



# **Superior Dental Care, Inc.**

## Acceptance, Participation and Professional Review Procedures



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Superior Dental Care, Inc.

These Acceptance, Participation and Professional Review Procedures have been adopted by the Board of Directors of Superior Dental Care, Inc. in order to optimize the quality of care given to patients while providing reasonable guidelines and fair and due process for participating dentists.

## I. DEFINITIONS

The following definitions shall apply to terms used in these Procedures:

- A. "Adverse Action Report" means any report required to be made by the Designated Individual, as defined in Section V hereof, hereafter described, to the applicable state dental board pursuant to Section V.B.
- B. "Adversely Affecting" means reducing, restricting, suspending, revoking or denying participation in SDC.
- C. "Board" means the Board of Directors of SDC.
- D. "CEO" means the Chief Executive Officer of SDC.
- E. "Committee" means either the Credentials Committee or the PRC, as appropriate.
- F. "Credentials Committee" means the Credentials Committee of SDC staff and Participating Dentists, as appointed from time to time by the Board.
- G. "Data Bank" means the National Practitioner Data Bank that was created by the Health Care Quality Improvement Act of 1986 (the "HCQIA"), Public Law 99-660 which began operation on September 1, 1990.
- H. "Dentist" means a doctor of dental surgery, doctor of dental medicine or the equivalent who is legally authorized to practice dentistry by the State in which his or her office is located or in which he or she sees patients (or who, without authority, holds himself or herself out to be so authorized).
- I. "Participating Dentist" means a Dentist who is a participant in SDC.
- J. "PRC" means the Professional Review Committee of Participating Dentists, as appointed from time to time by the Board.
- K. "Procedures" means these Acceptance, Participation and Professional Review Procedures.
- L. "SDC" means Superior Dental Care, Inc., an Ohio corporation.

## II. PARTICIPATING DENTIST APPLICATION PROCEDURES.

### A. Prerequisites to Acceptance of Dentists as Participating Dentists

- 1. The Dentist must be licensed to practice dentistry in each State in which he or she maintains an office or sees patients.
- 2. The Dentist must complete the application form prescribed by SDC, in substantially the form attached as Exhibit A hereto (as it may be revised by SDC from time to time), including execution of a release granting SDC access to the records of any dental society, dental board, college of dentistry, or entity which does or may maintain records concerning the applicant.
- 3. If a Dentist practices in a dental group or clinic, all Dentists in that dental group or clinic must become Participating Dentists.
- 4. Each application is to be submitted to the Credentials Committee for consideration. The Credentials Committee is to be provided by SDC staff with all available information which the Credentials Committee deems relevant on the Dentist's background, including records of complaints.
- 5. The Credentials Committee review process is independent of that performed by any dental society. Participation in a dental society does not automatically result in acceptance by SDC.
- 6. Any Dentist whose status as a Participating Dentist terminates, may be readmitted as a Participating Dentist, assuming all other criteria are met, as contemplated above, only after one (1) year has elapsed since termination and only if the Dentist has paid an assessment as specified by the Board. Such assessment will be made in every instance, regardless of the reasons for, or the nature of, such termination and reapplication.

B. Review of Application for Participation. The Credentials Committee shall review each application for participation which satisfies Section II.A hereof and shall decide whether the applicant be accepted or rejected.

C. Criteria for Rejection of an Application. The application of a Dentist may be rejected under any of the following circumstances:

- 1. The Dentist has engaged in conduct violative of state law or standards of ethical conduct governing the practice of dentistry for which the Dentist was, or might have been disciplined or otherwise censured, or the Dentist is under investigation with respect to such conduct, or the Dentist has been involved in a pattern of malpractice actions/settlements.
- 2. The Dentist's application has been rejected by SDC within the previous 12 months, or the Dentist's status as a Participating Dentist has terminated within the previous 12 months.
- 3. The Dentist's malpractice insurance is unsatisfactory to SDC.

