

Policy Title: Procedure For Requesting and Responding to Requests for Peer Review Information

Policy:

It is the policy of the Loma Linda University Medical Center’s Medical Staff to obtain peer review information regarding applicants to and members of its Medical Staff as authorized by California Business & Professions Code Section 809.08 and to comply with legitimate requests made under this statute.

Background:

California Business & Professions Code Section 809.08 recognizes that the sharing of information between peer review bodies is necessary to protect the public health. Accordingly, Section 809.08 authorizes the sharing of peer review information gathered about a licentiate who was subject to peer review for a medical disciplinary cause or reason.¹ A medical disciplinary cause or reason is “that aspect of a licentiate’s competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.”

Peer Review Information generally includes, but is not limited to: allegations and findings, explanatory or exculpatory information submitted by the licentiate, any conclusions made, any actions taken, and the reasons for those actions, to the extent not otherwise prohibited by applicable federal or state law. OPPEs and FPPEs generally do not qualify as peer review information, unless those evaluations were folded into and/or became a part of a formal investigation, initiated by the Medical Staff Executive Committee, that could have and/or did lead to an action that would be reportable to the Medical Board of California and/or the National Practitioner Data Bank.

Loma Linda University Medical Center’s Medical Staff is committed to making objective, evidence-based decisions regarding the appointment of physicians to its Medical Staff and evaluating requests for clinical privileges. Consistent with Section 809.08, it is the policy of this Medical Staff to request peer review information from peer review bodies that may have information regarding an applicant to or member of the Medical Staff and to assess that information in any evaluation of the applicant or member.

It is also the policy of this Medical Staff to share peer review information it has gathered about a licentiate, under review for a medical disciplinary cause or reason, with other peer review bodies as required by Section 809.08. The Medical Staff will provide peer review information to any entity that provides it with: (1) a written release from the licentiate; (2) a mutually agreeable peer review sharing agreement that indemnifies the Medical Staff from any and all claims, demands, liabilities, losses, damages, costs, and expenses, including reasonable attorney’s fees, resulting from the potential improper future release or disclosure of peer review information shared; and (3) reimbursement for the reasonable

¹ A “Peer review body” includes: (i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare Program as an ambulatory surgical center; (ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code; and (iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code. Cal. Bus. & Prof. Code § 805(a)(1)(B).

production costs incurred with processing these records. The Medical Staff will not provide peer review information to any peer review body absent such a request.

Procedures:

Requesting Peer Review Information From A Peer Review Body

- A.** Medical Staff Administration will request peer review information from each peer review body identified in an appointment or reappointment application. Medical Staff Administration will also request peer review information from any other peer review body as needed for any ongoing peer review.
- B.** In the context of an appointment or reappointment, this request will be included in the informational request letter sent to a peer review body. A separate letter will be sent to obtain peer review information for any ongoing peer review not involving an applicant for appointment or reappointment.
- C.** At the request of a responding peer review body, Medical Staff Administration will provide it with executed copies of: (1) a written release from the licentiate; (2) a mutually agreeable peer review sharing agreement; and (3) reimbursement for the reasonable costs incurred in processing the request.
- D.** Peer review information received from a responding peer review body will be maintained in the applicant's and/or member's credentials file. Information received in connection with a licentiate's application for appointment or reappointment, will be included in the evaluation of the licentiate's application as outlined in the Medical Staff's Bylaws, Rules & Regulations, and any pertinent credentialing policies.
- E.** Peer review information received from a peer review body will only be used for peer review purposes.
- F.** Upon request, Medical Staff Administration will make these documents available to the applicant/member for his/her review.

Responding to Requests for Peer Review Information From Another Peer Review Body

- G.** Upon receipt of a request for peer review information from a peer review body regarding a Medical Staff member, Medical Staff Administration will review the member's credentials file and determine whether the member has been, or is currently subject to, peer review for a medical disciplinary cause or reason.
- H.** If no peer review information exists, then Medical Staff Administration will disclose that no such information exists as part of its standard verification letter.
- I.** If peer review information does exist, but the investigation is currently ongoing, then Medical Staff Administration will send a letter to the requesting peer review body, advising it that a peer review investigation is ongoing and that Medical Staff Administration will follow-up on this request once the action becomes final.
- J.** If peer review information exists and the investigation has been completed, Medical Staff Administration will identify the documents containing relevant peer review information and will estimate the cost of producing these documents to the requesting peer review body. Production costs will be calculated by charging \$.50 cents per page.

K. Medical Staff Administration will then send a letter to the requesting peer review body explaining that relevant peer review information exists. Medical Staff Administration will ask the requesting body to provide it with an executed copy of a written release from the licentiate, a mutually agreeable peer review sharing agreement, and a commitment to reimburse the estimated production costs.

L. Upon receipt of the executed release, executed peer review sharing agreement, and payment of the estimated production costs, Medical Staff Administration will prepare a copy of the pertinent peer review documents for review and redaction. The information to be redacted will include, but not be limited to: the name of any individual other than the member under review (*i.e.*, the names of any proctor, committee member, physician, or hospital staff personnel involved in the peer review); any personal health information protected by the Health Insurance Portability and Accountability Act; information protected by the attorney-client privilege; and information protected by any other applicable State or Federal law.

M. Consultation with Medical Staff legal counsel should be sought regarding any concerns with the production of information as required by California Business & Professions Code Section 809.08.

N. Medical Staff Administration will retain a copy of all information transmitted in response to a request.

Adopted by MSEC 5-7-12
Approved by Board 5-22-12