univera HEALTHCARE

SUBJECT: Hearing Procedure **SECTION: CREDENTIALING** **POLICY NUMBER: CR-05B**	**EFFECTIVE DATE: 04/13**
Applies to all products administered by The Plan except when changed by contract	

Application

When the Corporate Credentialing Committee proposes to revoke a Practitioner's credentials and terminate the Practitioner's Participation Agreement, and such decision triggers the Practitioner's right to a Hearing as set forth in Credentialing Policy, CR-05, "Practitioner Termination and Suspension Policy", the Plan will apply the following process. Capitalized terms contained herein are defined in CR-05.

Notice of Proposed Revocation

The Plan will provide the Practitioner with written notification of the proposed revocation of credentials and termination of the Practitioner's Participation Agreement. The written notice shall be personally delivered or mailed by US mail or other verifiable delivery service to the Practitioner. The notice shall include the following information:

1. The proposed action.
2. The reason(s) for the proposed action.
3. If appropriate, a statement that the Practitioner has the right to request a Hearing or review, at the Practitioner's discretion, before a panel appointed by the Plan;
4. The time limit, not less than thirty (30) calendar days, for requesting a Hearing in writing.
5. A statement that the Hearing will be held within thirty (30) calendar days after the date the Hearing request is received (unless the parties mutually agree that an extension is necessary).
6. A summary of the Practitioner's Hearing rights and obligations.

Hearing Request

If the Practitioner does not request a Hearing within thirty (30) calendar days of the date of the notice, the proposed action will be final and the Practitioner will have no additional appeal rights.

If the Practitioner or the practitioner's attorney request a Hearing, the Plan will schedule a Hearing. Hearing dates and times are determined by the Plan, with the Hearing occurring within thirty days of the Practitioner's request.

An extension of this 30 day time frame may be agreed upon by the parties based upon availability of the panel members or other administrative logistics.

The Practitioner is entitled to only one Hearing.

Notice of Hearing

The notice of Hearing shall contain the following information:

1. A list of the witnesses, if any, expected to testify on behalf of the Plan at the Hearing against the Practitioner.
2. The right to call witnesses who can provide relevant testimony on behalf of the Practitioner. A list on any such witnesses shall be provided to the Plan at least five business days prior to the Hearing.
3. The Practitioner will forfeit the right to a Hearing if the Practitioner fails to appear at the Hearing without good cause.
4. Any materials the Practitioner intends to use as evidence during the Hearing (e.g. relevant medical records, articles from peer-reviewed literature, statements of support from other physicians or providers), must be provided to the Plan at least five business days prior to the Hearing.
5. Practitioner's failure to provide the list of proposed witnesses and/or evidence to be presented at the Hearing may result in exclusion of the witnesses and/or evidence from the Hearing. In the alternative and in its sole discretion, the Plan may delay the Hearing by a reasonable time if the witness list and/or evidence is not received within the time frame required; such delay will be communicated to the Practitioner in writing.

Composition of the Panel

1. The Hearing panel will be composed of impartial individuals, attentive and objective, expediting the Hearing by being available and timely.
2. The Hearing panel shall be comprised of at least three (3) persons appointed by the Plan, at the Plan's sole discretion.
3. At least one member of the panel will be a Clinical Peer Reviewer.
4. The Hearing panel may consist of more than three (3) persons, provided however, that the number of clinical peers on such panel shall constitute one-third or more of the total membership of the panel.
5. Neither the Medical Director nor the officer or employee members of the panel shall have acted as an accuser, investigator, fact finder or initial decision-maker in the matter coming before the panel.
6. If relevant, and such an individual is available, the Plan officer or employee shall possess expertise in the issue which prompted the termination or suspension of Practitioner's credentialing (i.e. billing, fraud, etc.).
7. If the Practitioner participates in the Plan's Medicare Advantage program, the Hearing panel shall be comprised of a majority of individuals who are clinical peers in the same discipline and the same or similar specialty as the Practitioner under review.

8. The panel shall always consist of an odd number of individuals.

In its sole discretion, the Plan may appoint a Hearing Officer to facilitate the Hearing. The Hearing Officer may be a Plan employee, but in no event shall such Hearing Officer be in direct economic competition with the practitioner who is the subject of the hearing. The Hearing Officer ensures the Hearing is conducted with due process, objectivity, impartiality, effectiveness and consistency, and is not a voting member of the panel.

Role of the Hearing Panel

1. The Hearing panel's role is neither rehabilitation nor protection of the Practitioner but only to decide whether the proposed termination, revocation or limitation of credentials should be upheld.

2. Hearing panel members will avoid all ex parte communication before and after the Hearing.

3. The Hearing panel's charge is to determine if the adverse action was based upon evidence, consistent with policy, followed due process, and was appropriate.

4. The Hearing panel will review all of the admitted evidence and make appropriate findings of fact, conclusions, and determine proposed penalties, actions, or orders.

