

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 1 of 15

1.0 Policy Statement

Appropriate notice and opportunity for a fair hearing and appeal for peer review shall be available to practitioners, as defined below, for the disciplinary actions identified in this policy.

2.0 Purpose

This policy outlines the process of distributing notices for fair hearing and appeal to practitioners who are subject to a disciplinary action (also called a professional review action) via a peer review committee process. The process is intended to satisfy federal and state law peer review protections for professional review actions that are taken:

- 2.1 in the reasonable belief that the action was in the furtherance of quality health care;
- 2.2 after a reasonable effort to obtain the facts of the matter;
- 2.3 after adequate notice and hearing procedures are afforded to the practitioner involved or after such other procedures as are fair to the practitioner under the circumstances; and
- 2.4 in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after meeting the requirements of this policy.

3.0 Scope

Practitioners, as defined below, who are subject to disciplinary actions not subject to Bylaws and rules and regulations of Kaiser Foundation Hospitals and specified by this policy.

4.0 Definitions

- 4.1 **Board:** refers to the Board of Directors of Hawaii Permanente Medical Group, Inc. (HPMG) or the Board of Directors of Kaiser Foundation Health Plan, Inc. (KFHP), depending upon which organization has taken or recommended the disciplinary action which entitles the practitioner to the procedural rights herein.
- 4.2 **Date of Receipt:** of any notice or other communication shall be deemed to be the date such notice or communication was delivered personally to the required addressee. If delivered by mail, such notice or communication shall be deemed received within 72 hours after being deposited, postage prepaid, in the United States mail in compliance with the Notice, unless the Practitioner presents reliable evidence that the date of actual receipt was more than 72 hours after being mailed, in which case date of receipt shall be the actual date of receipt as established by reliable evidence.
- 4.3 **Practitioner:** refers to the hereinafter named health care providers with whom HPMG or KFHP contracts or otherwise engages to provide patient care services to members of KFHP. They include Medical Doctors, Doctors of Osteopathy, Doctors of Dental Surgery, Doctors of Dental Medicine, Doctors of Podiatry Medicine, Doctors of Chiropractic, Doctors of Psychology, Doctors of Optometry and allied

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 2 of 15

health providers (e.g. Physician Assistants, Advanced Nurse Practitioners, Certified Registered Nurse Anesthetist).

4.4 Medical Disciplinary Cause or Reason: means a cause or reason(s) relating to a practitioner’s professional competence or professional conduct that can adversely affect the health or welfare of patients, members, or staff or the delivery of patient care. It can also be another action related to quality of care which requires that a report be made to a licensing board, or to the NPDB or other federal or state agency.

4.5 Medical Group: means Hawaii Permanente Medical Group, Inc. (HPMG).

4.6 KFHP: is Kaiser Foundation Health Plan, Inc.

4.7 NPDB: is the National Practitioner Data Bank.

4.8 Legal Counsel means:

4.8.1 HPMG’s legal counsel for peer review actions taken by HPMG and consolidated hearings as described herein; and

4.8.2 KFHP legal counsel for peer review actions taken by KFHP and consolidated hearings as described herein.

Legal Counsel includes personnel working under such Legal Counsel’s supervision and any other representative assisting Legal Counsel in the rendition of legal services.

4.9 Notice: refers to a written communication delivered personally to the required addressee or sent by mail, first class postage prepaid, certified or registered, return receipt requested, addressed to the required addressee at his or her address as it appears in the records of HPMG or KFHP.

4.10 Petitioner: refers to the practitioner who has requested a hearing pursuant to paragraph 5.4.2. of the “Provisions” section herein.

4.11 Presiding Officer: refers to the Hearing Officer of a hearing panel convened by a Peer Review Committee. If a hearing officer has not been appointed, the chair of the hearing panel shall be the presiding officer.

4.12 Participation: means the provision of direct patient care on behalf of the Kaiser Permanente Medical Care Program by a practitioner who has been approved to provide such patient care.

5.0 Provisions

Practitioners, as defined in the “Definitions” section herein, shall be entitled to the procedural rights set forth in this procedure when subject to a disciplinary action by the HPMG or KFHP for a medical disciplinary cause or reason.