4. The Dentist has committed a felony, misdemeanor, or other act involving moral turpitude, dishonesty, fraud, deceit, or misrepresentation, or the Dentist is under investigation with respect to such conduct.
  5. The Dentist has not executed a Dentist Participation Agreement, in substantially the form attached as Exhibit B hereto, as it may be revised by SDC from time to time (“Dentist Participation Agreement”).
  6. The Dentist’s general area of practice or specialty, in the opinion of the Credentials Committee, involves experimental or unproven modalities of treatment, or therapy not widely accepted in the local dental community; the Dentist’s general area of practice or specialty involves a service not covered by SDC; or the Dentist’s general area of practice or specialty is such that because of existing SDC participation contracts or other factors, it would increase SDC’s financial risk or dental cost if the Dentist were accepted as a Participating Dentist.
  7. The Dentist has had restrictions or stipulations placed on his or her practice, or has been placed on probation, by a dental review board, licensing board, or other similar body or government agency (including specifically the U.S. Drug Enforcement Administration), or has entered into a consent agreement with any such body or entity relating to his or her practice, or the Dentist is under investigation with respect to any matter which may result in such status.
  8. One or more of the other Dentists in the Dentist’s group or clinic is not a Participating Dentist.
  9. The Dentist has failed to fully and accurately disclose or provide all information contained on the “application for participation” form (including any renewal) and to complete the “authorization for release” form which allows SDC to request additional information.
  10. Any other circumstances in which the Credentials Committee believes that acceptance of the applicant would not be in the best interest of SDC.
- D. Determination and Appeal If the application is rejected by the Credentials Committee, then the Dentist shall be entitled to notice and may request a review of the decision, as outlined in Section IV.

### III. PROFESSIONAL REVIEW PROCEDURES

- A. Investigative Procedures. Whenever, on the basis of information and belief, the PRC considers that a Participating Dentist may be engaging in activity or conduct which may warrant such Participating Dentist’s termination as a Participating Dentist as contemplated by the provisions of Section III.B, the PRC shall promptly investigate the matter. The PRC shall have available to it the full resources of SDC to aid in its work, as well as the authority to use outside consultants as required. The PRC may also invite the Participating Dentist to attend a meeting for the purpose of discussing the activity or conduct at issue.
- B. PRC Decisions. After the investigation, the PRC may decide to issue a written warning, levy a fine against the Participating Dentist, or terminate participation of the Participating Dentist, under any of the following circumstances:
1. The Participating Dentist has engaged in conduct violative of state law or standards of ethical conduct governing the practice of dentistry for which the Participating Dentist was, or might have been, disciplined or otherwise censured, or the Participating Dentist has been involved in a pattern of malpractice actions/settlements.
  2. The Participating Dentist’s malpractice insurance is unsatisfactory to SDC.
  3. The Participating Dentist has committed a felony, misdemeanor, or other act involving moral turpitude, dishonesty, fraud, deceit, or misrepresentation.
  4. The Participating Dentist (a) has made material misstatements or omitted material information in his or her application or Dentist Participation Agreement, or (b) has not entered into a new Dentist Participation Agreement, in substantially the form attached as Exhibit B hereto (as it may be revised by SDC from time to time), with SDC upon expiration of a previously effective Dentist Participation Agreement.
  5. The Participating Dentist has submitted a false or erroneous claim to SDC, or to any entity having a contract with SDC.
  6. The Participating Dentist has had restrictions or stipulations placed on his or her practice, or has been placed on probation, by a dental review board, licensing board, or other similar body or government agency (including specifically the U.S. Drug Enforcement Agency), or has entered into a consent agreement with any such body or entity relating to his or her practice.
  7. One or more of the other Dentists in the Participating Dentist’s group or clinic is not a Participating Dentist.
  8. The Participating Dentist is engaged in discounting the member/patient copayments.
  9. The Participating Dentist’s average utilization of services per patient rendered to SDC members, when compared to Dentists in the same specialty area over the same period of time, is found to be significantly in excess of the average of all Participating Dentists for such Participating Dentist’s area of specialty and an acceptable diagnosis is not identified to support such variances. No Participating Dentist shall be terminated pursuant to this provision unless: (a) the Participating Dentist has been informed of results of SDC’s analysis of his or her services; and (b) the Participating Dentist has been given the opportunity to submit a written explanation of his or her services.
  10. The Participating Dentist has arbitrarily refused to treat an SDC member/patient.
  11. The Participating Dentist has breached any of the policies, rules or procedures of SDC including, but not limited to, his or her Dentist Participation Agreement with SDC or these Procedures.
  12. The Participating Dentist engages in behavior or conduct that is considered lower than the standards of SDC or which adversely affects the quality of care or treatment received by a patient or patients.
- C. Determination and Appeal If the PRC decides to issue a written warning, levy a fine against the Participating Dentist, or terminate participation of the Participating Dentist, then the Dentist shall be entitled to notice of the reasons underlying the decision and may request a review of the decision, as outlined in Section IV.

