



Credentialing Office Policy and Procedure

Title: PRACTITIONER RIGHTS AND CORRECTIVE ACTION	Policy Number: CO 1.11
Regulation Reference: NCQA CR6.A.1; NCQA CR6.A.4; NCQA CR6.A.3, 6.1 and CR 6.2, NCQA CR 7	Effective Date: 1/28/2016 Last Annual Review Date: 9-29-23 Last Revision Date: 7-15-21 (Revision History on last page)
Reference: TTUHSCEP PLFSOM Professional Staff Bylaws, Article XIII and XIV	

Policy Statement:

Texas Tech University Health Sciences Center El Paso (TTUHSCEP) Paul L. Foster School of Medicine (PLFSOM) provides a process which ensures the rights applicants and appointed members of the Professional Staff – henceforth in this document referred to collectively as Practitioners.

The referenced document supersedes this policy in case of potential discrepancy.

Purpose:

To provide consistent and fair attention to the Rights of the individual Practitioner in the Initial and Re-credentialing process for participation in any Health Provider network to which TTUHSCEP PLFSOM participates. To guarantee due process for each Practitioner who participates in the Initial and Re-credentialing process at TTUHSCEP PLFSOM.

Procedure:

SECTION A. CREDENTIALING – Rights of Review and Correct Information

Refer to Credentialing Office Policy and Procedure: Right of Notification and Correction of Information Policy CO 1.3.

SECTION B. RIGHT TO HEARING AND APPELLATE REVIEW AND PROCEDURE

The TTUHSCEP PLFSOM appeals process provides that the Practitioner that is subject to adverse corrective action is entitled to due process and appeals. The procedure for due process is specified in this policy and is defined in the PLFSOM Professional Staff Bylaws. In the event of a discrepancy between this policy and the bylaws, the bylaws shall take precedent.

SECTION C. DEFINITIONS

1. Adverse Recommendations or Actions

Except as qualified by Section C (2) below and if no prior right to a hearing existed, only the following recommendation or actions when taken by the Credentials Committee are “adverse” and shall entitle a Practitioner to the procedures set forth in Article XIV from TTUHSCEP PLFSOM Professional Medical Staff Bylaws:

- a. Denial of appointment or reappointment;
- b. Suspension or revocation of appointment;
- c. Denial of requested Staff category;
- d. Denial of requested clinical privileges;
- e. Reduction, suspension, or revocation of clinical privileges; or
- f. Imposition of a consultation or concurrent supervision requirement, except during the provisional period.

2. Actions Not Adverse

The following recommendations or actions, and any others set forth in this document, shall not entitle a Practitioner to a procedural rights of review pursuant to this document:

- a. Refusal to furnish an application or to accept or consider an application for appointment because the application is incomplete.
- b. Termination of appointment or clinical privileges pursuant to a contractual agreement with TTUHSCEP PLFSOM unless otherwise provided in the agreement;
- c. Denial or termination of any temporary privileges
- d. Issuance of a warning, letter of admonition or letter of reprimand;
- e. Automatic suspension or termination pursuant to Article XIII of the PLFSOM Medical Staff Bylaws;
- f. Revocation of Medical Staff membership as provided in this document; or
- g. Removal from Staff office, administrative position, or committee appointment.

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- h. Revocation of Medical Staff Membership for failure to achieve initial Board Certification as required by the PLFSOM Professional Staff Bylaws
- 3. Special Notice – Notice in writing, delivered either by hand, or by certified mail, return receipt requested.

