



Health New England
Where you matter.

Provider Review and Corrective Action

Effective Date 1/1/2021 | Revised Date 3/1/2022

Provider Review and Corrective Action

Introduction and Purpose

Noted below, is HNE's policy that creates a framework to address provider actions affecting the administration of an HNE plan or the quality of health care services provided to HNE members. This policy applies when HNE becomes aware of information concerning a provider (or the office staff working on behalf of the provider) that warrants further review and possible corrective action, including both non-disciplinary and disciplinary action.

The provisions of this policy are incorporated into the contract between HNE and the provider (or the PHO through which the provider is contracted with HNE) ("HNE Agreement"). The remedies set forth in this policy are in addition to, and not in lieu of, those expressly set forth in the HNE Agreement. If the provider engages in conduct, that constitutes a breach of the HNE Agreement, HNE's action or inaction pursuant to this policy shall not affect HNE's rights to enforce the HNE Agreement and shall not be construed as a waiver of that contract.

In the event that a provider engages in conduct that is also addressed by an HNE credentialing policy, the HNE Chief Medical Officer, or designee shall decide, in his or her discretion, whether to proceed under the HNE Agreement, the credentialing policy or both, if appropriate. Such decision shall take into account the nature and severity of the offense and the particular circumstances of the case.

The objective of this policy is to resolve the issues through discussion and cooperation between HNE and the provider. When disciplinary issues arise, this policy is intended to ensure that the quality of care provided to members is not compromised, and to address the improper provider action promptly and effectively.

HNE retains the right to approve, suspend, or terminate providers based on instances of poor quality, without regard to the provider's status as determined by the health plan. Providers have the right to a peer review process in the event that their clinical privileges and provider panel status are restricted, suspended, or terminated.

Disciplinary Matters

Actions that affect a provider's ability to practice medicine, provide quality health care services to members, or to meet certain criteria for participation in the HNE network, or which would subject a provider to discipline pursuant to the regulations of the Massachusetts Board of Registration in Medicine or an equivalent agency of another state, shall be deemed to be Disciplinary Matters. Examples of such Disciplinary Matters are listed below. The following list is not all-inclusive, and HNE reserves the right to determine whether similar conduct not specifically listed shall be treated as a Disciplinary Matter. **If, in the judgment of the HNE Chief Medical Officer, a provider has engaged in conduct that the HNE CMO, or designee, believes to be a Disciplinary Matter, the provider may be immediately suspended from the HNE network, where appropriate, pending resolution of the matter.**

- Failure to maintain a professional relationship with members or with HNE. This refers to professional conduct that is not likely to cause harm to patients but is nonetheless inappropriate, such as insensitive or discriminatory behavior toward HNE members, rude or abusive behavior toward HNE members or employees, failure to cooperate with an HNE investigation under this policy, derogatory or demeaning statements about HNE, or any negative behavior that raises concerns about provider's commitment to working with HNE or its members

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- Engaging in unlawful or unethical behavior related to provider's professional conduct or concerning HNE or its members
- Practicing medicine in violation of the law or good and accepted medical practice
- Suspension or revocation of a provider's license to practice medicine in any jurisdiction in which the provider has been licensed
- Voluntary surrender of a provider's license to practice medicine in any jurisdiction in which the provider treats HNE members
- Suspension, revocation or voluntary surrender of the provider's narcotics license
- Adverse action against the provider taken or recorded by a professional society (e.g., initial or renewal membership denied, disciplinary action undertaken)
- Suspension, revocation or voluntary surrender of board certification
- Denial, suspension, reduction, revocation of privileges at any hospital
- Indictment for or otherwise charged with a criminal offense
- Medicare or Medicaid sanctions imposed on a provider
- Sanctions or limitations on license
- Malpractice
- Member complaints
- Giving false or misleading information in connection with HNE or hospital credentialing processes
- Practicing medicine while the ability to practice is impaired by drugs, alcohol, physical disability or mental instability
- Knowingly permitting, aiding, or abetting an unlicensed person to perform activities requiring a license
- Engaging in conduct that has the capacity to deceive or defraud
- Engaging in any conduct that warrants immediate termination of his or her contract with HNE as provided in that contract

Provider Appeals Rights

Should HNE make a decision to restrict, suspend or terminate a provider's participation "for cause", HNE shall notify a provider, in writing, of the corrective or disciplinary action imposed by HNE pursuant to this policy within 30 calendar days. Such notice may be provided via email, Certified US Mail, Return Receipt Requested, or fax. Notices sent under this policy shall be deemed to have been received by a provider or HNE upon the expiration of three days from the date of mailing, or upon completion of a fax or electronic mail transmission.

The procedure set forth below shall be followed by a provider where: (1) a provider disputes the HNE CMO, designee, or Credentialing Committee conclusion that the provider has engaged in conduct warranting further review and corrective or disciplinary action; or (2) a provider disputes that the particular corrective or disciplinary action imposed by the HNE CMO, designee, or Credentialing Committee is appropriate given the nature, severity, frequency or effect of the action, or any other relevant circumstances.