#### IV. HEARING PROCEDURES

An applicant or a Participating Dentist shall be entitled to a hearing in accordance with Sections II.D and III.C above. The purpose of the hearing shall be to make a determination with respect to affirming, reversing or remanding the decision of the relevant Committee. The hearing shall be conducted in as informal a manner as possible, subject only to the rules set forth in the procedures outlined in this Section IV.

- A. Hearing Panel. When a hearing is requested, the Board (or if so designated by the Board, a committee or the CEO), shall appoint a hearing panel, which shall be composed of not less than three Participating Dentists (the "Hearing Panel"), but the Hearing Panel shall not include any individual who is in direct economic competition with the affected person or any such individual who is professionally associated with or related to the individual; such appointment shall include designation of the Chairperson; and knowledge of the matter involved shall not preclude any individual from serving as a member of the Hearing Panel. The CEO shall notify the individual requesting the hearing and the relevant Committee in writing as to the identity of the members appointed to the Hearing Panel.
- B. Notice of Hearing and Statement of Reasons. The Hearing Panel shall schedule the hearing and shall give notice, in writing, return receipt requested, to the person who requested the hearing of its time, place and date. The hearing shall begin as soon as practicable but not less than 30 days after the date of notice, considering the schedules and availability of all concerned parties. This notice shall contain a statement of the reasons for the action as well as the list of patient record numbers and information supporting the action. This statement and the list of patient record numbers and information it contains may be amended or added to at any time, even during the hearing so long as the additional material is relevant to the continued participation of the individual requesting the hearing, and that individual and his or her counsel have sufficient time to study this additional information and rebut it.
- C. List of Witnesses. A written list of the names and addresses of the individuals expected to give testimony or evidence in support of the relevant Committee at the hearing shall be given with the notice of hearing. The individual requesting the hearing shall provide a written list of the names and addresses of the individuals expected to offer testimony or evidence on his or her behalf within 10 days after receiving notice of the hearing..
- D. Postponements and Extensions. Postponements and extensions of time beyond any time limit set forth in these Procedures may be requested by anyone but shall be permitted only by the Hearing Panel or its Chairperson, on a showing of good cause.
- E. Hearing Procedure
1. Representation. The individual requesting the hearing shall be entitled to be represented at the hearing by an attorney or other person of the individual's choice to examine witnesses and present his or her case. He shall inform the Hearing Panel in writing of the name of that person at least 10 days prior to the date of the hearing. The relevant Committee shall appoint a person, who may be an attorney, to support the determinations that gave rise to the Committee decision and to examine and cross-examine witnesses at the hearing.
  2. Chairperson. The Chairperson of the Hearing Panel shall act to insure that all participants in the hearing have a reasonable opportunity to be heard and to present all oral and documentary evidence, that decorum is maintained throughout the hearing and that no intimidation is permitted. The Chairperson of the Hearing Panel shall determine the order or procedure throughout the hearing, and shall have the authority and discretion, in accordance with these Procedures to make rulings on all questions which pertain to matters of procedure and to the admissibility of evidence, upon which he or she may be advised by legal counsel to SDC. In all instances the Chairperson of the Hearing Panel shall act in such a way that all information relevant to the continued participation of the person requesting the hearing is considered by the Hearing Panel in formulating its decision. It is understood that the Chairperson of the Hearing Panel is acting at all times to see that all relevant information is made available to the Hearing Panel for deliberations and its decision.
  3. Record of Hearing. The Hearing Panel shall maintain a record of the hearing by a reporter present to make a record of the hearing or by a recording of the proceedings. The cost of such reporter shall be borne by SDC. The Hearing Panel may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated by such body and entitled to notarize documents in the state in which the hearing takes place.
  4. Rights of Both Sides. At a hearing both sides shall have the following rights: to call and examine witnesses to the extent available, to introduce exhibits, to present evidence determined to be relevant by the Chairperson of the Hearing Panel, to cross-examine any witness on any matter relevant to the issues, to rebut any evidence, and to submit a written statement at the close of the hearing. If the person requesting the hearing does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.
  5. 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 Chairperson of the Hearing Panel if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. Each party shall have the right to submit a written statement and memorandum of points and authorities, and the Hearing Panel may request such a statement and memorandum to be filed, following the close of the hearing. The Hearing Panel may interrogate the witnesses, call additional witnesses or request documentary evidence if it deems it appropriate.