SECTION D. NOTICE AND REQUEST FOR HEARING

1. Notice of Right to Hearing

A Practitioner against whom an adverse recommendation as defined in Section C (1) has been issued shall be given special notice by the Chairperson of the MPIP Policy Committee or the Dean within **14 days** of the recommendation. Such notice shall:

- a. Advise the Practitioner of the adverse recommendation and provide him/her with a copy of the written recommendation, which shall include a statement of the reasons for the proposed action and a listing of any patient records in issue;
- b. Advise the Practitioner of his/her right to a hearing pursuant to this Article and specify that written request for a hearing must be received by the Chairperson of the MPIP or the Dean on behalf by special notice within **30 days** of receipt of the notice;
- c. State that failure to request a hearing within the specified time period shall constitute a waiver of any rights to a hearing, appellate review, or any other review of the matter pursuant to this document, or otherwise;
- d. State that upon receipt of the Practitioner's request for a hearing in the manner specified, Chairperson of the MPIP Policy Committee or the Dean will notify the Practitioner of the date, time, and place of the hearing;
- e. Include a copy of this Article, referencing in the notice the rights set forth in Section F(6); and
- f. Advise the Practitioner that if she/he is going to be accompanied by an attorney at the hearing, such information must accompany the request for hearing pursuant to the Section D(2).

2. Request for Hearing

A Practitioner shall have **30 days** following receipt of notice pursuant to Section D(1) to file a written request for a hearing with the Chairperson of the MPIP Policy Committee or the Dean .

3. Effect of Waiver

A Practitioner who fails to request a hearing within the time and in manner specified in Section D(2) above waives all rights to such hearing and to any other review which might otherwise have been

available on the matter pursuant to this document. Waiver shall cause the adverse recommendation, which initiated this Article, to automatically become the final decision of the MPIP Policy Committee without further review or reconsideration. In such case, the Dean shall send a copy of the MPIP Policy Committee final decision to the Practitioner by special notice.

SECTION E. HEARING PREREQUISITES

1. Notice of Hearing

Within **21 days** after receipt of a request for a hearing, the MPIP Policy Committee shall schedule and arrange for such hearing and shall, through the Dean, notify the Practitioner of the time, place, and date of the hearing by special notice. The hearing date shall be within **30 days** from the date of this notice to the Practitioner; provided, however, that a hearing for a Practitioner who is under suspension which is then in effect shall be held as soon as arrangements therefore may reasonably be made, but within **30 days** from the date of the notice.

2. Witness

The notice of hearing shall include a list of witnesses expected to testify in support of the adverse recommendation. The notice shall also advise the Practitioner that, at least **14 days** before the hearing, the Practitioner shall be required to forward to the Dean a written list of witnesses the Practitioner expects to be present to testify against the adverse recommendation. The Practitioner has the sole responsibility for arranging for the attendance of his/her witnesses.

3. Hearing Committee

The hearing shall be held before a Hearing Committee comprised of a panel of at least three individuals. The Dean, shall select the individuals to serve on the Hearing Committee in consultation with the Professional Staff Officers;

- a. The hearing panel members may not have participated in initiating or investigating or in committee consideration of the underlying matter at issue.
- b. The panel members shall be selected from the Active Practitioner of the panel shall be elected by the panel members to serve as the Presiding Officer.
- c. The Professional Staff Member shall be furnished with the names of the panel members at the time of the hearing notice. The Practitioner shall be required to raise any objections to the qualifications of these individuals at least **14 days** prior to the hearing, by special notice, in writing to the Dean. If the Dean determines that the objections have merit, other individual(s) shall be selected to serve on the Hearing Committee. Failure to object in this matter shall constitute the Practitioner agreement that the individuals are qualified to serve on the Hearing Committee.

SECTION F. CONDUCT OF HEARING

1. Presence of Members and Professional Staff Member

Each member of the Hearing Committee must be present throughout the hearing and deliberations. The Practitioner who requested the hearing shall have the right to be present throughout the entire hearing but not during the deliberations.

2. Record of Hearing

The hearing shall be recorded. At the request and expense of Practitioner, a court reporter may be present to record the proceedings. The cost of obtaining a copy of the transcript shall be the responsibility of the requesting party.

3. Authority

The Presiding Officer shall provide participants in the hearing with a reasonable opportunity to present relevant oral and documentary evidence in an efficient and expeditious manner and shall maintain proper decorum. The Presiding Officer shall determine the order and procedure for presenting evidence and argument during the hearing, and shall have authority and discretion to make all rulings on questions which arise during the hearing. If the Presiding Officer determines that either side in a hearing is not proceeding in an efficient and expeditious manner, he/she may take such discretionary action as seems warranted by the circumstances.

