

 Policy and Procedures	Policy Number: 5.02 Policy Area: Revenue Cycle Owner: Director of Revenue Cycle Approvals: Credentials Committee
PROVIDER PROCEDURAL RIGHTS AND FAIR HEARING POLICY	Effective: January 18, 2024 Final Approval: January 18, 2024 Next Review: January 2025

PURPOSE:

To establish a fair hearing process for members of UCSF Benioff Children’s Physicians (UBCP; herein referred to as “Group”), and for independent physicians contracted with UBCP to provide services to enrollees of certain health maintenance organizations (collectively “Providers”), when the physician’s employment or practice at UBCP is restricted by the Group, or the physician’s membership or contract is denied, revoked, non-renewed, terminated or suspended for a “medical disciplinary cause or reason,” as that term is defined in California Business and Professions Code Section 805.

SCOPE:

This policy applies to all Providers for whom UBCP is required to respectively file a Business and Professions Code Section 805 report with the Medical Board of California, and a report to the National Practitioner Databank (NPDB).

NOTICES:

Unless otherwise stipulated in writing, all notices provided by parties under this policy shall be via hand delivery or certified mail - return receipt requested.

POLICY:

When a Provider’s membership or employment is terminated or revoked for a medical disciplinary cause or reason, or when restrictions are imposed or voluntarily accepted on membership or employment for a cumulative total of 30 days or more for any 12-month period for a medical disciplinary cause or reason, Group shall file an 805 report with the relevant agency within 15 days after the effective date of the proposed action. When reportable under Business and Professions Code Section 805, Provider shall be entitled to the fair hearing process identified herein.

GROUND FOR HEARING

Except as otherwise specified herein, any one or more of the following actions or recommended actions taken for a medical disciplinary cause or reason shall be deemed actual or potential adverse action and constitute grounds for a hearing:

- A. denial of membership or employment;
- B. denial of renewal of employment;
- C. suspension of membership/employment which lasts more than 14 consecutive days;
- D. reduction or restriction of current clinical practice and for a cumulative total of 30 days or more in any 12 month period;
- E. revocation or termination of employment;
- F. involuntary imposition of significant consultation or monitoring requirements (excluding monitoring incidental to provisional status).

PROCEDURE:

1. This procedure applies when:
 - a. (i) UBCP proposes a final action as described in Grounds for Hearing. In all cases in which action has been taken or recommendation made as set forth in Grounds for Hearing, the Provider shall be given the following:
 - i. Written notice of the proposed final action which shall include all of the following information:
 - A. A written statement of the action(s) that has/have been proposed by the Group which, if adopted as final, shall be reported to the applicable agency pursuant to Section 805 of the California Business and Professions Code.
 - B. The grounds for the proposed final action.
 - C. That the Provider has the right to request a hearing, in writing, on the proposed final action within 30 days from the date of receipt of the notice. Failure to request a hearing with in the time and manner described shall be deemed to be a waiver of any right to hearing and an acceptance of the recommendation or action involved.
 - D. A copy of this Fair Hearing Process as noted in this policy.

- ii. Upon receipt of a timely written request for hearing, the Group shall schedule a hearing and, within 30 days from the receipt of the request for a hearing, give special notice to the practitioner of the time, place and date of the hearing. The date of the commencement of the hearing shall be not less than 30 days or more than 60 days from the date the request for hearing was received unless the member who requested the hearing voluntarily waives the minimum time limit and requests a shorter waiting period in writing, and the hearing committee or its chair on its behalf, concurs.
 - iii. If the hearing is requested on a timely basis, the Group shall give the Provider written notice stating all of the following:
 - A. The reasons for the proposed final action (the “Charges”), including the acts or omissions with which the Provider is charged.
 - B. The place, time and date of the hearing.
2. The hearing shall be conducted as follows:
- a. Panel. The hearing shall be before a panel of at least three (3) unbiased individuals appointed by the Chief Executive of UBCP and governing board chair. The panel (i) shall gain no direct financial benefit from the outcome; and (ii) have not acted as an accuser, investigator, fact finder, or initial decision maker in the same matter. The majority of the hearing panel shall be peers of the affected Provider, which shall include, where feasible, an individual practicing in the same specialty as the Provider.
 - b. Hearing Officer. The Chief Executive of UBCP and governing board chair, or his or her designees, shall appoint a hearing officer to preside at the hearing. The hearing officer shall be an attorney at law qualified to preside over a quasi-judicial hearing, but an attorney regularly utilized by the Group shall not be eligible to serve as hearing officer. The hearing officer shall gain no direct financial benefit from the outcome, shall not act as a prosecuting officer or advocate, and shall not be entitled to vote. The hearing officer shall endeavor to assure that all participants in the hearing have a reasonable opportunity to be heard and to present relevant oral and documentary evidence in an efficient and expeditious manner, and that proper decorum is maintained. The hearing officer shall be entitled to determine the order of or procedure for presenting evidence, and for argument, during the hearing. He/she shall have the authority and discretion to make all rulings on questions that pertain to matters of law, procedures, or the admissibility of evidence that are raised prior to, during or after the hearing. At the commencement of the hearing, the hearing officer may also apprise the panel of its right to terminate the hearing due to the member's failure to cooperate with the hearing process, but shall not independently make that determination or otherwise recommend such a termination at any other time. Except as provided above, if the hearing officer determines that either side in a hearing is not proceeding in an efficient and expeditious manner, the hearing officer may take such discretionary action as seems warranted by the circumstances, including, but not limited to, limiting the scope of examination and cross-examination and setting fair and reasonable time limits on either side's presentation of its case. If requested by the panel, the hearing officer may participate in the deliberations of such committee and be a legal advisor to it, but the hearing officer shall not be entitled to vote.