5.1 Legal Status and Confidentiality of the Notice and Hearing Procedure

The proceedings, communications, and records of this peer review procedure are confidential and privileged from discovery and shall not be disclosed or shared with others outside this procedure, unless disclosure is specifically required by law, or authorized by Legal Counsel. The procedures described in this policy are

Proprietary Information. Kaiser Permanente. All rights reserved.

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 3 of 15

peer review committee procedures for evaluation of practitioner performance and are subject to all protections for the peer review committee process under State and Federal law. All other applicable privileges are also expressly preserved, including all self-critical privileges and the attorney-client privilege. The proceedings, communications and records of the Committee are confidential and privileged from discovery and shall not be disclosed outside this procedure, unless disclosure is required or allowed under applicable law and is approved by Legal Counsel. These procedures are designed and intended to provide the fullest protection from civil liability and discoverability of peer review activities. Nothing in these procedures or related peer review policies of any Kaiser entity is intended or shall be deemed to waive the fullest peer review protections afforded under State and Federal law.

5.2 Exhaustion of Remedies

If an adverse action specified in Section 5.3.1 is made or proposed, the affected practitioner must exhaust the hearing and appeal rights described in this procedure before resorting to formal legal action challenging the decision, the decision making process, or the hearing procedure.

5.3 Disciplinary Actions Subject To This Procedure

5.3.1 Grounds For Hearing

Any one or more of the following actions or proposed actions shall constitute grounds for a hearing:

- 5.3.1.1** denial, reduction, or failure to renew participation or privileges based upon a medical disciplinary cause or reason;
- 5.3.1.2** suspension or imposition of restrictions on employment, participation, or privileges (excluding initial proctoring for new clinical privileges) for a cumulative total of more than fourteen (14) days for any 12-month period, or termination of employment, associateship, participation, or privileges based on a medical disciplinary cause or reason;
- 5.3.1.3** denial or termination of employment, associateship, participation, or privileges based upon a medical disciplinary cause or reason, when HPMG or KFHP notifies the practitioner that at least one of the bases for the action constitutes a cause or reason which requires a report pursuant to the Health Care Quality Improvement Act of 1986; or "Hawaii Revised Statutes Section 663-1.7";²
- 5.3.1.4** summary suspension of employment, participation, or privileges, or restriction of privileges, in excess of fourteen (14) days based upon a medical disciplinary cause or reason.

If any of the above actions or proposed actions is taken for a reason other than for a medical disciplinary cause or reason, this procedure shall not apply, and the action or proposed action shall not be subject to this procedure. If HPMG and KFHP take any such action or proposed action

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 4 of 15

based upon the same or similar facts and circumstances, there shall be a single consolidated hearing.

Disciplinary action imposed or recommended by a Kaiser Foundation Hospital is subject to the notice and hearing procedure set forth in that hospital's Professional Staff Bylaws. If such action or proposed action is based upon the same or similar fact and circumstance as lead to an action or proposed action by HPMG and/or KFHP, there shall be a single consolidated hearing.

5.3.2 Exceptions To Rights Under This Procedure

5.3.2.1 Medical-Administrative Officers. This procedure, and the fair hearing and appeals rights hereunder, do not apply to the removal of a person from a medical-administrative position. Removal from office of such persons and loss or modification of employment, participation, or privileges as removal shall instead be governed by the terms of their individual contracts and agreements with HPMG or KFHP. However, this procedure shall apply to the extent that such a practitioner is subject to a disciplinary action specified in Section 5.3.1.

5.3.2.2 Automatic Suspension or Limitation of Practice Privileges. No hearing shall be provided and this procedure shall not apply when a practitioner's professional license or legal credential to practice or authority to prescribe has been revoked, suspended or expired, and/or the practitioner's membership or clinical privileges at one of HPMG's or KFHP's contracting hospitals has been suspended, revoked, denied, or not renewed. In cases in which the practitioner has also been placed on probation but he or she still may practice, the issues can be considered at a hearing, if requested, and shall include evidence concerning whether the practitioner shall continue to participate with those limitations imposed, not whether the action by the licensing or credentialing authority, or the DEA, or other lawful authority was warranted.

