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| <b>SUBJECT: Practitioner Termination and Suspension Policy</b><br><b>SECTION: CREDENTIALING</b><br><b>POLICY NUMBER: CR-05</b> | <b>EFFECTIVE DATE: 04/13</b> |
| <i>Applies to all products administered by the Plan except when changed by contract</i>  |                              |

**Policy Statement**

It is the policy of the Plan to provide due process to Participating Practitioners who are subject to proposed termination of the Participation Agreement and revocation of credentials. These due process rights are consistent with Section 4406-d of the New York State Public Health Law, Section 4803 of the New York State Insurance Law and the federal Health Care Quality Improvement Act (“HCQIA”).

Accordingly, the Plan has a hearing procedure in place allowing Participating Practitioners, in certain circumstances, to appeal a proposed termination of the Participation Agreement and revocation of credentials.

**Definitions**

**Adverse Action** - The action taken against a Practitioner’s credentials approval and contractual participation for reasons including, but not limited to: Quality Concerns; substandard care; criminal charges; discipline or sanction by a governmental agency, licensing agency or licensed entity; practicing while impaired; misconduct as defined by NYS; misrepresentation of credentials, whether by commission or omission; fraud; harassment of patients, other Practitioners, health care staff, or Plan employees; breach of confidentiality; disruptive behavior or conduct that lowers the standards of care of the Plan; violation of rules and regulations of the Plan.

**Clinical Peer Reviewer** - a Practitioner in the same discipline and the same or similar specialty as the health care professional under review.

**Clinical Privileges** – the ability to furnish medical care to persons enrolled in the Plan as determined by the Plan and in accordance with a Participation Agreement and the Plan’s credentialing policies and procedures.

**Corporate Credentialing Committee** - The committee appointed by the Plan that has been delegated the responsibility for credentialing functions. The Corporate Credentialing Committee establishes policies and procedures for the appointment, reappointment, suspension and termination of Practitioners from time to time, and reports to the Health Care Benefits Management Committee.

**Hearing** – the hearing provided in accordance with Credentialing Policy CR-05B.

**Member** - An individual covered under one of the various health benefit plans offered or administered by the Plan

**Participating Practitioner Agreement or Participation Agreement** - The written contract between the Plan and the Practitioner. Practitioners are required to sign a Participation Agreement in order to provide services to Members. Practitioners who have signed a Participation Agreement are referred to as “Participating Practitioners” in this policy.

**Plan** - References to the Plan or Plan shall mean Excellus Health Plan, Inc., a corporation licensed under Article 43 of the New York Insurance Law and possessing an HMO certificate of authority under Article 44 of the New York Public Health Law.

**Participating Practitioner/Practitioner** – An individual health care professional licensed and/or registered pursuant to Title 8 of the New York Education Law, including, without limitation, physicians, osteopaths, dentists, nurses, nurse practitioners, physicians’ assistants, social workers, podiatrists, optometrists, physical therapists, psychologists, occupational therapists, speech-language pathologists, and chiropractors.

**Quality Concerns** – information, facts or circumstances relating, or potentially relating, to Practitioner’s competence or professional conduct which adversely affect, or could adversely affect the health or welfare of a Plan Member or any other patient of a Practitioner.

**Quality Management Program** - the policies and procedures approved by the Board of Directors to assess and evaluate important aspects of care and the quality and appropriateness of care to Members.

**Plan Medical Director** - The New York State licensed physician appointed by the Plan whose responsibilities include the supervision of the Quality Management Program and advising the Plan on the adoption and enforcement of policies concerning medical services. The Plan Medical Director or a designee shall be a Member of the Corporate Credentialing Committee.

**Proposed Termination** - The proposed revocation of the credentialing approval by the Plan and subsequent termination of the Participation Agreement with the Plan, pending the outcome of a hearing if one is requested.

**Suspension** - The immediate withdrawal, by a Plan Medical Director, of a Practitioner’s rights to provide patient care services to Members pending an investigation or a hearing.

## **Process**

When the Plan receives information in support of a potential Adverse Action, a review will be initiated with the staff and Plan Medical Director. Upon the recommendation of the Plan Medical Director, a report will be presented to the Corporate Credentialing Committee, along with a recommended course of action. The Corporate Credentialing Committee will review the facts presented and will render a decision regarding the Practitioner’s status with the Plan.

Notwithstanding the foregoing, the Plan may, in its sole discretion, implement an action or range of actions, prior to presenting a matter to the Committee, including but not limited to: corrective action plans with monitoring; conditional, time-limited credentialing; required continuing medical education or peer monitoring/mentoring, as appropriate. Alternatively, the Committee may, once an issue is presented to them, recommend any of the above action or range of actions prior to proposing termination.

If the Corporate Credentialing Committee's decision is a Proposed Termination, unless a Hearing Exclusion applies, as defined below, the Plan will afford the Practitioner a Hearing in accordance with Credentialing Policy CR-05B.

### **Hearing Exclusions**

A Hearing is not available for terminations resulting from the following:

1. The Plan's decision not to renew a Practitioner's contract;
2. Except with respect to a physician or dentist, whose termination is based on his/her competence or profession conduct, terminations involving imminent harm to patient care; a determination of fraud is made by a government entity; or a final disciplinary action by a state licensing board or other governmental agency that impairs the healthcare professional's ability to practice;
3. The Practitioner is excluded from participation in the Medicaid or Medicare programs; or
4. The Practitioner has ceased to practice, for legal or other reasons.