4. Evidence

The hearing need not be conducted in strictly according to rules of law related to the examination of witnesses or the presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be considered, regardless of the existence of any common law or statutory rule which might make evidence inadmissible over objection in civil or criminal action.

5. Representation of Parties

The hearing afforded the Practitioner is for the sole purpose of intra-professional resolution of matters bearing on professional competency and conduct. If requested by the Practitioner or the body whose adverse recommendation initiated this Article, however, legal counsel may accompany both parties in an advisory capacity.

- a. If the Practitioner is to be accompanied by legal counsel, such fact must be included in the Practitioner written request for a hearing under Section D (2). The body making the adverse decision shall be accompanied by an attorney only if the Practitioner is to be accompanied by an attorney.
- b. If attorneys do not accompany the parties at the hearing, nothing herein is intended to deprive the Practitioner, Hearing Committee, the body whose adverse recommendation initiated this Article, or

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any witnesses of the right to utilize legal counsel in preparing for the hearing or appeal or for consultation during any hearing recess.

6. Rights of Parties

During a hearing, each of the parties shall have the right to:

- a. Present and examine witnesses;
- b. Present evidence determined to be relevant by the Presiding Officer as provided in Section F(4) above;
- c. Cross-examine and impeach any witnesses;
- d. Rebut any evidence;
- e. Request that a record be made of the hearing pursuant to Section F(2) above;
- f. Be accompanied by an attorney or other individual of the party's choice in accordance with Section F(5) above;
- g. Prior to or during the hearing, submit memoranda concerning any relevant issue and have such memoranda become part of the hearing record; and
- h. Submit a written or oral statement at the close of the hearing.

7. Procedure

In the hearing, the representative of the body whose adverse recommendation initiated the hearing shall first present any evidence in support of the recommendation. The Hearing Committee and Practitioner may question the representative and any witnesses. The Practitioner shall then present any evidence against the recommendation. The Hearing Committee and the body's representative may call additional witnesses or information if it deems such action appropriate.

8. Postponement and Recesses

Requests for postponement of a hearing shall be granted by the Hearing Committee only upon a showing of good cause and only if the request is made as soon as is reasonably possible. The Hearing Committee may recess the hearing and reconvene the same for the convenience of the participants of for the purpose of obtaining new or additional evidence or consultation. There shall be no requirement of prior notice of any recess, deliberations or adjournment. Upon Conclusion of the presentation of oral and written evidence, the hearing shall be closed.

9. Deliberations and Adjournment

The Hearing Committee shall conduct deliberations outside the presence of the parties and/or any other individuals. The committee shall recommend rejection, affirmation, or modification of the adverse recommendation. The affirmative vote of a majority of the members is required for a recommendation which is adverse, as defined in Section C. Upon conclusion of deliberations, the hearing shall be declared adjourned.

SECTION G. HEARING COMMITTEE RECOMMENDATION

1. Recommendation

Within **14 days** after adjournment of the hearing, the Hearing Committee shall issue its written recommendation, including a statement of its findings, and the basis for the recommendation, and shall forward the recommendation together with the hearing record and all other documentation to the MPIP Policy Committee for transmittal to the Dean and to the body whose adverse recommendation initiated the hearing.

2. Notice and Further Action

The MPIP Policy Committee shall notify the Practitioner by special written notice of the Hearing Committee recommendation.