5.3.2.3 Expiration of Contract. This procedure, and appeal rights hereunder, do not apply to the termination of services of a practitioner by the expiration of the contract under which such services are provided.

5.4 Pre-Hearing Procedures

5.4.1 Notice of Action or Proposed Action

A practitioner who is the subject of any action or proposed action specified in Section 5.3.1. is entitled to written notice from the Regional Credentialing and Privileging Committee (or its delegate), which states:

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 5 of 15

- 5.4.1.1** the action or proposed action and the reason(s) for such action or proposed action;
- 5.4.1.2** the right to a hearing
- 5.4.1.3** the time limit within which a hearing must be requested, which time limit may not be less than 30 days;
- 5.4.1.4** that the final action may be reported to the appropriate local, state, and/or federal agencies as required by law
- 5.4.1.5** that the hearing will be before a panel of individuals who are not in direct economic competition with the practitioner involved, and who are appointed by the individual or body whose decision prompted the hearing; and
- 5.4.1.6** the hearing procedures and rights described in section 5.5 below.

Before sending notice of any action or proposed action to invoke this hearing procedure, the Kaiser Credentialing and Privileging Committee (or its delegee) shall send to Legal Counsel for legal review and approval, a copy of the proposed notice to the practitioner, along with a confidential explanation of the case. Upon approval by Legal Counsel, notice may be sent to the practitioner regarding the hearing process.

5.4.2 Request for Hearing

A practitioner who wishes to appeal any action or proposed action specified in paragraph 5.3.1. shall deliver a written request for a hearing to the Office of the Medical Director or as otherwise instructed in the notice of action or proposed action no more than thirty (30) days after the date of receipt of the notice of the action or proposed action.

5.4.3 Waiver of Hearing

In the event the practitioner does not request a hearing within such time and in the manner as set forth herein above, he or she shall be deemed to have waived the right to a hearing and appeal and accepted the decision, action, or proposed action which shall then become the final action of HPMG or KFHP.

5.4.4 Notice of Charges, Time, and Place for Hearing

Upon receipt of a timely request for a hearing, the petitioning practitioner shall be given notice from the Kaiser Credentialing and Privileging Committee (or its delegee) stating:

- 5.4.4.1** the place, time, and date of the hearing, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date of receipt of the request for hearing unless otherwise agreed to by the parties,

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 6 of 15

5.4.4.2 the reasons the action was taken or is being proposed, including the acts or omissions for which the petitioner is being charged; and

5.4.4.3 a list of witnesses, if any, expected to testify at the hearing on behalf of the individual or body whose decision prompted the hearing.

5.4.5 The Hearing Panel

Upon receipt of a timely request for a hearing, the Medical Director shall appoint a panel of three individuals, who are not in direct economic competition with the petitioner, who have not acted as accusers, investigators, fact finders, or decision makers in the same matter, and who have not previously taken an active part in the matter being appealed. The majority of the hearing panel members must be peers of the practitioner under review.³ One member of the panel shall be designated as the Chair. The panel shall include, where feasible, a practitioner practicing the same specialty as the petitioner. Members of the professional staff of other Permanente Medical Groups may or may not be appointed to serve on the panel. The Hearing Panel constitutes a peer review committee.

The Medical Director shall notify the parties of the names and specialties of the hearing panel. The petitioner shall have the right to challenge the impartiality of any member of the panel. Challenges should be filed within five (5) days of the notice of the composition of the panel or as soon as possible upon notice of a panel member's bias or partiality. The presiding officer shall rule upon such challenges, unless he or she is challenged, in which case the Medical Director shall rule on such challenge.

5.4.6 Continuances

Continuances may be granted upon agreement of the parties or by the presiding officer upon a showing of good cause.

