

Hi, I'm an AI Avatar meant to look like a real doctor. Attorney Daniel Horowitz wrote this video discussing What constitutes the start of formal peer review. Daniel is busy working on his client's cases so he created me to be in this video.

It is important to know when a formal peer review process has started. Peer review is highly threatening to doctors. It is designed to promote quality care for patients but it is often a punitive process that targets doctors for personal reasons or due to professional competition.

Peer review leaves doctors vulnerable to reporting to the National Practitioner Data Bank or medical boards if they resign when a formal investigation has started. Staying the course can be worse, leading to hearings and negative factual findings in a process that is often unfair to the physician.

So many doctors ask: Has formal peer review started? Here is the answer, and the answer is both muddy and often subjective.

Let me start with an Overview of Peer Review for California Physicians

In California, peer review for physicians—and other licentiates like surgeons, podiatrists, or midwives—is primarily governed by Business and Professions Code sections 805 through 809.8. These sections establish a structured process to evaluate professional competence, conduct, and quality of care. This framework integrates with federal protections under the Health Care Quality Improvement Act, or HCQIA, and is implemented through medical staff bylaws at hospitals or health facilities. The process aims to protect patient safety while affording physicians due process rights.

Peer review typically occurs in licensed health care facilities, professional societies, or medical groups with greater than 25 physicians. It involves several stages: initial informal review, formal investigation, potential adverse action (for example, suspension or revocation of privileges), and a fair hearing if requested. The start of formal peer review—distinct from preliminary or informal reviews—marks the point where the process escalates to a structured, rights-protected investigation, often triggering reporting obligations.

So let's get to the point. What is The Start of Formal Peer Review

Under California law, formal peer review begins when a peer review body—for example, the Medical Executive Committee (or MEC), an ad hoc committee, or a designated panel—initiates a formal investigation based on credible allegations of misconduct or incompetence. This is not merely receiving a complaint but requires a deliberate decision to proceed with fact-finding.

Key legal definitions and triggers come from Business and Professions Code section 805.01. A formal investigation is an investigation by a peer review body based on an allegation that one or more of the following may have occurred:

Incompetence, for example, substandard care.

Professional misconduct, for example, disruptive behavior or ethical violations.

Mental or physical incapacity affecting practice.

Acts involving sexual misconduct, harassment, or exploitation.

The trigger for starting is when the peer review body determines the allegation warrants escalation beyond informal resolution. This often follows:

A preliminary review or focused professional practice evaluation (FPPE) under bylaws.

Appointment of an investigative committee by the MEC or chief of staff.

Note that there is no immediate summary suspension, which can start externally under Business and Professions Code section 805 but is rare and temporary.

The formal phase attaches due process rights—for example, notice and opportunity to respond—and confidentiality protections under Evidence Code section 1157. Bylaws may specify additional procedural details, such as timelines, for example, 30 to 60 days for initial assessment.

What are the Practical Indicators of Formal Start

Hospitals and medical staffs follow bylaws aligned with state law. Common markers include:

Appointment of an investigative committee: The MEC or chief of staff forms an ad hoc panel to gather evidence, such as records and interviews. Legal basis: Business and Professions Code section 809 and typical bylaws provisions.

Another obvious factor is Written notice to the physician: The physician receives formal notice of allegations and the right to respond, which may occur at or after committee appointment.

Sometimes the bylaws will say that an O P P E is not peer review but that is not always the case.

There are low level O P P E's and some which look a lot more like review by the medical executive committee and coercive measures including required meetings, written responses to inquiries and other factors which make the O P P E a lot more formal than just a chance at improving performance.

In California as in most states a suspension after a certain number of days is reportable to the medical board. In California a Section 805 report is Required within 15 days of the effective date of final adverse action, for example, suspension greater than 14 days or privilege revocation.

This is after the formal process concludes, not at the start.

The report will usually trigger a medical board investigation.

Reporting is encouraged because the Failure to report incurs fines up to \$50,000 per violation.

Ultimately a doctor facing peer review needs to assess whether a summary suspension is in the works. If so, in the blink of an eye the physician may be suspended for reasons of protecting patients from imminent harm.

An investigation without an immediate suspension is less troublesome and can drag on for years.

One major concern is that once the formal process has started a doctor cannot resign or move without a report being made to the national practitioner data bank and in most states to the medical board as well.

The Bottom line is this. If an investigation is in the wind you need immediate legal help. A lawyer will give you your options including resignation, negotiation or a full fledged defense to the accusations. Do not under any circumstance try to influence witnesses or correct or add to medical records. This is important. Even if you are 100 per cent right, self help will hurt you.