- a. The MPIP Policy Committee as a whole, except for the individual who initiated the request for corrective action and any individual who served on the hearing committee, shall review the recommendation of the hearing panel within 7 days of receipt. The MPIP Policy Committee shall have access to the entire body of evidence on which the hearing committee based its decision in determining its action and may question the hearing panel members in its review. The MPIP Policy Committee may a) accept the recommendation of the Hearing Panel, or b) reject or modify the recommendation of the hearing panel. The MPIP Policy Committee however does not conduct additional investigations, and the affected individual does not have the right to appear before the committee.
- b. If the decision of the MPIP Policy Committee is adverse to the Practitioner, as defined in Section C, the Practitioner shall have the right to request appellate review of the matter pursuant to Section H below. Notice to the Practitioner of the adverse recommendation shall include notice to Practitioner right to request appellate review in accord with Section H(2)
- c. If the decision of the MPIP Policy Committee is not adverse the Practitioner, the decision shall be considered final. The Chair of the MPIP Policy Committee shall notify the member by special notice of the MPIP Policy Committee's decision, and any suspension of privileges shall be vacated at that point.

SECTION H. APPELLATE REVIEW

1. Appellate Review Committee

Appellate review shall be conducted by an Appellate Review Committee duly appointed by the President, TTUHSCEP El Paso, of not less than three (3) members of the Professional Staff, one of whom shall be the Dean of PLFSOM. The Medical staff members or the Appellate Review Committee shall not have participated in initiating or investigating or in committee consideration of the underlying matter at issue. The Dean shall chair this committee. In the event the initial request for corrective action and/or emergency suspension of privileges was initiated by the Dean, the President shall appoint an additional member of the professional staff to serve in lieu of the Dean. This individual shall chair the Appellate Review Committee and the Professional Staff Member shall have three (3) business days from receipt of special notice to object to the appointment of any initial member of the Hearing Committee. If the Dean determines that the objections have merit, other individuals(s) shall be selected.

2. Requirements and Waivers

A Professional Staff shall have **14 days** following receipt of notice of the right to Appellate Review to file a written request for such review with the Dean by special notice.

a. Upon receipt of a timely request for appellate review, the Dean shall deliver such request to the President. As soon as practical, the President of TTUHSCEP PLSOM shall schedule a date for such review, which shall be not less than **30 days** from the date of receipt of the request for appellate review. At least **14 days** prior to the date of the appellate review, the Dean shall send the Practitioner special notice of the time, place and date of the review.

d. A Practitioner who fails to request appellate review within the time and in the manner specified waives any right to such review pursuant to this Article. Waiver shall cause the adverse recommendation, which initiated the right to appellate review to become the final decision without further review or reconsideration. In such case, the Dean shall send a copy of the MPIP Policy Committee's final decision to the Practitioner by special notice.

3. Written Statement

The Practitioner shall have access to a copy of the Hearing Committee's recommendation and record, and any other material subsequently considered by the Hearing Committee. The Practitioner may submit a written statement in his/her own behalf, limited to those matters specifically pertaining to the scope of the appellate review as set forth in Section H(4) below, and legal counsel may assist in its preparation. Such written statement shall be submitted to the Appellate Review Committee and the body whose adverse recommendation initiated the hearing through the Dean by special notice at least **14 days** prior to the appellate review. That body may submit a similar statement at least **7 days** prior to the appellate review, and, if submitted, the Dean shall promptly provide a copy to the Practitioner by special notice.

4. Scope of Review

Appellate review shall be limited to recommendation as to the following:

- a. Whether the procedures set forth in this document regarding the hearing and any subsequent review were substantially complied with; and
- b. Whether the adverse recommendation is unreasonable, arbitrary, capricious, discriminatory, or without basis.

5. Procedures

The proceeding shall be in the nature of an appellate review, based upon the record of the hearing, the Hearing Committee's recommendation, and any subsequent review by the MPIP Policy Committee as the, any written statements submitted, and such other material as may be accepted by the Appellate Review Committee. New or additional matters not raised during the original hearing shall only be introduced at the discretion of the Appellate Review Committee.

- a. The Chairperson of the Appellate Review Committee shall determine the order of procedure during the review and make all required rulings. The Appellate Review shall have such additional powers as are necessary to discharge its responsibilities.
- b. The members of the Appellate Review Committee must be present throughout the review and deliberations.
- c. The appellate Review Committee shall conduct its deliberations outside the presence of the parties and, upon conclusion of deliberations, the appellate review shall be declared finally adjourned.

