

 <p style="text-align: center;"><b>County of Sacramento</b>  <b>Department of Health Services</b>  <b>Division of Behavioral Health Services</b>  <b>Policy and Procedure</b></p>	Policy Issuer (Unit/Program)	<b>QM</b>
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Title: <b>Credentialing Policy for Network Providers</b>	Functional Area: <b>Target Populations &amp; Array of Services</b>	
Approved By: (Signature on File) <b>Signed version available upon request</b>		
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**BACKGROUND/CONTEXT:**

Sacramento County Division of Behavioral Health Services (DBHS) assures that members receive care consistent with accepted community standards from qualified mental health practitioners. The DBHS has a timely credentialing process to identify practitioners who have the training and experience to provide care. Evaluating practitioners promptly facilitates early detection of potential problems that may have an impact on the care of members.

Credentialing standards and criteria are established commensurate with those of the National Council for Quality Assurance. Credentialing activities shall be carried out in conformance with the California Business and Professions Code, Sections 800-809.9, and Welfare and Institutions Code, Section 4080, et seq.

Credentialing policies and procedures shall address the credentialing of behavioral health practitioners for eligibility for the DBHS’ Network Provider Panel.

The Credentialing Committee is an ad hoc sub-committee of the DBHS Quality Improvement Committee (QIC). The QIC delegates credentialing authority to the QIC Credentialing Committee and to its review board, the QIC Executive Credentialing Board. The MHP Director shall be the final authority on all credentialing actions and matters.

The QIC Credentialing Committee delegates credentialing verification and information-gathering activities to the Quality Management Program (QMP), with oversight by the (QMP) Director.

Credentialing shall be conducted without regard to race, ethnicity, national origin, color, gender, age, creed, sexual orientation, or religious preference.

**PURPOSE:**

These policies and procedures establish credentialing standards, govern credentialing activities, and delineate the processes by which these activities are conducted.

The purpose of the Credentialing Committee is to provide a process by which individual practitioners can be credentialed for eligibility for the Network Provider Panel for the provision of care to DBHS Members and by which they may have their credentials renewed, terminated, or suspended.

## **DETAILS:**

### **Confidentiality:**

All credentialing proceedings, deliberations, records, and related activities and information shall be confidential, and not subject to discovery, to the fullest extent permitted by law, including the provisions of Evidence Code, Section 1157. Disclosure of such proceedings and records shall be made only as required by law, or as needed to fulfill the credentialing activities within the scope of this policy. Reports to the relevant licensing boards shall be made as required by Business and Professions Code, Section 805, without waiver of confidentiality.

### **Credentialing of Network Providers**

Network Providers are individual private practitioners who become credentialed for panel eligibility via the credentialing process and who subsequently contract with DBHS. Network Providers may be licensed psychiatrists, licensed psychologists, or licensed Allied Health Professionals (LCSW or MFT). Non-psychiatric physicians cannot be considered.

Practitioners are credentialed to the Network Provider Panel in accordance with the scope of their particular license, and in the case of psychiatrists, to include the scope of any Board Certified specialty. Network Providers may only practice within the scope of their respective licenses and any Board Certified specialty.

DBHS Network Providers are also expected to practice within the scope of their individual knowledge and expertise. Any particular areas of specialty (other than Board Certified for psychiatrists), populations treated, or language capabilities noted on a practitioner's credentialing application are construed to be the sole claim of the practitioner and are not directly verified or credentialed by the DBHS as part of the credentialing process. The DBHS recognizes no responsibility or liability in this regard.

Credentialing of Network Providers falls under the purview of the Credentialing Committee, with review authority by the Credentialing Board, and with administrative support from the Quality Management Program (QM).

### **Credentialing Board:**

The Credentialing Board is the review and formal decision-making authority for the Credentialing Committee. This board is comprised of the members of the QIC Executive Committee and the DBHS Deputy Director. The QIC Executive Committee consists of the DBHS Medical Director, and two Program Managers. The DBHS Deputy Director may alter the QIC Executive Committee membership configuration at any time, without effect on this policy.

