

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
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1.4.9 Safety Assessment, Summary and Automatic Privilege Modification

(a) This procedure shall be utilized to immediately address all safety concerns arising out of or related to clinical performance or conduct issues to protect the due process rights of the subject provider, and satisfy any reporting obligations to the subject licensed medical provider’s licensing board and the National Practitioner Data Bank (NPDB).

(b) Responsibility

- (1) All health care staff including, but not limited to, the institutional leadership: Chief Executive Officer, Chief Medical Executive (CME), Chief of Mental Health, Chief Nursing Executive, Supervising Dentist, and/or Chief Physician and Surgeon (CP&S); the Medical Peer Review Committee (MPRC); the Peer Review Intake Screener (PRIS); and Death Review Committee (DRC) are responsible for referring safety concerns involving clinical performance or conduct to the attention of the institutional supervisor and/or regional or headquarters executive leadership.
- (2) The Regional Deputy Medical Executive (RDME) is responsible for informing the MPRC Chairperson and the Deputy Director, Medical Services, of the referred safety concerns.
- (3) The MPRC Chairperson, the Deputy Director, Medical Services, or designee, and the RDME (collectively referred to as the “Panel”) are responsible for reviewing the facts to arrive at an initial determination regarding a Request for Safety Assessment and otherwise ensuring timely and efficient compliance with this procedure.

(c) Procedure

(1) Initial Determination

- (A) The institutional supervisor and/or the RDME shall immediately submit a [Request for Safety Assessment \(RSA\)](#), located on the Lifeline Health Care Department Operations Manual (HCDOM) Resources tab, if the failure to take action may result in imminent danger to the health of any patient and/or staff.
- (B) RSAs shall be submitted to the Professional Practice Evaluation Support Unit (PPESU) support staff. The PPESU staff shall forward the RSA and all supporting documentation to the Panel within one business day.
- (C) The RSA shall include:
 1. A completed RSA form.
 2. All readily available supporting documents relevant to the underlying issues related to clinical practice and/or professional conduct.
 3. A description of the potential danger to the health of any individual(s) as a result of the identified clinical performance or conduct.
- (D) When a Safety Assessment is requested and/or is being conducted, the licensed medical provider’s managers and supervisors shall temporarily modify the licensed medical provider’s privileges in the least restrictive manner to perform duties that eliminate the prospect of imminent danger and ensure patient safety until such time as the Safety Assessment is completed, at which time the modification of privileges shall be reviewed to determine ongoing necessity.
 1. Administrative Time Off (ATO) shall only be utilized in conjunction with a suspension of privileges with written approval from the Panel.
 2. All privilege modifications shall have written approval of the Panel by close of business the next business day after the modification.
- (E) Within two business days of receiving the referral from the PPESU support staff, the Panel shall review the RSA and all additional facts and documents supporting the allegation in order to arrive at an initial determination regarding whether the clinical performance at issue does or is likely to cause imminent danger to the health of patient(s) and/or staff.
 1. The Panel may consult with the referral source and CCHCS legal counsel to MPRC in the course of making its initial determination.
 2. If the Panel finds that additional information is needed to make its determination, the Panel shall return the RSA to the institution from which the referral was made with a request for an enumerated list of additional information necessary to make a determination.
- (F) If the Panel finds that the clinical performance in question does not or is not likely to pose an imminent danger to the health of patient(s) and/or staff, the Panel shall:
 1. Refer the matter to the MPRC for further review and disposition as warranted.
 2. Provide the hiring/contracting authority with written notice of the following:
 - a. The Panel’s initial determination.

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- b. The referral to the MPRC for further review and action, as warranted.
 3. The hiring/contracting authority shall immediately terminate any privilege modifications that may be in effect.
- (G) If the Panel finds that the clinical performance in question does or is likely to pose an imminent danger to the health of patient(s) and/or staff, the Panel shall:
1. Schedule an emergency MPRC meeting for a second determination on the clinical performance or conduct at issue.
 2. Notify the referring institution/party of the MPRC meeting.
 3. Inform the referring institution's CME and/or CP&S of any identified deficiencies in the evidence and direct the referring institution's CME and/or CP&S to correct the deficiencies prior to the MPRC meeting to ensure that MPRC has a complete and accurate representation of the facts.
 4. Review any privilege modification in place such as a restriction, suspension, redirection, or other change in the subject medical provider's job duties implemented because of the safety concerns and determine if the modification is the least restrictive action necessary to ensure the safety of all individuals. If a lesser restrictive action is available, the Panel shall direct the hiring/contracting authority in writing to make that change and give the medical provider written notification of the change in the privilege modification.