5.4.7 The Hearing Officer

The Medical Director or his or her designee may appoint a Hearing Officer to preside at the hearing, to assist the Hearing Panel's hearing process. The Hearing Officer shall be an attorney at law qualified to preside over a quasi-judicial hearing and preferably, with experience in medical staff matters. The Hearing Officer shall gain no direct financial benefit from the outcome of the hearing. He or she must not act as a prosecuting officer, an advocate for HPMG, KFHP, the person or body whose action prompted the hearing, or the petitioner. If requested by the Hearing Panel, the Hearing Officer may be present during its deliberations and be a legal advisor to the panel, but he or she shall not be entitled to vote.

5.4.8 Discovery and Pre-hearing Disputes

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 7 of 15

- 5.4.8.1** The parties shall each have the right to inspect and copy, at the requesting party's expense, any documentary information relevant to the charges which is in the possession or under the control of the other party. The right to inspect and copy documentary information does not extend to confidential information referring solely to individually identifiable practitioners, other than the petitioner, nor to confidential information protected by attorney client privilege, attorney work product or other privileges.
- 5.4.8.2** The parties shall exchange lists of witnesses expected to testify and copies of all documents expected to be introduced as soon as reasonably practical after notice of the hearing, but in no case less than fifteen (15) days before the date of the hearing. Each party shall promptly notify the other party of any change in its list of witnesses.
- 5.4.8.3** The failure of either party to provide access to information at least fifteen (15) days before the hearing shall constitute good cause for continuance.
- 5.4.8.4** The Hearing Officer shall consider and rule upon any request for access to information, and may impose any safeguards that the protection of the peer review process and justice requires.
- 5.4.8.5** It shall be the duty of the parties to exercise reasonable diligence in promptly notifying the Hearing Officer of anticipated procedural disputes before the scheduled hearing so that decisions concerning such matters may be made in advance of the hearing. Any continuing objections to any pre-hearing decisions may be made at the hearing

5.5 Hearing Procedures

5.5.1 Failure to Appear

Failure of the petitioner to personally appear and to proceed at the hearing without good cause shall be deemed to constitute voluntary acceptance of the action or proposed action and shall constitute final action of HPMG or KFHP.

5.5.2 Record of the Hearing

The Hearing Panel shall maintain a record of the hearing by one of the following methods: a certified shorthand reporter present to make a record of the hearing, or a recording of the proceedings. The cost of any certified shorthand report and transcription of the proceeding shall be borne by the party requesting the report and/or transcription. The Hearing Panel shall take testimony under oath or by affirmation under penalty of perjury.

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 8 of 15

5.5.3 Rights of the Parties and Miscellaneous Rules

At the hearing, both parties shall have the following rights:

- 5.5.3.1** to be represented by legal counsel or any other representative
- 5.5.3.2** to ask Hearing Panel members and the Hearing Officer questions which are directly related to determining whether they are impermissibly biased and to challenge the impartiality of any member or the Hearing Officer; (challenges directed at one or more members of the committee shall be ruled on by the presiding officer; challenges directed to the presiding officer shall be ruled on by the Medical Director),
- 5.5.3.3** to call and examine witnesses,
- 5.5.3.4** to introduce exhibits or other documents,
- 5.5.3.5** to cross-examine or otherwise attempt to impeach any witness who shall have testified orally on any matter relevant to the issues, and otherwise to rebut any evidence,
- 5.5.3.6** to be provided with all information made available to the Hearing Panel,
- 5.5.3.7** to call the other party as a witness and examine him or her as if under cross-examination, and
- 5.5.3.8** to submit a written statement in support of his or her position, (which is preferred prior to or at the beginning of the hearing but may be submitted at the close of the hearing).

The hearing shall be conducted under informal rules of evidence, and the rules of law relating to the examination of witnesses and presentation of evidence shall not apply in any hearing conducted hereunder. Any relevant evidence, including hearsay, shall be admitted by the Hearing Officer if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law.

The Hearing Panel may interrogate the witnesses or call additional witnesses if it deems such action appropriate.

The Hearing Panel may request each party to submit a written statement in support of his, her, or its position following the conclusion of the presentation of oral testimony.

