

This is an amendment to 16.10.10 NMAC, Section 7 effective 2/8/2022.

16.10.10.7 DEFINITIONS: The following definitions apply to this section. All terms not defined have their general dictionary meaning.

A. “Adverse action” means any discipline, sanction or other action, whether equitable, administrative, civil or criminal, affecting a licensee, applicant or other person falling under the jurisdiction of the Medical Practice Act. The term embraces any action affecting the licensee’s or applicant’s practice, including, but not limited to revocations, suspensions, probation, monitoring, restrictions, and stipulations or other limitations, as well as fines, penalties and financial settlements. The term also includes any action taken to avoid disciplinary action, a sanction, or another action. An action does not need to involve clinical competence or patient care or affect clinical privileges in order to be “adverse”.

B. “Adversely affecting” means reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges, or membership in a health care entity to include: terminating employment for cause, or without cause when based on incompetency or behavior affecting patient care and safety, or allowing the licensee or applicant to resign rather than being terminated for such reasons. These actions do not include those instances in which a peer review entity requires supervision of a licensee or applicant for purposes of evaluating that licensee’s or applicant’s professional knowledge or ability.

C. “Clinical privileges” include privileges, membership on the medical staff, employment, and other circumstances under which a licensee or applicant is permitted by a health care entity to furnish medical care.

D. “Termination of employment” includes the termination of employment by a health care entity for cause, or without cause if related to clinical competence or behavior affecting patient safety/care, or allowing resignation in lieu of termination for such reason.

E. “Health care entity” means:

(1) a hospital, HMO, a physician group, locum tenens or staffing agency, or other health care institution that is licensed to provide health care services in New Mexico;

(2) an entity that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care;

(3) a professional society or a committee, or agent thereof, of licensed health care practitioners at the national, state or local level, that follows a formal peer review process for the purpose of furthering quality health care, including without limitation a health maintenance organization or other prepaid medical practice which is licensed or determined to be qualified by any state; and

(4) a health plan or network that partners payers, employers and health care providers and professionals, including preferred provider groups, specialty groups, physician-hospital organizations and workers’ compensation networks.

F. “Medical malpractice action or claim” means a written claim or demand for compensation based on the furnishing, or failure to furnish, health care services, and includes, without limitation, the filing of a cause of action, based on the law of tort, brought in any court of any state or the United States seeking monetary damages whether resulting in a settlement or in a judgment.

G. “Professional review action” means an action of a health care entity:

(1) taken in the course of professional review activity;

(2) based on the competence, conduct, or impairment of a licensed health care practitioner which affects or could affect adversely the health or welfare of a patient or patients; and,

(3) which adversely affects or may adversely affect the clinical privileges or membership in a professional society of a licensed health care professional.

H. “Professional review activity” means an activity of a health care entity with respect to an individual licensee or applicant:

(1) to determine whether the licensee or applicant may have clinical privileges with respect to, or membership in, the entity;

(2) to determine the scope or conditions of such privileges or membership; or

(3) to change or modify such privileges or membership.

I. “Credentialing discrepancy” means, for the purposes of this part, an error or omission in an application.

[16.10.10.7 NMAC - Rp 16.10.10.7 NMAC, 9/17/2018; A, 2/8/2022]