### **No Retaliatory Terminations**

The Plan will not terminate or refuse to renew a Participation Agreement solely because a Practitioner has:

1. Advocated on behalf of a Member.
2. Filed a complaint against the Plan.
3. Appealed a decision of the Plan.
4. Provided information to a Member regarding a condition or course of treatment, including the availability of other therapies, consultations or tests, in accordance with New York State Public Health Law 4406-c.
5. Made a report to an appropriate governmental body regarding the policies or practices of the Plan that the Participating Practitioner believes may negatively impact upon the quality of, or access to, patient care.
6. Requested a Hearing or review as provided herein.

## **Suspensions to Conduct Investigations**

A Plan Medical Director may summarily suspend or restrict a Practitioner's Clinical Privileges for a period not longer than 30 days to conduct an investigation in any case where a Plan Medical Director determines, in his or her sole discretion, that an Adverse Action may be warranted. Notwithstanding the foregoing, in the case where a physician or dentist's conduct is related to his/her competence or professional conduct, a Plan Medical Director may summarily suspend or restrict Clinical Privileges:

(a) to conduct an investigation to determine the need for an Adverse Action for a period not to exceed 14 days, or

(b) where a Plan Medical Director determines in his or her sole discretion that the failure to take such action in advance of affording the hearing procedures otherwise applicable to a Proposed Termination may result in the imminent danger to the health and safety of any individual, subject to the subsequent provision of the hearing procedures applicable to a Proposed Termination. Any suspension or restriction of Clinical Privileges pursuant to this paragraph shall be effective immediately upon notice to the Practitioner.

Potential outcomes of such an investigation include Proposed Termination or initiation of a corrective action plan.

## **The Plan's Duty to Report**

The Plan will report the occurrence of any of the following to the appropriate professional disciplinary agency within thirty (30) days:

1. The termination of a Participating Practitioner agreement for reasons relating to alleged mental or physical impairment, misconduct, or impairment of patient safety or welfare;
2. The voluntary or involuntary termination of a Participating Practitioner agreement to avoid the imposition of disciplinary measures; or
3. The termination of a Participating Practitioner agreement in the case of a determination of fraud, or imminent harm of patient health.

In addition, the Plan must report to the appropriate disciplinary agency within thirty (30) days of obtaining knowledge of any information that reasonably appears to show that a Participating Practitioner is guilty of professional misconduct as defined in New York State Education Law.

Further, pursuant to 42 CFR 1002.3(b), the Plan will report to New York State's Department of Health and Office of the Medicaid Inspector General OMIG any adverse actions taken for program integrity reasons against Participating Practitioners. The Plan will notify New York State's Department of Health of any Participating Practitioner who is denied credentialing or

recredentialing for program integrity related reasons, such as being on the excluded Practitioner list and/or having existing fraud, licensing or Office of Professional Medical Conduct issues.

Pursuant to 42 CFR 455.106 the Plan must require practitioners to disclose any health care related criminal conviction(s) at the time of initial contracting, as well as upon any renewal of an agreement. Once a health care criminal conviction of a Provider or anyone affiliated with Provider's practice has been disclosed to the Plan, the Plan must disclose that information to the New York State Department of Health (DOH) within 20 days.

### **Transitional Care**

Except for situations in which the Plan terminates the Participation Agreement without affording a Hearing in accordance with New York Public Health Law Section 4406-d(2)(a), the Plan shall permit Members to continue an ongoing course of treatment with Practitioner during a transitional period of (i) up to ninety (90) days from the date the provider's contractual obligation to provide services to the member terminates, or (ii) if the Member has entered the second trimester of pregnancy at the time of Practitioner's disaffiliation, for a transitional period that includes the provision of post-partum care directly related to the delivery.

The Plan will authorize the transitional care described above only if Practitioner agrees to continue to accept the reimbursement rates in effect prior to the start of the transitional period as payment in full, and to comply with all of the Plan's policies and procedures, including without limitation, quality management and utilization management programs.

### **Cross Reference:**

- Disciplinary Action Against License Policy refer to #CR-21
- CR-05B: Hearing Procedure
- This replaces BlueCross BlueShield of the Rochester Area MCO Policy and Procedure #CR-5 (dated 6/14/99); BlueCross BlueShield of Utica-Watertown HMO Blue Policy and Procedure #CR-VII (dated 3/00); and BlueCross BlueShield of Central New York HMO-CNY Corporate Policy, Physician and Non-Physician Appointment, Termination & Hearing Procedures (dated 2/02/01).

### **Committee Approval:**

Corporate Credentialing Committee - 3/15/04, 3/22/06, 12/20/06, 1/23/08, 7/21/10, 3/16/11, 9/21/11, 2/15/12, 4/17/13, 6/18/14 rev, 5/20/15 rev, 10/21/15 rev, 3/22/17 rev, 3/20/19 renewed; 3/17/21 renewed; 3/15/2023 revised; 3/19/2025 renewed

The Plan Credentialing Committee - 12/16/02

Rochester Credentialing Committee - 12/9/02

Syracuse Credentialing Committee - 12/10/02

Univera Credentialing Committee - 12/10/02

Utica Credentialing Committee - 11/21/02

The Plan Credentialing Committee 12/17/01