Should any position referenced above be occupied at any time by an unlicensed mental health professional, that person may not vote in any matters before the Credentialing Board.

The Credentialing Board shall review all recommendations for action in credentialing matters made by the Credentialing Committee and make decisions for final proposed actions. The Board shall be responsible to assure that any legally required notifications to practitioners and reports to oversight bodies are given in accordance with state and federal laws and the provisions of this policy. The Board shall also be responsible to appoint a panel of unbiased licensed peers upon practitioner request for a hearing in accordance with the provisions of this policy.

### **Credentialing Committee:**

The Credentialing Committee is an ad hoc sub-committee of the DBHS Quality Improvement Committee.

## Functions

Under the direction of the DBHS Deputy Director and with the oversight of the Credentialing Board, the Credentialing Committee is empowered to review:

- The application and verification materials and make recommendations concerning initial credentialing for eligibility for the Network Provider Panel
- Re-credentialing materials and verifications and make recommendations concerning re-credentialing to the DBHS Network Provider Panel
- Materials and make recommendations concerning termination or suspension of credentials for continued eligibility for the DBHS Network Provider Panel should a Network Provider's performance or qualifications appear at any time to no longer meet the established credentialing criteria.

## Credentialing Committee Composition

The Credentialing Committee shall be a confidential multidisciplinary body of professional peers appointed by the Credentialing Board. All members shall be licensed in their respective disciplines and be in good standing with their respective licensing boards.

The Credentialing Committee shall consist of a Chairperson (who shall be a Quality Management Program Coordinator), and six (6) members from the professional categories of Psychiatrist, Psychologist, and Allied Health Professional (LCSWs, LPCC and MFTs). One psychiatrist, one psychologist, one LCSW and one MFT or LPCC shall be appointed upon recommendation of the Credentialing Board. Two members at large, from any of the above license categories, shall be appointed via solicitation of nominations from the QIC Committee and upon approval of the Credentialing Board. Effort shall be made to obtain a mix of expertise in both child and adult populations.

In line with Sacramento County's commitment to cultural competence in all areas, due consideration shall be given to diversity of membership within the above membership criteria.

Credentialing Committee members may not be employees of the DBHS' Adult Access Team or Child Access Team.

Credentialing Committee members who are Network Providers shall not act in any matter involving their own interests, in which they are a material witness, or are otherwise not able to be impartial. In the event of a conflict, a substitute committee member may be appointed by the Chairperson with the concurrence of the Committee and the QIC Executive Credentialing Board, to replace that person only for the action involving the conflict of interest.

## Credentialing Committee Membership Terms

All Credentialing Committee members are charged to act in good faith, ethically, respectfully, responsibly, and confidentially in the performance of their committee duties.

The Credentialing Committee Chairperson shall be a Quality Management Program Coordinator and shall serve an open-ended term at the discretion of the Credentialing Board.

Credentialing Committee Members shall be requested to commit to a one-year term, renewable by agreement of the Committee Member and the Credentialing Board. After serving on the Credentialing Committee for three (3) consecutive years, a member shall be ineligible to serve for one (1) year.

Membership may be revoked by the DBHS if a Committee Member does not attend scheduled meetings and/or is unable to perform the defined functions of the committee.

## Credentialing Committee Meetings

Credentialing Committee meetings shall occur as often as needed, but at least biannually. The Chairperson may convene a meeting any time there is at least one file awaiting action. In no case, however, shall a file wait longer than 60 days (from date of completion of all necessary verifications) for committee review. Meetings shall also occur whenever there is a need for timely action in any matters of appeal.

Four (4) members of the Credentialing Committee, excluding the Chairperson, shall constitute a quorum. The Chairperson may participate in deliberations, but may not vote except in the event of a tie.

