

**Subject: Professional Misconduct (Page 1 of 4)**

**Objective:**

- I. To ensure that Health Share/Tuality Health Alliance (THA) members receive healthcare from high quality practitioners.
- II. To ensure that THA has a process to 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):

*Unprofessional or dishonorable conduct [professional misconduct] 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 Adversely affect a physician's ability safely and skillfully to practice medicine or podiatry*

**Policy:**

- I. THA practitioners or practitioner applicants who have admitted to professional misconduct and have been brought before their Licensing Board in person or in absentia, or practitioners or applicants who have been disciplined based upon allegations of professional misconduct, may be denied or terminated from participation with THA.  
  
*Note: This policy applies whether or not the practitioner is under restriction or oversight by his/her Licensing Board, and whether or not the practitioner was previously sanctioned by his/her Licensing Board.*
- II. Practitioners who are terminated from a THA-contracted panel (i.e. Regence Blue Cross Blue Shield or Providence Health Plans) due to professional misconduct will be administratively terminated from THA.
- III. Upon discovery of potential practitioner involvement in a professional misconduct issue, THA will conduct a circumstantial review, obtaining copies of all available documents related to that issue from the appropriate Licensing Board or court. These documents may include, but are not limited to the Statement of Charges, the Disciplinary Report, and the Stipulated Findings of Fact.

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- a. If the THA review indicates that a proceeding is complete and that professional misconduct occurred within the context of a patient relationship, the THA Medical Director will present the case and related documents to the THA Quality Management Committee (QMC) for evaluation and action.
  - b. If the THA review indicates that a proceeding is complete and that the professional misconduct occurred outside the context of an active patient relationship (as defined by the Licensing Board), the THA Medical Director may request a written explanation or a written release of authorization from the practitioner in order to obtain previous or current peer or supervisor references. The Medical Director will present the issue for QMC evaluation and action.
  - c. If the THA review indicates that a proceeding is ongoing, QMC evaluation and action will be deferred until the outcome of the proceeding is available.
  - d. If the THA review indicates that professional misconduct that is not the subject of an administrative or judicial proceeding occurred, THA will present the case for QMC evaluation and action.
- IV. Within the constraints of the THA Bylaws, the QMC will formally review case 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 other persons. Upon completion of the formal evaluation, the QMC will vote to approve, to approve with stipulations, or to deny or terminate the practitioner's participation with THA. The QMC will forward its decision and case information to the appropriate licensing body for further investigation and/or action.
- V. **Sexual Misconduct**  
Sexual misconduct is considered professional misconduct and is subject to these professional misconduct policy guidelines. Sexual misconduct is defined as follows:
- a. Within the context of a practitioner-patient relationship, regardless of whether the behavior occurred in the clinical setting or social setting, sexual misconduct is any physical contact or written, electronic, or verbal communication that may be reasonably interpreted as professionally motivated, seductive, or demeaning.
  - b. Outside the context of a practitioner-patient relationship, sexual misconduct is any non-consensual physical contact with any person, including any minor who is legally incapable of giving consent.
- VI. **Exception Criteria**

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In the case of a practitioner whose professional misconduct occurred more than five years prior to the THA review, QMC shall have the discretion to approve THA participation based on documented evidence of improved conduct. The practitioner is responsible for obtaining this documented evidence at his/her own expense. Evidence may include:

- a. A psychological evaluation by a non-treating behavioral health specialist and a report attesting to the practitioner's fitness to practice without risk to the health, safety, or welfare of any THA member or other persons;
- b. Satisfactory completion of all Licensing Board stipulations, sanctions, or orders;
- c. A complete licensure and malpractice history from all states in which the practitioner has practiced or applied to practice within the previous ten years;
- d. A reasonably calculated plan of conduct that includes concrete behaviors and/or protocols to prevent further professional misconduct.

### VII. Reapplication

Practitioners who have been denied or terminated from THA participation as a result of professional misconduct may not reapply for participation within the two years immediately following their denial/termination.

### **References:**

ORS 677.188 (4a)

ORS 677.190

THA Policy X-11 (Restriction, Suspension, and Termination of a Physician)

THA Policy X-8 (Notifying Authorities and Provider Appeal Rights)

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