5. The Hearing panel will make a recommendation to the Plan regarding the proposed actions.

Pre-Hearing Meetings and Conferences

1. The formal Hearing process does not preclude non-prejudicial pre-Hearing meetings to occur between the Practitioner and the Plan. Appropriate uses of this forum include:

    a. Simplification of the issues,

    b. Considering the necessity or desirability of amendments to the proposed actions,

    c. Agreement on stipulations, admissions of fact and admissions of the genuineness of documents,

    d. Discussion of the number and examination of witnesses, and to explain procedural matters,

    e. Resolution of the proposed action through provision of necessary documentation or other evidence (i.e. if a Practitioner's credentials are proposed to be revoked due to lack of CME credits, the Practitioner may produce evidence of completed CMEs at a pre-Hearing conference).

2. Pre-Hearing conferences may be held by telephone or at a time and place specified by the Plan Medical Director for the purpose of reaching an agreement before the Hearing.

3. Any such contact is non-prejudicial, even if no agreement is reached. The attempt to resolve outstanding issues will not be disclosed to the Hearing panel.

Evidence at the Hearing

Practitioner's rights at the Hearing:

1. Statement of proposed action and reason for proposed action.

2. Representation by an attorney or other representative of the Practitioner's choice.

3. Practitioner may call, examine and cross-examine witnesses.

4. Practitioner may present evidence as permitted by the Hearing panel.

5. Objective and impartial hearing panel.

The Plan will also have the right to call, examine, and cross-examine witnesses and to present evidence determined to be relevant by the Hearing panel.

The Hearing Officer decides all issues regarding admissibility of any and all evidence presented by either side, regardless of its admissibility in a court of law.

Please note that witnesses not identified and evidence not provided to the Plan at least five (5) business days prior to the Hearing will not be offered at the Hearing.

The Plan leads the Hearing with presentation of the following:
1. The timeline of actions, notices, and responses;
2. The action(s) proposed; and
3. Citations to policies, law, precedent and other rules that justify the action.

The Practitioner responds with the presentation of the following:
1. Rebuttal of any information presented by the Plan, which may include documents or witnesses to the facts which are the basis of the adverse action;
2. All evidence and witnesses deemed relevant by the Hearing panel; and
3. Proposed alternate penalties or conditions.

The Plan will keep a record of the Hearing, which includes the recording, transcript or summary; all admitted exhibits; the written statement (if any); the Hearing panel's decision; and all related notices.

The Practitioner shall be afforded the right to have a record made of the Hearing, and the Practitioner may obtain a copy of the record of the Hearing upon payment of any reasonable charges associated with the preparation and copying of the record.

Written Statements

The Practitioner may submit a written statement at the conclusion of the Hearing. The Plan asks that the Practitioner bring sufficient copies of the written statement for distribution to all Panel members, as well as a copy for the Plan.

If the Practitioner and/or Practitioner's representative will be attending the Hearing remotely, the written statement must be provided to the Plan in advance of the Hearing for distribution to the panel at its conclusion.

The panel convenes immediately after the conclusion of the Hearing to consider the evidence, including any written statement submitted by the Practitioner. Any submission made after the panel has rendered a recommendation will not be considered.

Timing of Decision

After the Hearing panel has convened, deliberated, and rendered a decision on the proposed action, the Plan shall issue a final written decision to the Practitioner. Possible outcomes include: reinstatement of the Practitioner; provisional reinstatement of the Practitioner subject to conditions set by the Plan; or termination of the Practitioner.

The decision will be rendered in a timely manner, not more than fifteen business days after the adjournment of the Hearing. Thereafter, the Plan shall issue a final written decision, including a statement of the basis for the decision. The Plan shall provide a copy of this decision to the Practitioner by U.S. Mail or other verifiable delivery service with return receipt requested.

Effective Date of the Termination

A decision by the Hearing panel to revoke a Practitioner's credentials and terminate the Participation Agreement shall be effective not less than thirty (30) calendar days after the Practitioner's receipt of the decision. In no event will the termination be effective earlier than sixty (60) calendar days from the receipt of the initial notice of proposed termination provided to the Practitioner. The date of receipt will be presumed to be five (5) calendar days from the date of the initial notice.

New York Public Health Law §4403(6)(e) applies to revocations of credentials, as it addresses Members' rights to continue an ongoing course of care with a terminated Practitioner. For existing patients who are Plan Members, undergoing current treatment, terminated Practitioners should refer to the Transition of Care policy statement in Credentialing Policy CR05 for guidance regarding coverage of any treatment rendered.

Finality of Decision

The decision of the Hearing panel is final. The Practitioner is entitled to one Hearing; there are no appeals.

Cross Reference:

- Disciplinary Action Against License Policy refer to #CR-21
- This replaces BlueCross BlueShield of the Rochester Area MCO Policy and Procedure #CR-5 (dated 6/14/99); BlueCross BlueShield of Utica-Watertown HMOBlue 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, 4/17/2013, 4/15/15, 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