An applicant or provider's file will not be reviewed unless there is at least one Credentialing Committee member with the identical license present.

Credentialing Committee actions shall be by majority vote. The Chairperson is usually a non-voting member, but shall be required to vote in cases of ties.

Any dissenting member(s) to a majority vote may, at their option, and with immediate notice to the Committee of intent to do so, prepare a written statement of objections for review by the Credentialing Board.

All Credentialing Committee recommendations and statements of objections shall be forwarded to the Credentialing Board for formal decision.

Minutes of all Credentialing Committee meetings shall be kept and reviewed at successive meetings. Minutes are confidential and shall have a limited distribution. Minutes may not be made subject to discovery in any legal proceeding.

#### Network Provider Credentialing Standards

The DBHS ensures the health and welfare of its members by excluding, through peer review as provided for by California law, those healing arts practitioners who are not qualified to provide substandard care or who engage in professional misconduct.

Inpatient Hospital contracts that specify that the "contractor shall be solely responsible for credentialing professional staff, including and not limited to, checking the Federal Registry Office of the Inspector General (OIG) List of Excluded Individuals/Entities" to assure all physicians are in "good standing", must adhere to the County standards. The OIG will be queried no less than on a monthly basis and the County shall be notified of the results. (See QM – 20-02 Excluded Individuals/Entities)

Practitioners must meet the following standards to be credentialed or remain credentialed:

1. Valid License: The practitioner must hold a current valid California license, verified through a primary source, to practice as an independent mental health practitioner.
  - a. For language skills, provide a copy of certification, if applicable.
2. Application Veracity: There may be no evidence of material misrepresentation in or omission from the application.
3. Board Certification: Psychiatrists must be Board certified or have completed a psychiatric residency, verified through a primary source. Exception: Psychiatric Residents enrolled in the UCD Department of Psychiatry Residency training program. Residents who submit an original letter from the UCD Department of Psychiatry documenting that the resident is in good standing in the training program will be waived from this standard.
4. Drug Enforcement Agency (DEA) Certificate: Psychiatrists must have a current valid DEA certificate, verified by a copy of the certificate.

5. Professional Liability Insurance/Malpractice Coverage: The practitioner must have current malpractice coverage showing the dates and minimum coverage of at least \$1,000,000/3,000,000, verified through a primary source.

DBHS may have cause to deny, suspend, or terminate credentialing when information pertinent to any of the following standards causes the DBHS to consider that it is more probable than not that the practitioner provides or will provide substandard care or engages in or will engage in professional misconduct:

1. National Practitioner Data Bank: A query to the NPDB is returned with information pertinent to malpractice or sanction activity.
2. Licensing Board Disciplinary Review Action(s): There is primary source evidence regarding current or past history of disciplinary review action by a licensing board, including sanctions, current restrictions, limitations, stipulations, or probationary status.
3. Office of the Inspector General (OIG): The OIG, under Congressional mandate, established a program to exclude individuals/entities affected by various legal authorities, contained in sections 1128 and 1156 of the Social Security Act and maintains a list of all currently excluded parties called "List of Excluded Individuals/Entities" (LEIE). Individuals/Entities designated an "Excluded Individual/Entity" shall be removed from responsibility for, or involvement with, DBHS operations related to Federal or State funded health care programs until such time as the person or entity is reinstated by the OIG.
4. Professional Liability/Malpractice History: There is an active claim or ongoing litigation, or any history in the past five years, of professional liability claims that resulted in settlements or judgments paid by, or on behalf of, the practitioner.
5. Residency: Completion of a residency cannot be verified.
6. Work History: Any significant gaps in time cannot be explained to the satisfaction of the DBHS.
7. Professional Peer References: There is direct mention of adverse material in any reference.
8. Misdemeanor or Felony Conviction History: There is evidence of a felony conviction or of any criminal misdemeanor conviction relating to the practice of the practitioner's profession, other health care related matter, third party reimbursement, controlled substances, domestic violence, child/adult abuse charges, or any other matter that in the opinion of the DBHS may adversely affect the practitioner's ability to participate as a Network Provider.
9. Health Status: There is evidence of a physical or mental condition that would impair the practitioner's ability to provide safe and quality care.
10. Any Demonstrable Failure of Good Behavior: Either during or outside of duty hours, a practitioner's behavior is of such a nature that it brings discredit to the applicant's profession, and/or jeopardizes or potentially jeopardizes/impairs, the treatment relationship.