6. Official Notice. The Chairperson of the Hearing Panel shall have the discretion to take official notice of any matters, either technical or scientific, relating to the issues under consideration that could have been judicially noticed by the courts of this State. Participants in the hearing shall be informed of the matters to be officially noticed and such matters shall be noted in the record of the hearing. Either party shall have the opportunity to request that a matter be officially noticed or to refute the noticed matter by evidence or by written or oral presentation of authority. Reasonable additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.
  7. Basis of Determination. The determination of the Hearing Panel shall be based on the evidence produced at the hearing. This evidence may consist of the following:
    - (a) oral testimony of witnesses;
    - (b) memorandum and statement of points and authorities presented in connection with the hearing;
    - (c) any information regarding the person who requested the hearing so long as that information has been admitted into evidence at the hearing and the person who requested the hearing had the opportunity to comment on and, by other evidence, refute it;
    - (d) any and all applications, references, and accompanying documents;
    - (e) all officially noticed matters;
    - (f) any member/patient files and records;
    - (g) any other evidence that has been admitted.
  8. Burden of Proof. At any hearing conducted under this Section, the following rules governing the burden of proof shall apply:
    - (a) The relevant Committee shall first come forward with evidence in support of its determination. Thereafter, the burden shall shift to the person who requested the hearing to come forward with evidence in his or her support.
    - (b) After all the evidence has been submitted by both sides, the Hearing Panel shall decide in favor of the relevant Committee unless it finds that the individual who requested the hearing has proved that the decision that prompted the hearing was unreasonable, not sustained by the evidence, or otherwise unfounded.
  9. Adjournment and Conclusion. The Chairperson of the Hearing Panel 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, the hearing shall be closed.
- F. Failure to Appear. Failure, without good cause, of the individual requesting the hearing to appear and proceed at such a hearing shall be deemed to constitute voluntary acceptance of the Committee decision, which shall then become final and effective immediately.
- G. Deliberations and Determination of the Hearing Panel. Within 20 days after final adjournment of the hearing, the Hearing Panel shall conduct deliberations outside the presence of any other person and shall render a determination, accompanied by a report, which shall contain a concise statement of the reasons justifying the determination made and shall deliver such report to the relevant Committee and to the individual who requested the hearing. If the determination is an Adverse Action Report, it shall include the actual coding and a 600 character (or less) description of the underlying action which will be reported to the applicable state dental board in accordance with Section V.B.1 hereof.
- H. Right to One Hearing Only. No applicant or Participating Dentist shall be entitled as a matter of right to more than one hearing as outlined in Section IV on any single matter which may be the subject of a hearing. In the event that SDC ultimately determines to deny initial participation or readmittance as a Participating Dentist or terminate the participation of a current Participating Dentist, that individual may not again apply for participation at SDC unless the Board provides otherwise. However, nothing in these Procedures shall restrict the right of the applicant to reapply for participation in SDC or restrict the right of a Participating Dentist to apply for readmittance for participation after the expiration of one (1) year from the date of such decision unless otherwise provided in the written decision.

## V. REPORTING AND OBTAINING INFORMATION FROM THE DATA BANK

- A. Appointment of Designated Individual. The CEO, or a designee, shall be the individual appointed as the designated representative of SDC ("Designated Individual") responsible for the receipt and accumulation of all information requested from the Data Bank, and will be responsible for reporting formal disciplinary actions and adverse professional review actions taken against Participating Dentists. The Designated Individual, or a designee, will be responsible for the confidentiality of all Adverse Action Reports filed with the Data Bank or the applicable state dental board, all requests for information, disclosures and all report and verification documents.
- B. Reporting of Adverse Review Actions.
1. The Designated Individual, or a designee, shall be required to file an Adverse Action Report with the applicable state dental board within fifteen (15) days and provide a description of the underlying events as set forth in paragraph (3) below to the applicable state dental board. A reporting obligation arises anytime the PRC or Credentials Committee:
    - (a) takes a professional review action that adversely affects the clinical privileges of a Participating Dentist for a period longer than 30 days;



