KERN HEALTH SYSTEMS

KERN HEALTH SYSTEMS POLICY AND PROCEDURES					
SUBJECT: Provider Disciplinary Action				POLICY #: 4.48-P	
DEPARTMENT: Provider Network Management					
Effective Date:	Review/Revised Date: 12/1/2022	DMHC		PAC	X
		DHCS		QI/UM COMMITTEE	
		BOD	X	FINANCE COMMITTEE	

_____ Date _____
Emily Duran
Chief Executive Officer

_____ Date _____
Chief Operating Officer

_____ Date _____
Director of Compliance and Regulatory Affairs

_____ Date _____
Senior Director of Provider Network

PURPOSE:
To outline Kern Health Systems' ("KHS") process for identifying providers, through established quality improvement and utilization review processes, screening of potential adverse events, ongoing monitoring of state and federal databases and/or imposed corrective actions due to performance deficiencies, who are subject to disciplinary action as approved by the KHS Board of Directors ("Board"). Prior to the initiation of disciplinary or corrective action, the Chief Medical Officer or his/her designee ("CMO") will notify the provider in writing that a deficiency or potential adverse event has been identified.

SCOPE:
All providers participating or requesting participation in the KHS network, including, but not limited to, the following licentiates: "All providers participating or requesting participation in the KHS network, including, but not limited to those providers listed in the definition of "licentiate" in Business and Professions Code section 805."

POLICY:
If a provider's agreement with KHS provides for reduction, suspension, or termination without cause upon specified notice, that provision may be invoked. In such cases, the terms of the agreement shall prevail and no reason(s) for the reduction, suspension or termination need be stated or substantiated.

A provider's status may be reduced, suspended, or terminated for any lawful reason, including but not limited to a lapse in basic qualifications such as licensure, insurance, board certification or required medical staff membership or privileges at a specified hospital/healthcare facility; a KHS determination that the provider cannot be relied upon to deliver the quality or efficiency of patient care desired by KHS; a KHS determination that the provider cannot be relied upon to follow KHS's clinical or business guidelines or directives; or a change in KHS's business needs.

A provider may request review of an initial adverse recommendation, decision or action pursuant to Policy and Procedure 4.35-P Provider Hearings when the decision, or action is based on medical disciplinary cause or reason.

PROCEDURES:

1.0 COURSES OF ACTION

Questions or concerns about the performance of any credentialed provider are submitted to the CMO, who determines whether:

A. To conduct an investigation
B. To attempt to resolve the matter through education efforts and/or remedial training of KHS' policies and procedures, or guidelines, etc.
C. To attempt to resolve the matter through a Corrective Action Plan (CAP)
D. To take or recommend routine disciplinary action
E. To take summary disciplinary action, including but not limited to: suspension, reduction, modification or termination of membership or network participation

The CMO may take some or all of these actions concurrently.

2.0 INVESTIGATIONS

Issues raised about a provider's credentialing application or performance shall be considered initially by the CMO, who shall have broad discretion to determine how to proceed as delegated by the Board. The CMO's options shall include but is not limited to maintaining a record of the matter without further investigation or action; giving the provider the opportunity to submit a written statement, investigating the matter personally and making a report and recommendation to the Board as warranted; or referring the matter to the Physician Advisory Committee (PAC) for investigation and the preparation of a report and recommendation to the Board.

The CMO notifies the provider of any disciplinary action or recommendation for disciplinary action.

A. In instances where there may be an imminent danger to the health of any individual, the CMO, or Chief Executive Officer (CEO) may summarily reduce or suspend the

provider's network participation to provide patient care services, effective immediately upon notice to the provider. Further consideration and action by the PAC may be imposed, if any. The PAC may continue the reduction or suspension pending action by the Board.

B. Before an unfavorable report and recommendation is submitted to the Board, the provider shall be sent a written statement, by certified mail, of the issues or concerns and afforded a reasonable opportunity within 15 calendar days to address them in writing or at a PAC meeting. The provider's response shall be summarized in or attached to the report to the Board.

3.0 CORRECTIVE ACTION PLAN

A CAP is an agreement between the provider and KHS that describes the problem and appropriate measures to achieve resolution. Providers who fail to comply with a CAP may be subject to disciplinary action.

Refer to Policy and Procedure 4.40-P Corrective Action Plan.