### Credentialing Process

1. The Quality Management (QM) Program staff shall originate and maintain confidential credentialing files to the extent provided by law. QM shall require the following information for new applicants:
  - SCDBHS Participating Practitioner's Credentialing Application
  - Professional License (copy)
  - DEA certificate (copy, if applicable)

- American Board of Medical Specialty certificate (copy, if applicable)
  - Curriculum Vitae
  - Verification-of completion of Residency, if applicable.
  - Professional Peer References (3)
  - Professional Liability Insurance/Malpractice Coverage
2. In an effort to respond to County programs need to expedite the process of credentialing a network provider, the Credentialing Committee may elect to grant provisional status to a candidate. The provisional status will be granted for 60 days upon receipt of the minimum requirements, pending appointment to the Enrolled Network Provider Roster. The following documents must be submitted, to be considered for provisional status:
- Application completed and returned to County
  - Verify MD license – copy
  - American Board of Medical Specialty Certificate (copy, if applicable)
  - Copy of DEA
  - Proof of Insurance
  - NPDB Query – QM will do
  - OIG Query – QM will do

The following requirements must be met within 60 days:

- Primary verification of completion of residency (N/A if proof of Board certification)
  - Curriculum Vitae
  - Peer Letters of Recommendation (3)
3. QM staff initiates the following:
- Query the National Practitioner Data Bank (physicians only)
  - Query the applicable licensing board.
  - Initiate pertinent correspondence for primary verification.
  - Correspond with applicant for any missing primary information.

While American Board of Medical Specialties (ABMS) certification is not required, all claims to ABMS certification will be verified. Completion of a residency will be verified through a primary source for those individuals who are not Board Certified.

A copy of the DEA Certificate will be acceptable verification for new and re-credentialed applicants.

Professional Liability Insurance/Malpractice coverage must be maintained and will be verified directly through the insurer by SCDBHS Contracts Division.

Initial applicants will be requested to provide a letter of explanation for any gaps of more than six months in work history (e.g., at-home parent for two years).

Professional peer references must be sent directly to the DBHS for the specific purpose of providing the credentialing reference for the Network Provider Panel; letters must be from professional peers of equal or higher professional licensure.

4. When the packet is complete, QM shall prepare a Credentialing Standards Summary (Exhibit A) and forward the file to the Credentialing Committee Chairperson for review.
5. The Chairperson shall:
- Review the file for completeness and verify the accuracy of the Credentialing Standards Summary.
  - Shall list completed files on the agenda.
  - Convene a meeting at any time, however not longer than 60 days from the date of completion.

- A final proposed decision shall not be made later than 180 days from the date of application for credentialing or re-credentialing.

All practitioner credentials must be valid at the time of the Credentialing Committee review or final action after an appeal.

### **Credentialing Committee Action:**

The Chairperson shall conduct all meetings of the Credentialing Committee. If the Chairperson is not present, the committee members shall select an Acting Chairperson from those members present. Minutes shall be kept and reviewed at successive meetings. The Chairperson shall determine the order of business, with any urgent matters being given priority consideration.

QM shall present the applicant file. All Committee members will be provided opportunity to review the actual file in its entirety prior to voting.

