



Ohio Administrative Code

Rule 3335-43-05 Peer review and corrective action.

Effective: November 12, 2020

(A) Informal peer review.

(1) All medical staff members agree to cooperate in informal peer review activities that are solely intended to improve the quality of medical care provided to patients at the Ohio state university hospitals.

(2) Information indicating a need for informal review, including patient complaints, disagreements, questions of clinical competence, inappropriate conduct and variations in clinical practice identified by the clinical departments or divisions and medical staff committees shall be referred to the chair of the practitioner evaluation committee.

(3) The practitioner evaluation committee chair or his or her designee may obtain information or opinions from medical staff members or credentialed providers as well as external peer review consultants pursuant to criteria outlined in university bylaws. The information or opinions from the informal peer review may be presented to the practitioner evaluation committee or another designated peer review committee.

(4) Following the assessment by the practitioner evaluation committee chair or his or her designee, the practitioner evaluation committee may make recommendations for educational actions of additional training, sharing of comparative data or monitoring or provide other forms of guidance to the medical staff member to assist him or her in improving the quality of patient care. Such actions are not regarded as adverse, do not require reporting to any governmental or other agency, and do not invoke a right to any hearing.

(5) At the conclusion of the evaluation, the practitioner evaluation committee chair or his or her designee submits a report to the applicable clinical department chief and the chief medical officer. The chief of the clinical department and the chief medical officer shall evaluate the matter to determine the appropriate course of action. They shall make an initial written determination on



whether:

(a) The matter warrants no further action;

(b) Informal resolution under this paragraph is appropriate. The chief of the clinical department and the chief medical officer shall determine whether to include documentation of the informal resolution in the medical staff members file. If documentation is included in the members file, the affected member shall have an opportunity to review it and may make a written response which shall also be placed in the file. Informal review under this paragraph is not a procedural prerequisite to the initiation of formal peer review under paragraph (B) of this rule; or

(c) Formal peer review under paragraph (B) of this rule is warranted.

(6) In cases where the chief of the clinical department and chief medical officer cannot agree on the need for formal peer review, the matter shall be submitted for formal peer review and determined as set forth in paragraph (B) of this rule.

(B) Formal peer review.

(1) Formal peer review may be initiated when a member of the medical staff of the Ohio state university hospitals:

(a) Fails to adhere to standards of patient care and professional conduct appropriate for a physician practicing in an academic medical center as determined by the medical staff;

(b) Is disruptive to the operation of the Ohio state university hospitals;

(c) Violates the bylaws, rules and regulations of the medical staff, the Ohio state university Wexner medical center board, or the board of trustees of the Ohio state university;

(d) Violates state or federal law; or

(e) Is responsible for acts or omissions detrimental to patient safety or to the quality or efficiency of



patient care within the Ohio state university hospitals; or

(f) Is responsible for acts or omissions damaging to the reputation of the medical staff of the Ohio state university hospitals.

Formal peer review may be initiated by a chief of a clinical department, the chief medical officer, any member of the medical staff, the chief executive officer of the Ohio state university hospitals, the dean of the college of medicine, any member of the board of the Ohio state university hospitals, or the vice president for health services. All requests for formal peer review shall be in writing, shall be submitted to the chief medical officer, and shall specifically state the conduct or activities which constitute grounds for the requested action.

(2) The chief medical officer shall promptly deliver a written copy of the request for formal peer review to the affected member of the medical staff, in a confidential manner. The chief medical officer shall then conduct a preliminary review to verify the facts related to the request for formal peer review, and within thirty days, make a written determination. If the chief medical officer decides that no further action is warranted, the chief medical officer shall notify the person(s) who filed the request for formal peer review and the member accused, in writing, that no further action will be taken.

(3) Whenever the chief medical officer determines that formal peer review is warranted, he or she shall refer the request for formal peer review to the formal peer review committee. The affected member of the medical staff shall be notified of the referral to the formal peer review committee, and be informed that medical staff bylaws shall govern all further proceedings.

(4) The executive vice president for health sciences or designee shall exercise any or all duties or responsibilities assigned to the chief medical officer under university rules for implementing corrective action and appellate procedure if:

(a) The chief medical officer is the medical staff member charged;

(b) The chief medical officer has a financial interest or a relationship with any person that may have an improper effect on the exercise of his or her judgment in the matter, or may be perceived to have



such an effect.