4.0 LEVEL OF ACTIONS

Levels of action may consist of one or more of the following:

A. **Level 1** - Letter of reprimand; education or remedial training as applicable
B. **Level 2** - For Primary Care Practitioners (PCPs), closure of practice to new patients for up to 120 days in any 12-month period and, for other Providers, deferment of new patients or referrals for up to 120 days in any 12 month period which means no new members will be assigned to you for up to 120 days. You may continue to see those KHS members currently assigned to you, however, any services rendered to a KHS member not already assigned to you, will not be reimbursable.
C. **Level 3** - For PCPs, closure of practice for more than 120 days in any 12-month period, or reduction of assigned members; and for other Providers, closure of practice to new patients or referrals which means no new members will be assigned to you for up to 120 days. You may continue to see those KHS members currently assigned to you, however, any services rendered to a KHS member not already assigned to you, will not be reimbursable.
D. **Level 4** - Suspension of network participation
E. **Level 5** - Termination of network participation
F. **Level 6** - Termination of provider agreement

Other disciplinary actions may be recommended, as appropriate to the circumstances.

The CMO, is authorized to implement a Level 1 or Level 2 action upon his/her determination that such action is appropriate.

In all other cases where discipline at Level 3 or above is proposed, the CMO reports the results of the investigation and submits a recommendation to the CEO who, in consultation with the CMO, determines the appropriate disciplinary action and directs its implementation.

The CMO and CEO inform the PAC and the Board of all disciplinary actions taken pursuant to this section. The Board shall not act on or receive information about any disciplinary matter (other than the identity of the provider and the fact that a disciplinary matter is pending) until

such time as the matter comes before the Board in its capacity as hearing committee pursuant to ***KHS Policy and Procedure #4.35-P /Provider Hearings***.

Discipline at Level 3 or higher is subject to the right and procedures set forth in ***KHS Policy and Procedure #4.35-P – Provider Hearings***

KHS reports serious quality deficiencies which result in suspension or termination of a provider to the appropriate authorities.
***Refer to *KHS Policy and Procedure #4.35-P – Provider Hearings* for details.**

5.0 SUMMARY DISCIPLINARY ACTION

If, after receipt of a complaint about a provider or after investigation of a complaint, and the CMO or CEO determines that there is imminent danger to the health of any patient or other individual, the CMO or CEO may:

A. Suspend the provider's status and require the provider to immediately discontinue all practice on behalf of KHS; or
B. Impose restrictions and require the provider to discontinue those aspects of practice that endanger KHS members

In cases involving potential quality of care rendered by providers where discipline at Level 3 or above is proposed, any such action by the CMO or the CEO must be reviewed by the PAC committee which may affirm, reverse, or modify the CMO's determination.

Summary disciplinary action is subject to the rights and procedures set forth in ***KHS Policy and Procedure #4.35-P –Provider Hearings.***

6.0 REPORTING

KHS shall comply with the reporting requirements of the Medical Board of California (MBC) as required by law. KHS shall comply with the reporting requirements of the California Business and Professions Code, the Federal Health Care Quality Improvement Act, and the National Practitioner Data Bank (NPDB) regarding adverse credentialing and peer review actions. The provider will be notified of the reports and its contents.

MBC requires reports whenever***:*** a provider's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason; a provider's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason; restrictions are imposed or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of thirty (30) days or more for any 12-month period, for a medical disciplinary cause or reason; and/or a provider's resignation or leave of absence from membership, staff, or employment following notice of impending investigation based on information indicating medical disciplinary cause or reason.

Pursuant to B&P Section 805.01, MBC requires reports whenever a peer review body makes a final decision or recommendation regarding the disciplinary action, resulting in a final proposed action to be taken against a provider based on the peer review body's determination, following formal investigation of the provider that any of the facts listed below may have occurred, regardless of whether a hearing is held pursuant to Section 809.2:

A. Incompetence, or gross or repeated deviation from the standard of care involving death or serious bodily injury to one or more patients, to the extent or in such manner as to be dangerous or injurious to any person or to the public
B. The use of, or prescribing for or administering to himself or herself, any controlled substance; dangerous drug or alcoholic beverages, in such a manner to be dangerous to the licentiate, any other person, or the public, or to the extent that impairs the ability of the provider to practice safely
C. Repeated acts of clearly excessively prescribing, furnishing, or administering of controlled substances without a good faith effort prior exam of the patient and medical reason
D. Sexual misconduct with one or more patients during a course of treatment or an examination

7.0 CONFIDENTIALITY

All credentialing and peer review records and proceedings shall be confidential and protected to the fullest extent allowed by Business & Professions Section 1157 of the California Evidence Code and the State of California Health and Safety Code Section 1370-1371.

8.0 REINSTATEMENT

A provider who was terminated for discipline action and/or an investigation pending, or whose status was revoked following initiation of disciplinary action, may not reapply for provider status for two years from the date of resignation or final decision of the Board, whichever is earlier.

REFERENCE:

Revision 2022-04: Policy was revised by the PNM Department and the Plan's legal attorneys at DSR Health Law. 4.48-P is a new policy that replaces QI policy, 2.04-P. National Committee for Quality Assurance – Health Plan Credentialing Standards 2022, CR.6 Notification to Authorities and Practitioner Rights: scope of practitioners, range of actions, reporting and making appeal process known. California Business and Professions Code 805 and 805.01