Following discussion of an applicant's credentials, the Chairperson shall call for a vote. Voting may be by a show of hands or orally by individual, at the discretion of the Chairperson. The Chairperson shall record the votes for Recommend Approval, Recommend Denial, Recommend Suspension, or Recommend Termination, as applicable. A simple majority shall determine the resulting recommendation. The Chairperson shall note the recommendation on the DBHS Network Provider Panel Eligibility Action form (Exhibit B) and then sign and date where indicated. If the recommended action is to propose denial, suspension, or termination, the Chairperson shall attach an explanation of the basis for the Committee's recommendation. All relevant materials shall then be forwarded to the Credentialing Board for further review.

At the option of the Committee, and with the concurrence of the Chairperson, the Committee may vote to defer action until the next meeting. Generally this will be to allow time to obtain further information or clarification.

The Credentialing Committee will review the Quarterly OIG Report of all network providers and forward the results to the Credentialing Board.

### **Credentialing Board Action:**

At the earliest opportunity following receipt of Provider Panel Eligibility Action forms and relevant materials from the Credentialing Committee, the Credentialing Board shall review the recommendations and reach a decision to Approve, Deny, Suspend, Terminate, or Defer action. If the Board concurs with the recommendation made by the Credentialing Committee, the Board shall so note on the Provider Panel Eligibility Action Form.

When the Board decision is to approve credentialing or re-credentialing, the Board shall send a Letter of Network Provider Panel Eligibility, with copies to the appropriate Contract Monitor(s) and the appropriate Access Teams.

The Credentialing Board may recommend that the applicant meet with a specialty committee composed of subject matter experts to become familiar with Sacramento County expectations and service needs.

If the Board disagrees with the recommendation made by the Credentialing Committee, the Board may override that recommendation and take different action.

If the Board decision is for Denial, Suspension, or Termination, the Board shall then send the applicant a Notice of Proposed Action and Right to Hearing.

Prior to a decision for any final proposed action, the Credentialing Board may elect to notify the applicant of the DBHS' preliminary intent, and to offer the applicant an opportunity to appear

informally before the next scheduled meeting of the Credentialing Committee for the purpose of making a statement. If the applicant then chooses to appear before the Credentialing Committee, he/she shall be permitted to make a statement. This appearance shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules with respect to hearings shall apply. The appearance shall be recorded in the minutes of the meeting and an audio recording made of the applicant's statement.

Following such an appearance, the Credentialing Committee will again deliberate and forward a recommendation to the Credentialing Board. The Board will then reach a final decision to approve or to propose denial, suspension, or termination. If the decision is to propose denial, suspension, or termination, the Board shall send the Notice of Proposed Action and Right to Hearing.

The Credentialing Board shall review the OIG Report on a quarterly basis. Should a provider be found on this list, the name would be forwarded to the Executive QIC for follow-up compliance action, in accordance with the Social Security Act Sections 1128 and 1156.

### **Credentialing Action Hearing Procedures:**

The hearing procedure is the administrative ad judicatory process for appeal of actions to be taken against applicants or current network providers. An aggrieved applicant or network provider must follow the procedures and exhaust the remedies set forth herein prior to resorting to legal action.

#### **Grounds for a Hearing**

Any proposed final action to deny, suspend, or terminate credentialing eligibility for the Network Provider Panel shall constitute grounds for a practitioner to request a hearing.

#### **Notice of Proposed Action and Right to Hearing**

An applicant or network provider who is the subject of a final proposed action to deny, suspend, or terminate credentialing eligibility, and/or for which a report is required to be filed under Section 805 of the California Business and Professions Code shall be entitled to written notice of the final proposed action.

The Notice of Proposed Action and Right to Hearing ("NPA") shall be given promptly by the Credentialing Board after the occurrence of the action which requires it to be given. The NPA shall be in writing and shall be delivered to the applicant or network provider either in person, by certified mail, or by any other reasonable means which provides proof of delivery. The DBHS Deputy Director, as a member of the Credentialing Board, shall receive a copy of the NPA.