(5) The formal peer review committee shall investigate every request and shall deliver written findings and recommendations for action to the chief of the clinical department. The formal peer review committee may recommend a reduction, suspension or revocation of the medical staff members clinical privileges or other action as it deems appropriate. In making its recommendation the formal peer review committee may consider, relevant literature and clinical practice guidelines, the opinions and views expressed throughout the review process, information or explanations provided by the member under review, and other relevant information. Prior to making its report, the committee shall afford the medical staff member against whom the action has been requested an opportunity for an interview. At such interview, the medical staff member shall be informed of the specific actions or omissions alleged to constitute grounds for formal peer review and shall be given copies of any statements, reports, opinions or other information compiled at prior stages of the proceedings. The medical staff member may furnish written or oral information to the formal peer review committee at this time and shall be given an opportunity to discuss, explain, or refute the allegations and to respond to any statements, reports or opinions previously compiled in the proceedings. However, such interview shall not constitute a hearing, but shall be investigative in nature. The medical staff member shall not be represented by an attorney at this interview. The written findings and recommendations for action are expected to be submitted within ninety days, unless an extension is deemed necessary by the committee.

(6) Upon receipt of the written report and recommendation from the formal peer review committee, the chief of the clinical department shall make his or her own written recommendation for corrective action and forward that recommendation along with the findings and recommendations of the formal peer review committee to the chief medical officer.

(7) The chief medical officer shall decide whether to accept, reject or modify the recommendation of the chief of the clinical department. If the chief medical officer decides the grounds are not substantiated, the chief medical officer will notify the formal peer review committee, the chief of the clinical department, the person(s) who filed the complaint and the affected medical staff member, in writing, that no further action will be taken.

If the chief medical officer finds the grounds for the requested corrective action are substantiated, the



chief medical officer shall promptly notify the affected medical staff member of that decision and the corrective action that will be taken. This notice shall advise the affected medical staff member of his or her right to request a hearing before the medical staff administrative committee pursuant to rule 3335-43-06 of the Administrative Code and shall also include a statement that failure to request a hearing in the timeframe prescribed in this rule shall constitute a waiver of rights to a hearing and to an appeal on the matter and the affected medical staff member shall also be given a copy of the rule 3335-43-06 of the Administrative Code. This notification and an opportunity to exhaust the administrative hearing and appeal process shall occur prior to the imposition of the proposed corrective action unless the emergency provisions outlined in paragraph (D) of this rule apply. This written notice by the chief medical officer shall be sent certified return receipt mail to the affected medical staff member's last known address as determined by university records.

(8) If the affected member of the medical staff does not make a written request for a hearing to the chief medical officer within thirty-one days after receipt of the adverse decision, he or she shall be deemed to have waived the right to any review by the medical staff administrative committee to which the staff member might otherwise have been entitled on the matter.

(9) If a timely, written request for hearing is made, the procedures set forth in rule 3335-43-06 of the Administrative Code shall apply.

(C) Composition of formal peer review committee.

(1) When the determination that formal peer review is warranted is made, the chief of the clinical department shall select three members of the medical staff to serve on a formal peer review committee.

(2) Whenever the questions raised concern the clinical competence of the member under review, the chief of the clinical department shall select members of the medical staff to serve on the formal peer review committee who shall have similar levels of training and qualifications as the member who is subject to formal peer review.

(3) An external peer review consultant may serve as a member of the peer review committee whenever:



(a) A determination is made by the chief of the clinical department and the chief medical officer that the clinical expertise needed to conduct the review is not available on the medical staff;

(b) The objectivity of the review may be compromised; or

(c) Whenever the chief medical officer determines that an external review is otherwise advisable.

If an external reviewer is recommended, the chief of the clinical department shall make a written recommendation to the chief medical officer for selection of an external reviewer. The chief medical officer shall make the final selection of an external reviewer.

(D) Summary suspension.

(1) Notwithstanding the provisions of this rule, a member of the medical staff shall have all or any portion of his or her clinical privileges suspended or appointment terminated by the chief medical officer or the chief of the member's clinical department whenever such action must be taken immediately, when there is imminent danger to patients or to the patient care operations. Such summary suspension shall become effective immediately upon imposition and the medical staff member shall be subsequently notified in writing of the suspension by the chief medical officer. Such notice shall be issued by certified return mail to the affected medical staff member's last known address as determined by university records.