(2) Medical Peer Review Committee Determination

- (A) The MPRC shall meet and make a final determination regarding the clinical performance and/or conduct at issue based on a de novo review of all available evidence bearing on the matter at that time.
- (B) The MPRC determination of the Safety Assessment shall occur within two business days following the Panel's initial determination. Any voting member of the MPRC who has a conflict of interest with the subject medical provider and/or the subject incident shall not attend and/or vote.
- (C) The MPRC shall give great weight to the decision of the Panel in its initial determination, but the MPRC's determination shall prevail.
- (D) If the MPRC determines that the clinical performance does not or is not likely to pose an imminent danger to the health of patient(s) and/or staff, the MPRC shall do one or more of the following:
1. Close the case.
 2. Conduct a Professional Practice Evaluation pursuant to the HCDOM, Section 1.4.7, Professional Practice Evaluation.
 3. Open a Peer Review Formal Investigation into the matter.
 - a. If MPRC conducts a Peer Review Formal Investigation into the matter, the PPESU shall give the medical provider and the hiring/contracting authority written notification of the following:
 - 1) The MPRC determination to open a Peer Review Formal Investigation.
 - 2) The basis for the investigation, including the clinical performance at issue and the right to expand the investigation to review any additional clinical performance issues.
 - 3) The status of any privilege modifications or other restrictive actions that may be in effect.
- (E) If the MPRC determines that the clinical performance does or is likely to pose an imminent danger to the health of patient(s) and/or staff, the PPESU shall serve the medical provider with a Notice of MPRC Action and shall conduct the Informal Hearing, if requested, pursuant to HCDOM, Section 1.4.10, Informal Hearings.
1. A copy of the Notice of MPRC Action shall be provided to the licensed medical provider's hiring/contracting authority who is encouraged to attempt to contact the medical provider in person or by telephone to ensure that the licensed medical provider received the notice.
 2. The MPRC may also conduct a Peer Review Formal Investigation into the licensed medical provider's clinical performance in general and/or the clinical performance or conduct at issue in the Notice of MPRC Action.
 3. If the licensed medical provider participates in an Informal Hearing regarding the Notice of MPRC Action, the Peer Review Formal Investigation, if determined to be necessary by MPRC, shall commence after the Informal Hearing takes place.
 4. If the licensed medical provider does not request and/or waives his/her right to an Informal Hearing, the Peer Review Formal Investigation, if determined to be necessary by MPRC, shall commence upon the earlier of the following:

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- a. The date of the licensed medical provider's written waiver of the Informal Hearing.
- b. Expiration of the five business day period after service of the Notice of MPRC Action.

(3) Summary Privilege Modifications

- (A) When a Safety Assessment is requested, the subject medical provider's managers and supervisors shall summarily modify the licensed medical provider's clinical privileges in the least restrictive manner necessary to eliminate the prospect of imminent danger to the health of patient(s) and/or staff until such time as the RSA is resolved.
- (B) The Panel and/or the MPRC may amend the initial privilege modification.
- (C) Privilege modifications may include restrictions or suspensions of some or all of the licensed medical provider's clinical privileges.
- (D) If the Safety Assessment results in a finding that an imminent danger to the health or safety of patient(s) and/or staff exists or is likely to occur because of the licensed medical provider's clinical performance and/or conduct, all privilege modifications shall remain in place while the Peer Review Formal Investigation is pending.

(4) Automatic Privilege Modification and Non-Punitive Termination

- (A) A summary suspension of privileges may occur as a result of either of the following:
 1. A licensed medical provider's failure to comply with HCDOM, Section, 1.4.6, Licensed Medical Provider Credentialing and Privileging.
 2. As a result of a disciplinary action against the licensed medical provider's license or Drug Enforcement Administration (DEA) registration.
- (B) Licensed medical providers shall immediately notify the Credentialing and Privileging Support Unit (CPSU) support staff of any disciplinary action against his/her license or DEA registration.
- (C) The CPSU support staff shall forward information regarding any failure to comply with the HCDOM, Section 1.4.6, Licensed Medical Provider Credentialing and Privileging to the PPESU who shall:
 1. Schedule the matter on the next MPRC agenda for automatic and immediate suspension or restriction of the licensed medical provider's privileges as warranted by the circumstances.
 2. Notify the licensed medical provider and the hiring/contracting authority of the actions taken and the right to an Informal Hearing on the matter. The notice shall contain the same or similar information as stated in Section (c)(2)(E). The Informal Hearing shall be limited to the question of whether the provider has failed to comply with credentialing and privileging policies and procedures.
- (D) Revocation or suspension of license to practice. Whenever a licensed medical provider's license or other legal credential authorizing practice in the State of California is revoked or suspended by the licensed medical provider's licensing board, the MPRC shall immediately refer the matter to the licensed medical provider's Regional Personnel Administrator or Headquarters Section Chief, Classification & Pay/Transaction & Benefits, Human Resources, for the purpose of preparing a non-punitive termination pursuant to Government Code Section 19585.
- (E) Restriction or probation of license to practice or prescribe medication. If a licensed medical provider is placed on probation by his/her licensing or certifying authority or the licensed medical provider's license or other legal credential authorizing practice in California is limited or restricted by the applicable licensing authority, including the DEA, the licensed medical provider may no longer be able to perform all of his/her job duties.
 1. Upon receipt of notice that a medical provider's license to practice in California or DEA registration has been restricted or put on probation, the MPRC shall immediately refer the matter to the medical provider's Regional Personnel Administrator or Headquarters Section Chief, Classification & Pay/Transaction & Benefits, Human Resources, for an evaluation of whether a non-punitive termination under Government Code Section 19585 is appropriate prior to imposing an automatic suspension or restriction of privileges.
 2. If the Regional Personnel Administrator or Headquarters Section Chief, Classification & Pay/Transaction & Benefits, Human Resources, determines that a non-punitive termination is not appropriate under Government Code Section 19585, the PPESU shall refer the matter to the MPRC for handling in the manner set forth in Section (c)(4)(C) above for an automatic restriction of privileges which comports with the licensing board's disciplinary order. If the matter involves the licensed medical provider's DEA registration, the PPESU shall immediately notify the Statewide Chief of Pharmacy Services and the Pharmacist-in-Charge at the location at which the licensed medical provider practices of the change in status of the licensed medical provider's DEA registration.

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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
- California Government Code, Section 19585

Revision History

Effective: 12/2017