5.5.4 Basis of Decision

The decision of the Hearing Panel shall be based on the evidence and may consist of the following:

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 9 of 15

- 5.5.4.1** oral testimony of witnesses;
- 5.5.4.2** exhibits and other documents and records which shall have been made a part of the hearing record;
- 5.5.4.3** briefs or written statements presented in connection with the hearing; and
- 5.5.4.4** other evidence determined by the Hearing Panel to be relevant.

5.5.5 The Hearing – Burdens of Presenting Evidence and Proof

The individual or body whose action or recommendation prompted the petitioner’s request for the hearing shall have the initial burden to present evidence that supports the action or recommendation. Thereafter, the petitioner shall have the burden of presenting the evidence and proving, by a preponderance of evidence, that the adverse action or recommendation should be rejected and that he or she has possessed and demonstrated the requisite professionalism, conduct and behavior, and/or the necessary qualifications and competence.

5.5.6 Adjournment and Conclusion

The presiding officer may adjourn the hearing and reconvene the same at the convenience of the participants without special notice. Upon conclusion of the presentation of oral and written evidence and argument, the hearing shall be closed. The Hearing Panel shall thereupon, outside of the presence of any other person, except the Hearing Officer, conduct its deliberations and render a decision.

5.5.7 Decision of the Hearing Panel

Within fifteen (15) days after final adjournment of the hearing, the Hearing Panel shall issue a written decision to include findings of fact, a conclusion articulating the connection between the findings of fact, the decision reached on each matter continued in the notice of charges, and an explanation of the procedure for appealing the decision.

The Hearing Panel should decide whether or not to recommend affirmation of the action or proposed action, and reasons thereof. The Hearing Panel also may remand the matter to the individual or body whose action or proposed action prompted the hearing, for further consideration of specified issues. If the Hearing Panel decides the action or proposed action should not be affirmed, the Hearing Panel’s report may recommend modification or rejection of the action or proposed action and the reasons for their recommendations.

The decision and report shall be submitted first to Legal Counsel for review and approval, and upon approval, delivered to the Medical Director or, if the disciplinary action is taken by KFHP, to the Regional Manager. At the same time, a copy of the report and decision shall be delivered to the petitioner by registered or certified mail, return receipt

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 10 of 15

requested. The decision of the Hearing Panel shall be considered final, subject only to the right of appeal to the Board and the Board's decision as provided in Section 5.6, below.

5.6 Appeals Procedure

5.6.1 Appeals to the Board

- 5.6.1.1** Time for Appeal. Within ten (10) days after the date of the receipt of the Hearing Panel's decision, either the petitioner, or the individual or body whose decision prompted the hearing may request an appellate review by the Board. Said request shall be delivered to the Medical Director (or if the disciplinary action is taken by KFHP, to the Senior Vice President) in writing, either in person, or by certified or registered mail, return receipt requested, and it shall include a brief statement of the reason for the appeal.
- 5.6.1.2** Waiver of Appellate Review. If such appellate review is not requested in the manner and within such period specified above, both sides shall be deemed to have accepted the Hearing Panel's decision and recommendation, and it shall thereupon become the final action of HPMG or KFHP. Such final recommendation shall be presented to the Board within thirty (30) days, or at the next Board meeting following the recommendation, whichever is later. The final recommendation shall not be binding on the Board.
- 5.6.1.3** Ground for Appeal. The written request for an appeal shall include the grounds for appeal and a clear and concise statement of the facts in support of the appeal. The grounds for appeal from the hearing shall be:
- 5.6.1.3.1** substantial non-compliance with the procedures required by this procedure or applicable law so as to deny a fair hearing;
 - 5.6.1.3.2** the decision was not supported by substantial evidence based on the hearing record or such additional information as may be permitted pursuant to paragraphs 5.5.2 and 5.5.3, or;
 - 5.6.1.3.3** the action was taken arbitrary, unreasonable, or capricious.
- 5.6.1.4** Appeal Board. When an appellate review is requested, the Medical Director, or if the disciplinary action is taken by KFHP, the Senior Vice President, or the Board may appoint an Appeal Board which shall be composed of at least three (3) members. Alternatively, the Board may itself conduct the appellate review, without utilizing an Appeal Board process. Knowledge of the matter involved shall not preclude any

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 11 of 15

person from serving as a member of the Appeal Board, so long as that person did not take part in a prior investigation, decision, or hearing on the same matter. Any Appeal Board or Board that conducts the appellate review is a peer review committee.