The NPA shall include the following information:

- A statement of the final proposed action
- The reasons for the final proposed action
- That the action, if adopted, will be reported pursuant to Section 805 of the California Business and Professions Code, if the action is reportable under such law
- That the affected person has the right to request a hearing, which may be exercised by giving written notice to the DBHS Deputy Director, and actually received by that person (or his/her delegate) within thirty (30) days from the date on which the affected applicant or network provider received the NPA
- A summary of the rights that will be provided at a hearing

#### **Failure to Request a Hearing**

If no request for a hearing is received by the DBHS Deputy Director within thirty (30) days from the date on which the affected applicant or network provider received the NPA, the action which required the NPA to be given shall become final, and if not already in effect, effective immediately.

#### **Appointment of an Administrative Hearing Panel**

Promptly upon receipt of a request for hearing, the DBHS Deputy Director (or his/her designee) shall notify the Credentialing Board. Within one (1) week after the DBHS receives the request for a hearing the Board shall appoint an administrative hearing panel to serve as a trier of fact. The panel shall consist of not less than three (3) unbiased licensed mental health practitioners, in good standing with their respective licensing boards, and subject to these additional qualifications:

- 1) The persons selected have not actively participated in the consideration of the matter involved at any previous level including, but not necessarily limited to, acting as an accuser, witness, investigator, fact finder, or decision maker in the same matter;
- 2) The persons selected are not in direct economic competition with the affected applicant or network provider, and will gain no direct financial benefit from the outcome;
- 3) Knowledge of the matter involved shall not preclude a person from serving as a member of the Administrative Hearing Panel;
- 4) At least one member of the Administrative Hearing Panel shall be from the identical discipline/license type as the affected applicant or network provider.

#### Right to Challenge Proposed Panel Members

Within one week after receipt of the request for a hearing the Credentialing Board will provisionally appoint a 3-member Administrative Hearing Panel and provide the appellant with written notice of the names of the proposed members. The appellant has the right to challenge the impartiality of any of the panelists in writing to the DBHS Deputy Director. If the appellant needs further information about the panelists reasonably related to the issue of bias, the appellant may request that information in writing from the DBHS Deputy Director.

#### Scheduling and Notice of Hearing

Within one (1) week after it is appointed, the Administrative Hearing Panel shall schedule and arrange for a Hearing, and so advise the Credentialing Board. The Board shall give written notice to the applicant or network provider including:

- 1) The names of the persons appointed to the Administrative Hearing Panel and the name of the Hearing Officer, if one is appointed;
- 2) The place, time, and date of the commencement of the hearing, which shall not be more than sixty (60) days after receipt by the DBHS Deputy Director of the request for hearing, and not less than 14 days from mailing notice of the hearing date;
- 3) The reasons for the proposed action, including the acts or omissions with which the applicant or network provider is charged.

#### Right to Inspect and Copy Documents

The affected applicant or network provider shall have the right to inspect and copy, at his/her own expense, any documentary information relevant to the action/charges which the Credentialing Board has in its possession or under its control, as soon as practicable after receipt of the request for a hearing, and upon making written request thereof. The Credentialing Board shall have the right to inspect and copy, at its expense, any documentary information relevant to the action/charges which the affected applicant or network provider has in his/her possession or control, as soon as practicable after receipt of the Credentialing Board's written request therefore. The failure by either party to provide access to this information within ten (10) days of written request being made and at least twenty (20) days before the hearing shall constitute good cause for a continuance.

The right to inspect and copy by either party does not extend to confidential information referring to individually identifiable licensed practitioners other than the affected applicant or network provider under review.

The presiding officer shall consider and rule upon any request for access to information, and may impose any safeguards required for protection of the peer review process, members, and justice.

When ruling upon requests for access to information and determining the relevancy thereof, the presiding officer shall consider the following:

- Whether the information sought may be introduced to support or defend the charges;
- The exculpatory or inculpatory nature of the information sought, if any;
- The burden imposed on the party in possession of the information sought, if access is granted;
- Any previous requests for access to information submitted or resisted by the parties to the same proceeding.

