

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

1.4.10 Informal Hearings

(a) Procedure Overview

- (1) This procedure sets forth the process for providing a licensed medical provider with an opportunity to respond to allegations that provide the basis for a modification of privileges. Privilege modifications may include, but are not limited to, restrictions, suspensions, or revocations of some or all of a licensed medical provider's privileges.
- (2) In cases involving a summary modification of privileges, the Informal Hearing shall occur after the subject medical provider is notified of the summary modification of privileges, but prior to the time that reports of the action are legally required by the subject medical provider's licensing board and the National Practitioner Data Bank (NPDB).
- (3) In all other cases, the Informal Hearing shall be offered after the completion of a Peer Review Formal Investigation and prior to the Medical Peer Review Committee (MPRC) making any recommendation to the Health Care Executive Committee (HCEC) that may result in a modification of privileges. The MPRC shall have the right to impose such privilege modifications as they deem necessary and appropriate to protect patient safety during the time of the privilege modification.

(b) Procedure

- (1) Within three business days after the MPRC votes to modify a licensed medical provider's privileges in any manner, the Professional Practice Evaluation Support Unit (PPESU) shall notify the subject medical provider in writing of MPRC's determination. The Notice of MPRC Action shall be personally served or served by overnight mail to the last known address of the medical provider with a Proof of Service and return receipt requested.
- (2) The notification shall contain the following:
 - (A) The MPRC determination.
 - (B) Identification of any privilege modifications imposed to mitigate or eliminate any actual or perceived risk to patient safety created by the clinical performance or conduct.
 - (C) A statement that a Peer Review Formal Investigation shall be conducted into the matter.
 - (D) A statement of the facts relied upon by the MPRC to support its determination that some level of privilege modification is necessary to ensure the safety of staff and patients until the matter is closed. The statement of facts shall include a summary of one or more specific cases and/or incidents giving rise to the determination of imminent danger.
 - (E) A clear, bolded description of the Informal Hearing procedure to rebut the Notice of MPRC Action, to include how to request an Informal Hearing and the licensed medical provider's right to have a representative at the Informal Hearing. The licensed medical provider may rebut a privileging action by informing the PPESU by telephone, electronic mail, in person, or by U.S. Mail.
 - (F) Copies of the documents relied upon by the MPRC to make its decision to modify privileges.
 - (G) Information about how to make an appointment to examine additional relevant documents that are in the possession or under the control of California Correctional Health Care Services (CCHCS) within five calendar days from service of the Notice of MPRC Action.
 - (H) A clear, bolded notification that any request for an Informal Hearing regarding the privilege modification must be made within five business days of service of the Notice of MPRC Action.
 - (I) Notification that, if the licensed medical provider participates in an Informal Hearing, MPRC shall record the Informal Hearing and that the licensed medical provider may make his/her own recording of the Informal Hearing.
 - (J) A clear, bolded notification that pursuant to 42 United States Code, Section 11101, and Business and Professions Code, Section 805, certain specified summary suspensions must be filed with the licensed medical provider's licensing board and/or the NPDB.
 - (K) Within two business days of receiving a timely request for an Informal Hearing, the PPESU shall schedule the hearing to occur no later than ten calendar days after the effective date of a summary privilege suspension or modification.
 - (L) When a privilege suspension or modification is recommended as a Final Proposed Action, the PPESU support staff shall schedule the hearing to occur no later than the next MPRC meeting and prior to the MPRC making its recommendation of Final Proposed Action to the HCEC.
 - (M) When required by law, a notice of the privilege modification or suspension shall be reported to the licensed medical provider's licensing board and the NPDB.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

- (N) Failing to request a hearing shall not be deemed an admission of the charges leading to the privilege modification and shall not prejudice the licensed medical provider's right to participate in any Peer Review Formal Investigation pertaining to the same matter or the licensed medical provider's right to appeal any Final Proposed Action of the HCEC.
- (O) The MPRC Chairperson, or designee, shall conduct the Informal Hearing and at least one other MPRC member of the medical provider's discipline, or designee, shall be present. Voting members of the MPRC may also attend and, absent a conflict of interest, may participate in the hearing and vote on the decision.
- (P) During the hearing:
1. The licensed medical provider may be accompanied by a representative of his/her choice.
 2. The Informal Hearing shall be recorded by the MPRC. The licensed medical provider may also record the hearing.
 3. The licensed medical provider may make a statement concerning the clinical performance at issue on such terms and conditions as MPRC may impose.
 4. No witness shall present evidence and no witness testimony shall be taken. However, when necessary, the referring party/institution may be consulted by MPRC during deliberations to clarify facts and/or other ambiguities raised by the subject medical provider during his/her testimony.
 5. The licensed medical provider may provide the MPRC Chairperson with any relevant documents in his/her possession at the Informal Hearing.
- (Q) A written Informal Hearing decision shall be rendered no more than 14 calendar days after the effective date of the summary privileging action. The written decision shall be included in the licensed medical provider's peer review file, and a copy of the decision shall be sent to the licensed medical provider and the hiring/contracting authority.
- (R) If after deliberations the MPRC votes to rescind an existing privileging modification but, due to ongoing concern, votes to replace it with a different privilege modification or corrective measure, the MPRC shall refer the matter for Peer Review Formal Investigation into the clinical performance of the subject medical provider.
- (S) If after deliberations the MPRC votes to rescind the existing privileging modification and not replace it with a different privilege modification, the MPRC may still refer the matter for a Peer Review Formal Investigation and reinstate the medical provider's privileges, or refer the matter back to the institution for a Professional Practice Evaluation pursuant to Health Care Department Operations Manual, Section 1.4.7, Professional Practice Evaluation, with a reinstatement of privileges.
- (T) If after deliberations the MPRC votes to uphold and retain the initial privileging modifications, the MPRC shall refer the matter for Peer Review Formal Investigation. All of the records and proceedings of the Informal Hearing shall become part of the record for consideration within the Peer Review Formal Investigation.

References

- Federal Health Care Quality Improvement Act of 1986, United States Code, Title 42, Section 11101
- *Plata v. Newsom, et al.*, U.S. District Court of the Northern District of California, Case No. C01-1351 JST
- *Plata Physician Professional Clinical Practice Review, Hearing and Privileging Procedures Pursuant to Order Approving, With Modifications, Proposed Policies Regarding Physician Clinical Competency, July 9, 2008; Plata v. Newsom, et al.*, Federal Court Case No. C01-1351 published September 4, 2008, Court ordered procedures
- California Constitution, Article VII, Public Officers and Employees
- California Business and Professions Code, Section 800, *et seq.*
- California Evidence Code, Division 9, Chapter 3, Section 1157
- Health Care Department Operations Manual, Chapter 1, Article 3, Section 1.3.2, Medical Peer Review Committee
- Health Care Department Operations Manual, Chapter 1, Article 4, Section 1.4.7, Professional Practice Evaluation
- Health Care Department Operations Manual, Chapter 1, Article 4, Section 1.4.9, Safety Assessment, Summary and Automatic Privilege Modification

Revision History

Effective: 12/2017