5.6.1.5 Time, Place, and Notice. When appellate review is requested pursuant to the preceding subparagraph, the Appeal Board (or the Board, if an Appeal Board is not appointed) shall, within fifteen (15) days after the date of receipt of such appeal notice, schedule and arrange for an appellate review. The Appeal Board shall give the petitioner notice of the time, place, and date of the appellate review, and shall not be more than 45 days from the date of receipt of the request, provided that the request is from a petitioner who is under suspension. The appellate review shall be held as soon as the arrangements may reasonably be made, not to exceed thirty (30) days from the date of receipt of the request for appellate review. The time for appellate review may be extended by agreement of the parties or for good cause by the Appeal Board, the Medical Director (or Senior Vice President, as applicable) or their designee.

5.6.2 Appeal Board Proceedings

The proceedings by the Appeal Board shall be in the nature of an appellate hearing based upon the record before the Hearing Panel. The Appeal Board has to accept additional oral or written evidence, subject to a foundation showing that such evidence could not have been made available to the Hearing Panel in the exercise of reasonable diligence, and subject to the same rights of cross-examination of confrontation provided at the hearing. The Board may remand the matter to the Hearing Panel for the taking of further evidence and decision.

Each party shall have the right to be represented by legal counsel or any other representative designated by the party, the right to appear and respond, and the right to present a written statement in support of his or her position on appeal. At the conclusion of the argument, the Appeal Board may thereupon conduct, at a time convenient to itself, deliberations outside the presence of the appellant and respondent and their representatives.

If the Board conducts the appellate review process without utilizing an Appeal Board, the Board shall follow the procedure above.

5.6.3 Decision

Within fifteen (15) days after the conclusion of the appellate review proceeding, the Appeal Board, if appointed, shall render a final written decision setting forth the basis thereof and its recommendation to the Board. The Appeal Board's decision shall include the basis for the

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 12 of 15

outcome. Prior to being finalized or sent to the Board or practitioner, the Appeal Board's proposed decision and recommendation shall be submitted to Legal Counsel for review and approval, and upon approval, submitted to the Board. Within ten (10) days of the receipt of the Appeals Board's decision and recommendation, the Board shall render a decision in writing. The Board may affirm, modify, or reverse the decision or, at its discretion, remand the matter for further review and recommendation by the Hearing Panel.

If the Board conducts the appellate review process without utilizing an Appeal Board, the Board shall render a final written decision setting forth the basis thereof. Prior to being finalized or sent to the practitioner, the Board's proposed written decision shall be submitted to Legal Counsel for review and approval

Copies of the decision of the Appeal Board, if appointed, and the Board shall be delivered to the practitioner by personal delivery or by certified or registered mail, return receipt requested. Copies also shall be sent to the Medical Director and Legal Counsel.

5.6.4 Further Review

5.6.4.1 If the matter is remanded to the Hearing Panel, the Panel shall promptly conduct its review and make its recommendation to the Board in accordance with the instructions given by the Appeal Board. This further review process and the time required to report back shall in no event exceed thirty (30) days in duration, except as the parties may otherwise agree. The proposed recommendation and report shall be submitted first to Legal Counsel for review and approval, and upon approval, submitted to the Board.

5.6.4.2 The Appeal Board or, as applicable, the Board will review the recommendation made upon further review and render its decision within ten (10) days, a copy of which shall be delivered to each party by personal delivery or by certified or registered mail, return receipt requested. The proposed decision shall be submitted first to Legal Counsel for review and approval, prior to submission to the parties. Copies also shall be sent to the Medical Director and Legal Counsel.

5.6.5 Exhaustion of Remedies and Waiver of Objection

5.6.5.1 A party's failure to timely invoke and exhaust the appeal rights set forth in this procedure shall preclude the party from seeking any untimely appeal or further review of the outcome of the procedure.