### Witness List and Document Exchange

Upon the written request of either side, the parties shall exchange lists of witnesses expected to testify and copies of all documents expected to be introduced at the hearing. A party's failure to disclose the identity of a witness or produce copies of all documents expected to be introduced at least twenty (20) days before the commencement of the hearing shall constitute good cause for a continuance by either party.

### Pre-hearing Conduct

It shall be the duty of the affected applicant or network provider and the Credentialing Board to exercise reasonable diligence in notifying the presiding officer of the hearing panel of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible, in order that the presiding officer may make pre-hearing decisions concerning such matters. Failure to promptly notify the presiding officer of such disputes may, in the discretion of the presiding officer, be treated as a waiver of rights regarding such dispute by the party(s) responsible for failing to timely notify the presiding officer. Reconsideration of any pre-hearing decisions may be made at the hearing, at the discretion of the presiding officer.

### Commencement and Conclusion of Hearing

The hearing shall commence within sixty (60) days of the DBHS Deputy Director's receipt of the request for a hearing unless the presiding officer issues a written decision finding that there is good cause for a continuance, or upon both parties consenting to a delay. The hearing shall conclude following the presentation of evidence and examination of witnesses by both sides. The presiding officer may determine reasonable time limits for these activities.

### Decision of the Administrative Hearing Panel

Within two (2) weeks after the final adjournment of the hearing, the Administrative Hearing Panel shall issue to the involved parties a Notice of Decision, which shall be delivered in person; by certified mail; or by any other reasonable means which provides proof of delivery. The decision shall be made by majority vote of the Hearing Panel.

## **General Provisions For Administrative Hearings:**

### Failure to Appear

Failure of any party to appear and proceed at the hearing without good cause shall result, at the discretion of the Administrative Hearing Panel, in a decision against the party who failed to appear and proceed, and grant the decision requested by the other party.

## Postponements and Extensions

Postponements and extensions of time may be requested by anyone and shall be permitted by the Administrative Hearing Panel for good cause, or upon agreement of the parties, and shall be documented in writing.

## Representation

The hearing and related proceedings provided for in this policy are for the purpose of inter-professional resolution of matters bearing on conduct or professional competency. Accordingly, except as set forth below, none of the parties shall be represented in any of the proceedings by an attorney. Upon request by any party, the Administrative Hearing Panel may, in its discretion, allow the parties to be represented by counsel. In no case, however, shall the DBHS Credentialing Board be represented by an attorney if the affected applicant or network provider is not permitted to be so represented. These provisions shall not restrict the right of any party to have the advice of counsel, but only the privilege of having counsel present during any hearing or other proceeding.

Unless represented by counsel with the consent of the Administrative Hearing Panel, the affected applicant or network provider may be accompanied by and represented at any hearing only by a licensed professional peer in good standing with his/her licensing board, provided that this individual is not also a licensed attorney.

The Credentialing Board shall appoint a representative from its membership to present its position and to examine witnesses.

## Hearing Officer

At the request of the affected applicant or network provider, the Administrative Hearing Panel, or on its own request the Credentialing Board, may at its discretion appoint a hearing officer. The hearing officer shall have no potential direct financial benefit from the outcome, shall not act as a prosecuting officer or advocate, and shall not be entitled to vote. The hearing officer may be chosen from among legal counsel employed by the Sacramento County Counsel's Office.

## Presiding Officer

The presiding officer at the hearing shall be the Hearing Officer or, if none has been appointed, the Chairperson of the Administrative Hearing Panel.

The presiding officer shall act to insure that all participants in the hearing have a reasonable opportunity to be heard, to present relevant oral and documentary evidence, and that decorum is maintained.

