
Subject: Professional Misconduct

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Objective:

- I. THA is committed to providing high quality health care to our members.
- II. To ensure THA has a process in place to identify, evaluate and take appropriate action when a practitioner has admitted to professional misconduct, or has been disciplined based upon allegations of professional misconduct.

Definition:

As defined by ORS 677.188 (4) (a) unprofessional or dishonorable conduct, means conduct unbecoming a person licensed to practice medicine or detrimental to the best interest of the public and includes:

- Any conduct or practice contrary to recognized standards of ethics of the medical profession, or
- Any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public, or
- Any conduct practice or condition which does or might impair a practitioner's ability to safely and skillfully practice medicine.
- Any conduct or practice contrary to recognized standards of ethics of the medical professions, or
- Any conduct, which does or might constitute a danger to the public, to include a violation of patient boundaries.

Policy:

- I. Practitioners that are either participating or applicants who have admitted to professional misconduct and have been brought before their licensing Board either in person or in absentia, and have been disciplined based upon allegations of professional misconduct, may be denied participation or may be terminated from participation with THA.
- II. Practitioners whose participation on a panel THA contracts with (i.e. Regence Blue Cross Blue Shield, Providence Health Plans, etc.) and is terminated for professional misconduct will be terminated administratively from THA.
- III. This policy applies whether or not the practitioner is currently under oversight or restrictions by his/her licensing Board and whether or not the practitioner was, in the past, sanctioned by his/her licensing Board.

- IV. Sexual misconduct means either of the following:
- A. Within the context of a practitioner-patient relationship, regardless of whether that behavior occurred in the clinical setting or social setting, any physical contact or written, electronic, or verbal communication that may reasonable be interpreted as professionally motivated, seductive, or professionally demeaning
 - B. Outside the context of a practitioner-patient relationship, any non-consensual professional physical contact with any person, including any minor legally incapable of giving consent
- V. Upon discovery of a potential practitioner involvement in a professional misconduct issue, THA will undertake a reasonable review by obtaining from the licensing Board or from the court copies of all available documents related to the issue including, but not limited to, the Statement of Charges, Disciplinary Report and/or Stipulated Findings of Fact. These will be presented to THA's Quality Management Committee (QMC).
- A. If the review indicates that a proceeding is ongoing, THA will defer action until such time as the outcome of the proceeding is available or completed.
 - B. If the review indicates that a proceeding is complete and the professional misconduct occurred within the context of a patient relationship, the THA Medical Director will present the file for formal review to the QMC at their next regularly scheduled meeting.
- VI. Unless the QMC determines the practitioner meets the exception criteria as listed in section XI, the Committee may formally deny participation or recommend termination of the practitioner with THA.
- VII. If the review indicates that a proceeding is complete and the professional misconduct occurred outside the context of an active patient relationship (as defined by the licensing board with the practitioner, the QMC may:
- A. Request a written explanation from the practitioner
 - B. Request a written release of authorization from the practitioner to obtain peer references or additional information from the Chief of Staff or department head at the hospital(s) where the practitioner previously or currently maintains staff privileges; any current or previous clinical affiliates, including practice partner(s) or clinic director(s); and/or the medical director.
 - C. Present for formal review at the next regularly scheduled meeting.

- VIII. Within the constraints of the THA Bylaws, the THA QMC will formally review the information to determine whether the practitioner's conduct reasonably represents an actual, or potential, unfavorable risk to the health, safety or welfare of any THA member or the public.
- IX. Upon completion of the review, the QMC will vote to approve, to approve with stipulations, or to deny or terminate the practitioner's participation with THA.
- X. If the review indicates professional misconduct occurred that is not the subject of an administrative or judicial proceeding; THA will present the file for formal review by the QMC at their next regularly scheduled meeting. Unless the QMC determines the practitioner meets the exception criteria outlined in Section XI below, THA may formally deny or terminate participation. The QMC will forward the information to the appropriate licensing body for investigation and/or action.
- XI. Exceptions:
In the case of a practitioner whose professional misconduct occurred more than 5 years prior to the review, THA's QMC shall have the discretion to approve based on documented evidence. Required evidence shall be the responsibility of the practitioner to obtain and shall be at his/her expense. Documentation may include:
- A. A psychological evaluation by a non-treating behavioral health specialist acceptable to the QMC and a report attesting to the practitioner's fitness to practice without risk to the health, safety or welfare of any THA member.
 - B. Satisfactory completion of all licensing board stipulations, sanctions, or orders.
 - C. A complete licensure and malpractice history in all states in which the practitioner has practiced or applied within the previous ten years.
 - D. A plan of conduct for medical practice to include concrete behaviors and/or protocols reasonably calculated to prevent any further professional misconduct.
- XII. Reapplication
Practitioners who have been denied or terminated from participation as a result of professional misconduct may not reapply for participation with THA for two years immediately following the THA formal denial. THA reserves the right to review the practitioner against all current credentialing and membership criteria including, but not limited to, this policy at the time of reapplication.

Refer: THA Policy X-8 Notify Authorities and Provider Appeal Rights
THA Policy IX-1 Peer Review
THA Policy X-11 Restriction, Suspension and Termination of a
Physician
Regence HMO Oregon: Licensing Board Actions Due to Sexual
Misconduct Dual
ORS 677.188 (4) (a)
ORS 677.190

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THA Plan Director

THA Medical Director