5.6.5.2 A party's failure to promptly object to any failure to adhere to any of the procedures set forth in this policy shall be deemed a waiver of that objection. Such procedural failure

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 13 of 15

cannot be the basis of any appeal or further review if the original objection was not made promptly at a time when the error could be promptly addressed.

- 5.6.5.3** If a Practitioner is subjected to a Disciplinary Action governed by this Procedure without a hearing and without any notice of the right to hearing as specified in Sections 5.4.1.2 and 5.4.1.3 above, the Practitioner may within thirty (30) days after receipt of notice of such Disciplinary Action, file a written objection and request for a hearing with the Chair of the Kaiser Credentialing and Privileging Committee. If the Disciplinary Action was governed by this Procedure and required advance notice of a hearing under Sections 5.4.1.2 and 5.4.1.3 above, then the Kaiser Credentialing and Privileging Committee shall issue a notice of hearing for the Disciplinary Action and proceed in accordance with the Procedure set forth above and shall determine whether to rescind, suspend or continue any Disciplinary Action pending outcome of the hearing process.

6.0 Maintenance

This policy shall be reviewed at least annually, and revised periodically, to assure continuing relevance and compliance with regulatory and accrediting standards, hospital bylaws, rules and regulations, and legal statutes.

7.0 References/Appendices

- 7.1** United States Code (1997): Title 42 Chapter 117 Encouraging Good Faith Professional Review Activities. Also referred to as the "Health Care Quality Improvement Act of 1986" with the last amendment in 1997.
- 7.2** Hawaii Revised Statutes (1997) Chapter 663 Tort Actions Section 1.7.
- 7.3** U.S. government (10/1/03) Title 42 CFR 422.202 Participation Procedures.

8.0 Hawaii Market Endorsement and Approval:

Contact Person:	Brian McClendon, MHA Manager, Medical Staff Services (Credentialing & Privileging)	
Reviewed by:	Matthew Karpan, Director of Quality Metrics HPMG Legal Julianne Chun, HPMG General Counsel	Date: 12/07/2023 Date: 05/17/2021
Endorsed by:	Credentials & Privileging Committee HPMG Leadership Council	Date: 12/07/2023 Date: 05/26/2021
Approved by:	John Yang, MD, HPMG President Hospital Executive Committee	Date: 05/26/2021 Date: 08/23/2021

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 14 of 15

	Quality Committee	Date: 08/12/2021
Last Review:	12/07/2023	
Next Review:	12/07/2024	

Policy Life History

Action⁽¹⁾	Approval	Effective
Original	04/01/1995	04/01/1995
Update	05/16/2018	05/16/2018
Update	04/25/2019	04/25/2019
Update	05/19/2020	05/19/2020
Revision	08/23/2021	08/23/2021
Update	11/29/2022	11/29/2022
Update	12/07/2023	12/07/2023

⁽¹⁾ Update = No material change to the policy content, policy is reviewed and renewed with no, or non-material changes. Revision = Material change is included in the renewed policy.

Policy Title: Notice and Fair Hearing Procedure	Policy Number: 6226-02-F
Owner Department: Professional Competency Department	Effective Date: 12/07/2023
Custodian: Manager, Medical Staff Services (Credentialing & Privileging)	Page: 15 of 15

Workplace Safety Key Points (WSKP) are included in this document for your protection

1. Always use Standard Precautions including Personal Protective Equipment (PPE) when handling any blood/body fluid, liquids, and chemicals (e.g. disinfectant) or when handling spills.
2. Handwashing is the single most effective means of controlling the spread of infection; remember to always **WASH YOUR HANDS.**
3. Dispose of sharps according to policy and procedure. **NO NEEDLE RECAPPING.**
4. Exercise caution when changing full sharps containers.
5. When lifting, bend at the hips and/or knees and keep your back straight.
6. Push, rather than pull. It is easier to utilize your weight advantage when pushing.
7. Use a step ladder or non-wheeled step stool for out-of-reach items. Do not use chairs.
8. Know your spill procedure and the location of your MSDS forms.
9. Ensure your work area is ergonomically correct.