6. Recommendation

Within **14 days** after adjournment, the Appellate Review Committee shall make its written recommendation, including a statement of the basis of the recommendation, to the MPIP Policy Committee and Hearing Committees. The Appellate Review may remand the matter to the MPIP Policy Committee for further hearing or procedures within a specified time period; recommend modification of the adverse recommendation so it is no longer unreasonable, arbitrary, capricious, or discriminatory; or affirm or deny the adverse recommendation. If the Appellate Review Committee finds that the procedures were substantially complied with and that the adverse recommendation initiating the right to appellate review was not unreasonable, arbitrary, capricious, discriminatory, or lacking in basis, it shall affirm the adverse recommendation, and the decision shall be considered final. The affirmative vote of a majority of the members is required to affirm the adverse recommendation.

SECTION I. REPORTING REQUIREMENTS

The submission of any reports required of PLFSOM or Peer Review Committees pursuant to the state or federal law shall be the responsibility of any individual Practitioner to make any report pursuant to state or federal law.

SECTION J. LIMITATIONS

Notwithstanding any other provision of this Article or these Bylaws, no Practitioner shall be entitled to more than one hearing and appellate review on any matter which shall have been the subject of action by the MPIP Policy Committee.

SECTION K. TIME PERIODS FOR PROCESSING

Any time periods herein with which action by a committee, the Dean is to be taken are intended as guidelines and not to create a right of a Practitioner to have an action taken within these precise time periods. Time periods may be extended by the appropriate committee or the Dean, for good cause. Time periods may be shortened at the sole discretion of the Dean in the event the Practitioner is presently under emergency suspension or upon request of the Practitioner if the Practitioner waives in writing any right or entitlement to the time periods set forth herein.

1. Request for Hearing

A Practitioner shall have **30 days** following receipt of notice pursuant to Section D (1) to file a written request for a hearing with the Chairperson of the Clinic Operations Committee or the Dean on behalf of the Governing Body by special notice.

2. Effect of Waiver

A Practitioner who fails to request a hearing within the time and in the manner specified in Section D(2) above waives all rights to such hearing and to any other review which might otherwise have been available on the matter pursuant to this document. Waiver shall cause the adverse recommendation which initiated this Article to automatically become the final decision of the President without further review or reconsideration. In such case, the Dean shall send a copy of the President's final decision to the Practitioner by special notice.

SECTION L. CORRECTIVE ACTION

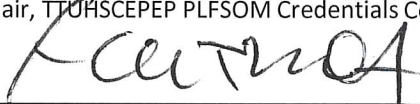
Reference: TTUHSCEP PLFSOM Professional Staff Bylaws, Article XIII.

1. Grounds. Corrective action, whether routine or emergency, shall be taken when a Professional Staff Member's activities or professional conduct are considered to be below accepted standards, disruptive to clinical operations, detrimental to patient safety or to the delivery of quality patient care services, not in compliance with Professional Staff Bylaws or PLFSOM policies or requirements.

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2. **Content of Recommendation.** A recommendation regarding corrective action must specifically indicate the recommended action, including any condition on the exercise of clinical privileges or limitation of the right to perform clinical services on behalf of PLFSOM. All adverse recommendations shall include the reasons or basis for the recommendation, with reference to specific acts or charges to the extent possible.

3. **Time Periods for Processing.** When action must be taken by a Department, any committee, the Dean, or the MPIP Policy Committee, the provided timelines are intended as guidelines and not rigid time periods. Time periods may be extended by the Department, appropriate committee, or the MPIP Policy Committee for good cause, including without limitation the need for additional review or investigation. With good cause time periods may also be shortened or extended upon written request from the Professional Staff member. The Professional Staff member shall be advised in writing of any such extensions.

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Signatory approval on file by:	Approved:	Juan B. Figueroa, M.D., Chair, TUCSCEPEP PLFSOM Credentials Committee and Director of Clinical Operations 

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	Credentials Committee	Dean Approval
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