hearing within the time frame and in the manner stated above, they are deemed to have waived the right to hearing and to have accepted the action.

### VII. REFERENCES:

NCQA 2024 CR 6, Element A, Factors 1 & 2

### VIII. DISTRIBUTION:

Partnership Provider Manual

### IX. POSITION RESPONSIBLE FOR IMPLEMENTING PROCEDURE:

Senior Director, Provider Relations



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**X. REVISION DATES:**  
05/09/2018, 04/10/2019, 03/11/20, 03/10/2021, 03/09/2022, 03/08/2023, 03/13/2024

**PREVIOUSLY APPLIED TO:**  
A. MPCR9 (Archived 05/13/2018)