The presiding officer shall be entitled to determine the order of procedure during the hearing, and shall have the authority and discretion, in accordance with the provisions of this policy, to make rulings on questions that pertain to matters of law and the admissibility of evidence.

## Record of Hearing

The Administrative Hearing Panel shall maintain a record of the hearing by arranging for a qualified person to make an audio recording. The affected applicant or network provider may obtain a copy of the record upon payment of any reasonable charges associated with the preparation of the copy.

## Examination of Witnesses

Both parties shall have the following rights: to be provided with all of the information made available to the trier of fact; to call, examine and cross-examine witnesses; and to present and rebut evidence determined by the presiding officer to be relevant. If the applicant or network provider does not testify

in his/her own behalf, he/she may be called and examined as if under cross-examination. The Administrative Hearing Panel may examine the witnesses or call additional witnesses.

### Admissibility of Evidence

The hearing shall not be conducted according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admitted by the presiding officer if it is the sort of evidence on 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.

Initial applicants shall not be permitted to introduce information not produced upon request during the application process, unless the initial applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.

### Written Statement of Position

Each party shall have the right to submit a written statement of its position at the close of the hearing. The Administrative Hearing Panel may request such a statement to be filed.

### Official Notice

The presiding officer shall have the discretion to take official notice of any matters, relating to the issues under consideration, which could be judicially noticed by the courts of this State. Participants in the hearing shall be informed of the matters to be officially noticed and they shall be noted in the record of the hearing.

### Basis of Decision

The decision of the Administrative Hearing Panel shall be based on the evidence produced at the hearing and matters officially noticed at the hearing.

### Burden of Coming Forward with Proof

The Credentialing Board shall have the initial duty to present evidence, which supports the proposed final action.

### Burden of Persuasion

Initial applicants shall bear the burden of persuading the Administrative Hearing Panel by a preponderance of the evidence of their qualifications by producing information, which allows for adequate evaluation and resolution of reasonable doubts concerning their current qualifications for eligibility for network provider status. Initial applicants shall be precluded from introducing information not produced upon request during the application process, unless the initial applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.

Except as provided above for initial applicants, the Credentialing Board shall bear the burden of persuading the Administrative Hearing Panel by a preponderance of the evidence that the proposed final action is reasonable and warranted.

### Adjournment and Conclusion

The presiding officer may adjourn the hearing and reconvene the hearing at the convenience of the participants without special notice.

Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The Administrative Hearing Panel shall conduct its deliberations outside the presence of any other person, except the Hearing Officer, if one is appointed.

Notice of Decision

The decision of the Administrative Hearing Panel shall be forwarded to the DBHS Deputy Director and a Notice of Decision shall be given promptly.

The Notice of Decision shall be in writing and shall be delivered in person, by certified mail, or any other reasonable means, which provides proof of delivery. The Notice of Decision shall be delivered to the affected applicant or network provider and to the Credentialing Board and the DBHS Deputy Director.

The Notice of Decision shall include the decision, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

Notification of Other Entities

Where required or permitted by law, local, state, and federal agencies shall be notified of any actions taken by the DBHS to deny, suspend, or terminate a mental health practitioner's credentialing for eligibility for the Network Provider Panel.

**REFERENCE(S)/ATTACHMENTS:**

- CA Business & Professions Code, §800-809.9
- Welfare & Institutions Code, §4080 Evidence Code, §1157
- Social Security Act, §1128 & 1156
- CCR, Title 9, §1810.435

**RELATED POLICIES:**

- QM-05-02 Credentialing Policy for Organizational Providers & County Mental Health Programs
- QM-20-02 Excluded Individuals/Entities

**DISTRIBUTION:**

Enter X	DL Name	Enter X	DL Name
X	Behavioral Health Staff		
	Mental Health Treatment Center		
	Adult Contract Providers		
	Children's Contract Providers		
	Substance Use and Prevention Treatment		
	Specific grant/specialty resource		

**CONTACT INFORMATION:**

- Quality Management Program  
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