- (b) accepts the surrender of clinical privileges of a Participating Dentist
    - (i) while the Participating Dentist is under an investigation by the entity relating to possible incompetence or improper professional conduct, or
    - (ii) in return for not conducting such an investigation or proceeding; or
  - (c) takes a professional review action which adversely affects the participation of a Participating Dentist.
2. The following information shall be reported concerning actions described in paragraphs (1) or (2) of this section with respect to the applicant or Participating Dentist:
- (a) Name,
  - (b) Work address,
  - (c) Home address, if known,
  - (d) Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974,
  - (e) Date of birth,
  - (f) Name of each professional school attended and year of graduation,
  - (g) For each professional license: the license number, the field of licensure, and the name of the State or Territory in which the license is held,
  - (h) Drug Enforcement Administration registration number, if known,
  - (i) A description of the acts or omissions or other reasons for terminating as a Participating Dentist, or, if known, for surrender of such status,
  - (j) Action taken, date the action was taken, and effective date of the action, and
  - (k) Other information as required by the Secretary of the U.S. Department of Health and Human Services (the "Secretary") from time to time after publication in the Federal Register and after an opportunity for public comment.
3. Whenever SDC makes a payment to a patient of a Participating Dentist in settlement of or in satisfaction in whole or in part of a claim or a judgment against such Participating Dentist for dental malpractice, the Designated Individual, or his or her designee, must report the information as set forth in paragraph (5) to the Data Bank and to the applicable state dental board within thirty (30) days from the date of payment. For purposes of this section, payment means any exchange of money, however, the waiver of an outstanding debt is not construed as a payment and is not required to be reported.
4. The Designated Individual shall report the following information concerning actions described in paragraph (4) of this section with respect to the Participating Dentist:
- (a) With respect to the Participating Dentist for whose benefit the payment is made:
    - (i) Name,
    - (ii) Work address,
    - (iii) Home address, if known,
    - (iv) Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974,
    - (v) Date of birth,
    - (vi) Name of each professional school attended and year of graduation,
    - (vii) For each professional license: the license number, the field of licensure, and the name of the State or Territory in which the license is held,
    - (viii) Drug Enforcement Administration registration number, if known,
    - (ix) Name of each other health care provider with which he or she is affiliated, if known,
  - (b) With respect to the reporting person or entity:
    - (i) Name and address of the person or entity making the payment,
    - (ii) Name, title, and telephone number of the responsible official submitting the report on behalf of the entity, and
    - (iii) Relationship of the reporting person or entity to the Participating Dentist for whose benefit the payment is made;
  - (c) With respect to the judgment or settlement resulting in the payment:
    - (i) Where an action or claim has been filed with an adjudicative body, identification of the adjudicative body and the case number,
    - (ii) Date or dates on which the act(s) or omission(s) which gave rise to the action or claim occurred,
    - (iii) Date of judgment or settlement,
    - (iv) Amount paid, date of payment, and whether payment is for a judgment or a settlement,
    - (v) Description and amount of judgment or settlement and any conditions attached thereto, including terms of payment,
    - (vi) A description of the acts or omissions and injuries or illnesses upon which the action or claim was based,
    - (vii) Classification of the acts or omissions in accordance with a reporting code applicable under HCQIA, and
    - (viii) Other information as required under HCQIA from time to time after publication in the Federal Register and after an opportunity for public comment.

- C. Disputes of Adverse Action Reports. In order to resolve a dispute concerning information submitted to the Data Bank, as provided under 45 Code of Federal Regulations, Part 60.14, a Participating Dentist must, within 60 days of the process date of the notification document, send to the Designated Individual, or the designee, a copy of the Participating Dentist notification document, and inform the Designated Individual, or his or her designee, in writing by certified mail, the reason for the individual's disagreement, and the basis for such dispute. The Designated Individual, or his or her designee, will forward the information received from the Participating Dentist to the relevant Committee. Such Committee will review the information submitted by the Participating Dentist and the information as submitted to the Data Bank. If the Participating Dentist can provide clear and convincing evidence that the information submitted to the Data Bank is inaccurate, erroneous, or misleading, the relevant Committee shall adopt appropriate revisions to the coding or 600 character description, and direct the Designated Individual, or a designee, to file a revision to the previous Adverse Action Report with the Data Bank. If the relevant Committee determines that the information is correct as submitted and that the Participating Dentist did not sustain the burden of clear and convincing evidence, the such Committee shall report the basis of its decision, in writing, to the Participating Dentist within thirty days.

[ADOPTED BY THE BOARD OF DIRECTORS June 24, 1998]