(2) A medical staff member whose privileges have been summarily suspended or whose appointment has been terminated shall be entitled to a hearing and appeal of the suspension pursuant to rule 3335-43-06 of the Administrative Code. If the affected member of the medical staff does not make a written request for a hearing to the chief medical officer within thirty-one days after receipt of the adverse decision, it shall be deemed a waiver of the right to any review by the medical staff administrative committee to which the staff member might otherwise have been entitled on the matter. If a timely, written request for a hearing is made, the procedures of rule 3335-43-06 of the Administrative Code shall apply.

(3) Immediately upon the imposition of a summary suspension, the chief medical officer or the



appropriate chief of a clinical department shall have the authority to provide for alternative medical coverage for the patients of the suspended medical staff member who remain in the Ohio state university hospitals at the time of suspension. The wishes of the patient shall be considered in the selection of such alternative medical coverage. While a summary suspension is in effect, the member of the medical staff is ineligible for reappointment to the medical staff. Medical staff and hospital administrative duties and prerogatives are suspended during the summary suspension.

(E) Automatic suspension and termination.

(1) Notwithstanding the provisions of this rule, a temporary lapse of a medical staff member's admitting privileges, effective until medical records are completed, may be imposed automatically by the chief medical officer after a warning, in writing, of delinquency for failure to complete medical records as defined by the rules and regulations of the medical staff. The chief medical officer shall notify the chief executive officer of the Ohio state university hospitals of the action taken.

(2) Action by the Ohio state boards of licensure revoking or suspending a medical staff member's license or placing the member upon probation shall automatically impose the same restrictions to that member's Ohio state university hospitals' privileges.

(3) Failure to maintain the minimum required type and amount of professional liability insurance with an approved insurer, shall result in immediate and automatic suspension of a medical staff members appointment and privileges until such time as proof of appropriate insurance coverage is furnished. In the event such proof is not provided within ten days of notice of such suspension, the medical staff member or credentialed provider shall be deemed to no longer comply with medical staff requirements under rule 3335-43-04 of the Administrative Code and automatically relinquish his or her appointment and privileges.

(4) Upon exclusion, debarment, or other prohibition from participation in any state or federal health care reimbursement program, or a federal procurement or non- procurement program, the medical staff members appointment and privileges shall immediately and automatically terminate, unless resignation in lieu of automatic terminations is permitted to paragraph (A)(3) of rule 3335-43-04 of the Administrative Code.



(5) If a medical staff member pleads guilty to or is found guilty of a felony which involves: violence or abuse upon a person, conversion, embezzlement, or misappropriation of property; fraud, bribery, evidence tampering, or perjury; or a drug offense, the medical staff members appointment and privileges shall be immediately and automatically terminated.

(6) Whenever a medical staff members drug enforcement administration (DEA) or other controlled substances number is revoked, he or she shall be immediately and automatically divested of his or her right to prescribe medications covered by the number.

(7) When a medical staff member's DEA or other controlled substances number is suspended or restricted in any manner, his or her right to prescribe medications covered by the number is similarly automatically suspended or restricted during the term of the suspension or restriction.

(8) No medical staff member shall be entitled to the procedural rights set forth in rule 3335-43-06 of the Administrative Code as a result of an automatic suspension or termination. As soon as practicable after the imposition of an automatic suspension, the medical staff administrative committee shall convene to determine if further corrective action is necessary. Any further action with respect to an automatic suspension must be taken in accordance with this rule.

(9) Resignation, termination, or non-reappointment to the faculty of the Ohio state university shall result in immediate termination of membership on the medical staff of the Ohio state university hospitals.

(F) Reporting responsibility.

When a decision on corrective action is taken which constitutes a formal disciplinary action as may be defined in Ohio state law, or as may be required to be reported pursuant to federal law, including the health care quality improvement act, the chief medical officer shall ensure that a report of said action is made in order to maintain compliance with applicable state or federal law or regulations. The chief medical officer shall ensure that such reports are amended as may be required to reflect subsequent actions taken under the hearing and appeal rights afforded in university bylaws.



When applicable, any recommendations or actions that are the result of a review or hearing and appeal shall be monitored by the chief medical officer on an ongoing basis through the Ohio state university hospitals quality management activities.