- c. Voir Dire. The Provider shall have the right to a reasonable opportunity to voir dire the panel members and the hearing officer, and the right to challenge the impartiality of any member or hearing officer. Challenges to the impartiality of any member or hearing officer shall be ruled on by the hearing officer.
- d. Access to Information. The Provider shall have the right to inspect and copy, at the Provider's expense, any documentary information relevant to the charges which the Group has in its possession or under its control, as soon as practicable after the receipt of the Provider's request for a hearing. The Group shall have the right to inspect and copy, at the Group's expense, any documentary information relevant to the charges which the Provider has in his or her possession or control as soon as practicable after receipt of the Group's request. The failure by either party to provide access to this information upon request by the other party at least 30 calendar days before the hearing shall constitute good ground for a continuance. The right to inspect and copy by either party applies only to matters specifically applicable to the Provider or to care provided by him/her under review. The hearing officer shall consider and rule upon any request for access to information, and may impose any safeguards the protection of the peer review process and justice requires.
- e. Rulings. When ruling upon requests for access to information and determining the relevancy thereof, the hearing officer shall, among other factors, consider the following:
 - i. Whether the information sought may be introduced to support or defend the charges.
 - ii. The exculpatory or inculpatory nature of the information sought, if any.
 - iii. The burden imposed on the party in possession of the information sought, if access is granted.
 - iv. Any previous requests for access to information submitted or resisted by the parties to the same proceeding.
- f. Witnesses. At the request of either side, the parties shall exchange lists of witnesses expected to testify, along with a description of the subject of the anticipated testimony and copies of all documents expected to be introduced at the hearing. Failure to disclose the identity of a witness or produce copies of all documents expected to be produced at least ten (10) calendar days before the commencement of the hearing shall constitute good cause for a continuance.
- g. Continuances. Continuances shall be granted upon agreement of the parties or by the hearing officer on a showing of good cause.

- h. Timeliness. A hearing under this section shall be commenced within 60 calendar days after receipt of the request for hearing, and the peer review process shall be completed within a reasonable time after a Provider receives notice of a final proposed action.
- 3. The rights of parties at the hearing concerning a proposed final action are:
 - a. To be provided with all of the information made available to the trier of fact.
 - b. To have a record made of the proceedings, copies of which may be obtained by the Provider upon payment of any reasonable charges associated with the preparation thereof.
 - c. To call, examine, and cross-examine witnesses.
 - d. To present and rebut evidence determined by the hearing officer to be relevant.
 - e. To submit a written statement at the close of the hearing.
 - 4. The burden of presenting evidence and proof during the hearing shall be as follows:
 - a. The Group shall have the initial duty to present evidence, which supports the charge or recommended action as reasonable and warranted at the time it was proposed/imposed upon the Provider.
 - b. Initial applicants shall bear the burden of persuading the trier of fact 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 or contract. Initial applicants shall not be permitted to introduce information not produced upon request of the Group during the application process, unless the initial applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.
 - c. Except as provided above for initial applicants, the Group shall bear the burden of persuading the trier of fact by a preponderance of the evidence that the action or recommendation is reasonable and warranted at the time taken/proposed.
 - d. The Provider may be represented by an attorney or another person of the Provider's choice. The Group will not have an attorney present if the practitioner does not have attorney representation.
 - 5. Upon completion of the hearing, the Provider and the Group involved shall have the right to receive a written decision of the hearing panel (as the trier of fact), including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.
 - 6. The written decision of the hearing panel shall be submitted to the Credentials Committee and UBCP governing body for final action.

7. Following submission to the Credentials Committee, there is no process for an internal appeal of a final adverse action.
8. The Group may immediately suspend or restrict clinical privileges of a Provider where the failure to take that action may result in an imminent danger to the health of any patient or prospective patient, provided that the Provider is subsequently provided with the notice and hearing rights described above.
9. There shall be no duplicative hearings:
 - a. If a Provider's membership or contract or participation in the Group is denied, terminated or limited based on the Group's determination that medical disciplinary cause or reason exists, the Provider shall be entitled to request notice and a hearing in accordance with the procedures set forth herein; provided, however, that in no event shall a Provider be entitled to more than one hearing related to allegations based on the same set of facts that were used as a basis for a hearing in a UBCP affiliated hospital.
 - b. If a Provider has had a hearing pursuant to a UBCP affiliated hospital's Medical Staff Bylaws the decision(s) in those action(s) shall be adopted as final by UBCP and the Provider shall have no further or additional right to a hearing under the Group's policies.

DECISION OF THE FAIR HEARING PANEL

Within 30 days after final adjournment of the hearing, the fair hearing panel shall render a decision which shall be accompanied by a report in writing and shall be delivered to the UBCP Board Chair or his or her designee. If the member is currently under suspension, however, the time for the decision and report shall be 15 days. A copy of said decision also shall be forwarded to the administrator and to the member. The report shall contain a concise statement of the reasons in support of the decision including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the conclusion reached.

The Office of General Counsel for the University of California should be consulted regarding any proposed or final action taken in accordance with this Policy.

RESPONSIBILITY

This policy resides in the UBCP Policy and Procedure Manual. Copies are located in the UBCP administrative office. This policy will be reviewed annually and as required by change of law or practice, by the Credentials Committee. The review is facilitated by UBCP and UCSF Office of Medical Affairs, and the UC Office of General Counsel. Any changes must be approved by the Credentials Committee, and UBCP's Board of Directors.

HISTORY OF POLICY

Approvals:

- Credentials Committee: 01/19
- Board of Directors: 01/19

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