The following appeal procedure shall not be available to a provider who, in the good faith judgment of the HNE CMO, designee, or Credentialing Committee and based on all of the facts available to the CMO or designee at the time, has:

- Lost his or her license to practice medicine (or other discipline) in any jurisdiction
- Been convicted of a crime

At the appeals hearing the provider has the right to:

- Be represented by an attorney or other person of the provider's choice
- To have a record made of the proceedings, copies of which may be obtained by the provider upon payment of any reasonable charges associated with the preparation

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- To present evidence determined to be relevant by the subcommittee, regardless of the admissibility in a court of law, and to submit a written statement at the close of the hearing

First Level Appeals

- If within (14) calendar days of receipt of a notice imposing corrective or disciplinary action, a provider shall submit a written statement to the HNE Chief Medical Officer, or designee, setting forth the provider's grounds for appeal. Such statement shall include all relevant facts, circumstances and opinions upon which a provider's appeal is based.
- The HNE CMO, or designee, shall respond to the provider's written statement within 30 calendar days of receipt of the provider's written statement.
- If the HNE CMO, or designee, believes that the initial conclusion was correct, the CMO, or designee, shall so notify the provider in writing.
- If the HNE CMO, or designee, believes that the initial conclusion was not appropriate given the facts, circumstances and opinions raised in the provider's written statement, the CMO, or designee, shall so notify the provider in writing and shall include in such written statement the alternative corrective or remedial action, if any, imposed by HNE.

Second Level Appeals

- If a provider who is not satisfied with the result of a First Level Appeal, they may request in writing a review of the matter by the Credentialing Committee (CC), or another standing or ad hoc committee. Such request shall be made within 14 calendar days of receipt of notice of the decision under the First Level Appeal. The matter shall be brought to the Committee at the next regularly scheduled meeting or as soon thereafter, as is reasonably possible. Any provider on the Committee, who is in competition with the appealing provider, shall be excused from serving on the Committee, unless the two providers and HNE agree otherwise. In addition, the HNE Chief Medical Officer or designee shall be recused from serving on the Committee during Second Level Appeal proceedings.
- At the provider's option, his or her attorney may present the matter to the Committee on the provider's behalf. If the provider chooses to have an attorney, the provider must give at least 14 days advance written notice to HNE and must state in such notice the attorney's name and address. If an attorney appears on behalf of a provider, HNE may choose to have its attorney present the matter to the Committee on HNE's behalf. HNE shall give the provider written notice of its attorney's name and address at least five days prior to the date of the Committee meeting.
- At the Committee meeting, each party shall initially be given 30 minutes to address the Committee. HNE shall address the Committee first, followed by the provider. Each party shall then be given 10 minutes to respond to the statements made by the other party. The time limits may be extended upon agreement of each party and a majority vote of the members of the Committee.
- Within 30 days of the Committee meeting, the Committee shall notify the provider, in writing, of its decision. The Committee may affirm the decision of the HNE Chief Medical Officer, or designee, reverse the decision of the HNE Chief Medical Officer, or designee, or modify the decision of the HNE CMO, or designee, and order additional or alternative corrective action.

Third Level Appeals

If a provider or HNE is not satisfied with the result of a Second Level Appeal, the dispute will be submitted to an arbitrator. The arbitrator will conduct the proceeding in Springfield, Massachusetts, in accordance with the rules of the American Arbitration Association. The arbitrator's authority shall be limited to either affirming or denying the decision of the Credentialing Committee (CC), or another standing or ad hoc committee, and the arbitrator shall not have any authority to modify the decision of the Committee, unless HNE and the provider agree otherwise in a particular case. The decision of the arbitrator will be binding upon the parties and may be enforced by any court of competent jurisdiction. All costs and expenses of arbitration, excluding attorneys' fees, witness fees, and consultants' fees, will be shared equally by the parties.

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<u><i>1st Level Appeal</i></u>		
Notification	Time Frame	Method
HNE notification to provider of corrective action	Within 30 calendar days of imposed corrective action	Written statement *
Provider appeal notification to HNE	Within 14 calendar days of receipt of corrective action notification	Written statement *
The HNE CMO response to provider 1 st Level Appeal	Within 30 calendar days of receipt of the provider's written statement	Written statement *
<u><i>2nd Level Appeal</i></u>		
<u>Notification</u>	<u>Time Frame</u>	<u>Method</u>
A provider who is not satisfied with the decision of a 1st Level Appeal, may seek further review	Within 14 calendar days of receipt of the 1st level appeal decision	Written statement *
The HNE Committee Response to Provider 2 nd Level Appeal	Within 30 calendar days of the Committee's 2 nd Level Appeal decision	Written statement *

* Notifications can be corresponded via email or Certified U.S. Mail, Return Receipt Requested or Fax

Important Note about Suspension and Termination

Please note: If HNE determines that the health, safety, or welfare of HNE members is endangered by the conduct of any participating provider, or if the participating provider's license, or is limited, suspended, or revoked, HNE, or, if applicable, the PHO or similar organization through which the provider participates, may immediately terminate the provider from participation with HNE. HNE may also suspend such provider's participation pending any appeal to which the provider is entitled under the policy set forth in the above section or applicable agreements with HNE.