

<b>SUBJECT: DENIAL OF APPLICATIONS</b> <b>SECTION: CREDENTIALING</b> <b>POLICY NUMBER: CR-12</b>	<b>EFFECTIVE DATE: 09/28/2022</b>
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### Policy Statement

Where Foresight proposes to deny a new application for reasons relating to the applicant's professional conduct or competence that may adversely affect the health or welfare of a patient (as defined in the federal Health Care Quality Improvement Act, 42 USC 11101 et seq.), Foresight shall afford the applicant the hearing procedures set forth below. Foresight's policies exist to address issues of confidentiality and conflict of interest and apply to all employees.

### Process

Any hearing afforded an applicant pursuant to this policy shall be conducted in accordance with the following:

#### 1. Notice of Proposed Denial of Application

Foresight will provide the applicant with written notification of the proposed denial of his/her credentialing application. The written notice shall be personally delivered or mailed by US mail or other verifiable delivery service to the provider. The notice shall include the following information:

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

#### 2. Hearing Requests

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

If the applicant or the applicant's attorney requests a Hearing, Foresight will schedule a Hearing. Hearing dates and times are determined by Foresight, with the Hearing occurring within 30 calendar days of the applicant's request.

At the time the provider requests a Hearing, the provider shall be required to notify Foresight of their decision to have attorney representation or be accompanied by an attorney. Foresight shall have legal representation present at the Hearing upon being notified by the provider of their intention to have legal representation.

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 provider is entitled to only one Hearing.

#### 3. Notice of Hearing

The notice of Hearing shall contain the following information:

- The applicant will forfeit the right to a Hearing if the applicant fails to appear at the Hearing without good cause.
- Any materials the applicant 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 Foresight at least 5 business days prior to the Hearing.
- Applicant's failure to provide the evidence to be presented at the Hearing may result in exclusion of the evidence from the Hearing. In the alternative and in its sole discretion, Foresight may delay the Hearing



by a reasonable time if the evidence is not received within the time frame required; such delay will be communicated to the applicant in writing.

#### **4. Composition of the Panel**

- The Hearing panel will be composed of impartial individuals not in direct economic competition with the practitioner.
- The Hearing panel shall be composed of at least 3 persons appointed by Foresight, at the Foresight's sole discretion.
- At least one member of the panel will be a Clinical Peer Reviewer.
- The Hearing panel may consist of more than 3 persons, provided however, that the number of clinical peers on such a panel shall constitute at least one-third or more of the total membership of the panel.
- The Medical Director nor the officer nor 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.
- If relevant, and such an individual is available, a Foresight officer or employee shall possess expertise in the issue which prompted the denial of the applicant's credentialing application (i.e. billing, fraud, etc.).
- The panel shall always consist of an odd number of individuals.

In its sole discretion, Foresight may appoint a Hearing Officer to facilitate the Hearing. The Hearing Officer may be a Foresight employee, and is not a voting member of the panel. The Hearing Officer ensures the Hearing is conducted in accordance with this policy.

#### **5. Role of the Hearing Panel**

- The Hearing panel's role is neither rehabilitation nor protection of the applicant but only to decide whether the proposed revocation or limitation of credentials should be upheld.
- Hearing panel members will avoid all ex parte communication before and after the Hearing.
- 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.
- The Hearing panel will review all of the admitted evidence and make appropriate findings of fact, conclusions, and determine proposed penalties, actions, or orders.
- The Hearing panel will make a recommendation to Foresight regarding the proposed actions.

#### **6. Evidence at the Hearing**

Applicant's rights at the Hearing:

- Statement of proposed action and reason for proposed action.
- Representation by an attorney or other representative of the applicant's choice.
- Applicants may present evidence as permitted by the Hearing panel.
- Objective and impartial hearing panel constituted in accordance with this policy. Applicants who have objections to any of the proposed panel members must voice it prior to beginning of the hearing for resolution.

Foresight will also have the right to present evidence determined to be relevant by the Hearing panel.

The Hearing Officer or panel chair when the Hearing Officer is not present 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 evidence not provided to the Plan at least 5 business days prior to the Hearing will not be offered at the Hearing.

Foresight leads the Hearing with presentation of the following:

- The timeline of actions, notices, and responses;
- The action(s) proposed; and
- Citations to policies, law, precedent and other rules that justify the action.

The applicant responds with the presentation of the following:



- Rebuttal of any information presented by Foresight, which may include documents or to the facts which are the basis of the adverse action;
- All evidence deemed relevant by the Hearing panel; and
- Proposed alternate penalties or conditions.

Foresight 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 applicant shall be afforded the right to have a record made of the Hearing, and the applicant 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.

#### **7. Written Statements**

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

If the applicant and/or applicant's representative will be attending the Hearing remotely, the written statement must be provided to Foresight 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 provider. Any submission made after the panel has rendered a recommendation will not be considered.

#### **8. Timing of Decision**

After the Hearing panel has convened, deliberated, and rendered a decision on the proposed action, Foresight shall issue a final written decision to the applicant. Possible outcomes include:

- Reinstatement of the Practitioner;
- Provisional reinstatement of the Practitioner subject to conditions set by Foresight;
- Termination of the Practitioner.

The decision will be rendered in a timely manner, not more than 15 business days after the adjournment of the Hearing. Thereafter, Foresight shall issue a final written decision, including a statement of the basis for the decision. Foresight shall provide a copy of this decision to the applicant by the U.S. Mail or other verifiable delivery service with return receipt requested.

#### **9. Effective Date of the Termination**

A decision by the Hearing panel to deny an application for credentials/re-credentials shall be effective not less than 30 calendar days after the applicant's receipt of the decision. In no event will the denial be effective earlier than 60 calendar days from the receipt of the initial notice of proposed denial provided to the applicant. The date of receipt will be presumed to be 5 calendar days from the date of the initial notice.

#### **10. Finality of Decision**

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

#### **11. Reporting to Regulatory Agencies**

To the extent required by all applicable state and federal laws and regulations, Foresight shall report a denial of a credentialing application to the appropriate state and/or federal regulatory agency, including without limitation, the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank, applicable state licensing agencies.

**Note:** *Except as required by law, the Credentialing Committee reserves the right to grant exceptions to this policy.*



<b>Review Reason</b>	<b>Comments</b>	<b>Reviewed By</b>	<b>Reviewed On</b>	<b>Approved By</b>	<b>Approved On</b>
New Policy Format	N/A	Victoria Alvarez	11/19/2021	Credentials Committee	11/19/2021
Policy Update	State specific requirements	Victoria Alvarez	09/27/2022	Credentials Committee	09/28/2022