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Peer Review Plan

Physicians Health Plan of Northern Indiana, Inc.

PEER REVIEW PLAN

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I. AUTHORITY

The Physician Review Oversight Committee ("PROC") has been established as a standing committee of Physicians Health Plan of Northern Indiana, Inc., and its affiliate entities (hereafter known as "PHP") in accordance with the By-Laws of PHP. The Board of Directors has delegated authority to the PROC for taking Adverse Action with respect to providers and applicants in accordance with this Peer Review Plan, a component of PHP's Quality Management Program, as required by applicable law. The PROC shall report to the Board of Directors regarding its activities in such a manner as necessary to protect the confidentiality of its activities under the Indiana Peer Review Act, Indiana Code § 34-30-15 et seq. (the "Act") and/or Ohio Peer Review Statute §1751.21.

. PURPOSE

The primary purpose of the Peer Review Plan is to provide a mechanism for the conduct of provider or applicant peer review under the Act and Federal Health Care Quality Improvement Act of 1986.

Ill. OBJECTIVES

A. To establish protocols with respect to the investigation of complaints against providers or applicants, alleging professional misconduct, inappropriate or substandard professional performance, and unethical behavior adversely affecting the delivery of health services or other facts and circumstances that, if true, would support the imposition of an Adverse Action.

B. To establish a system for the proper conduct of an investigation into the facts and circumstances of a particular complaint.

C. To provide for hearing and appeal procedures appropriate to a particular complaint to be conducted by the PROC in reaching a decision with respect to such complaint and considering any appeal initiated at the request of the affected health care provider.

D. To annually review the Peer Review Plan, policies and procedures, program information, and the provider manual/website for any required changes or updates, which shall be reported to the Quality Improvement Committee.

IV. COMMITTEE STRUCTURE

The PROC is composed of:

A. The Medical Director, who serves as Chairman of the Committee

B. Chairman of the Credentials Committee

C. AVP of Pharmacy Services

D. One of PHP’s staff is responsible for provider services (i.e., Chief Operating Officer or Director Provider Implementation and Services).

E. Such other person(s) as shall be selected by the Medical Director, as he/she deems appropriate under the facts and circumstances of a particular complaint or/and to ensure that at least one member of the Committee is a participating provider not otherwise involved in management of the provider network, who is a clinical peer of the provider under review, and not in direct economic competition with the physician involved. A physician participating provider not otherwise involved in management of the provider network will also be assigned by the Medical Director for assistance in the annual review of the Peer Review Plan, policies and procedures, and the provider manual/website.

V. INITIATING PEER REVIEW

A. A written referral to the PROC from the Credentials Committee or the Quality Improvement Committee indicating that Adverse Action with respect to a provider or applicant may be appropriate based upon facts and circumstances identified by such Committee in the referral; or

B. A written complaint to be submitted to the PROC from any covered person (or his/her parent or guardian, if a minor or incompetent, or designated representative), provider, or persons affiliated with the provider; or

C. At the direction of the Board of Directors, the Chief Executive Officer, or the Medical Director.

VI. INVESTIGATION

Following the initiation of a peer review, the PROC shall cause an investigation to be conducted by a committee appointed by the PROC (the "Investigating Committee") with respect to the underlying facts and circumstances. Such investigation shall be completed within thirty (30) days of the date of initiation, and will follow the contract and statutes in accordance to where the provider contract is domiciled. In the event of a referral from the Credentials Committee or the Quality Improvement Committee, the PROC may accept, in whole or in part, the results of the investigation conducted by such Committee in lieu of, or as a part of, its own investigation.

The Investigating Committee appointed by the PROC will include at least one participating provider not otherwise involved in management of the provider network, who is a clinical peer of the provider under review, and who is not in direct economic competition with the provider. Members on the Investigating Committee may not be members of the Board of Directors or the PROC.

The affected provider or applicant shall be notified of the investigation and the nature of the accusations contained in the complaint or referral. In addition, the affected provider or applicant shall be given a reasonable opportunity to discuss, explain, or refute the accusations.

Individuals investigating the matter may, but shall not be obligated to, conduct interviews with persons involved. An interview of the provider or applicant shall not constitute a hearing, as described in Article VIII, nor shall the procedural rules with respect to such hearings or appeals apply. The interview is intended to be non-adversarial and neither the Committee nor the provider or applicant shall have legal counsel present at the interview.

Whatever the status of any investigation, the PROC shall, at all times, retain authority and discretion to take whatever action may be warranted by the circumstances, including terminating such investigation, if appropriate.

VII. INVESTIGATING COMMITTEE ACTION

As soon as practicable after the completion of the investigation, the Investigating Committee shall deliberate and reach a decision to take action in response to the complaint or referral, which action may include:

A. A decision that no corrective action is appropriate or necessary under the circumstances.

B. A decision to defer taking action for a reasonable period where circumstances warrant or pending further investigation.

C. A decision to issue letters of admonition, censure, reprimand, or warning.

D. A decision that Adverse Action should be imposed; or

E. A decision to take such other action as may be appropriate under the circumstances.

The decision of the Investigating Committee shall be embodied in a written recommendation. Unless the recommendation calls for the imposition of Adverse Action, the decision of the Investigating Committee with respect thereto shall be final and binding. If the recommendation calls for the imposition of Adverse Action, the

provider in question will be advised of his right to a hearing and appellate review, as described in Article IX of this document.

VIII. CONFIDENTIALITY AND IMMUNITY

Ohio Peer Review Statute §1751.21, §2305.24 – §2305.253

All information, data, reports or records made available to a quality assurance committee, utilization committee and and/or a state or local medical society composed of Doctor of Medicine or doctors of osteopathic medicine are confidential and shall be used by the committee and the committee members only in the exercise of the proper functions of the committee. Information, data or reports furnished to a utilization committee of a state or local medical society shall contain no name of any person involved therein. No individual who attends a meeting of a peer review committee, serves as a member of a peer review committee, works for or on behalf of a peer review committee, or provides information to a peer review committee shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the peer review committee or as to any finding, recommendation, evaluation, opinion, or other action of the committee or a member. Further an individual who is a member of or works for or on behalf of a peer review committee shall be liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the peer review committee.

Indiana Peer Review Code §34-30-15-1 - §34-30-15-19

All proceedings of a peer review committee are confidential and considered privileged communications. Neither the personnel of a peer review committee nor any participant in a committee proceeding shall reveal any content of communications, records of; or the determination of; a peer review committee outside of the peer review committee. A person who attends a peer review committee proceeding shall not be permitted or required to disclose: any information acquired in connection with or in the course of a proceeding; any opinion, recommendation, or evaluation of the committee; or any opinion, recommendation, or evaluation of any committee member. There is no liability on the part of, and no action of any nature shall arise against, the personnel of a peer review committee for any act, statement made in the confines of the committee, or proceeding of the committee made in good faith in regard to evaluation of patient care.

IX. RIGHT TO HEARING AND APPELLATE REVIEW

A. Notification and Request for Hearing (Level I- Panel Review)

1. Notice of Action. The affected provider or applicant who is the subject of the recommendation to take Adverse Action shall, within five (5) business days following the decision of the Investigating Committee to refer the matter for further proceedings, be given written notice, by certified mail, return receipt requested or by hand delivery, that an Adverse Action has been proposed to be taken against him/her. The notice shall state, in reasonable detail, the reasons, or facts and circumstances, and acts or omissions which form the basis for the recommendation, including, where applicable (and appropriate under law), a list of the patients or clients involved. The notice shall also inform the provider or applicant of the right to request a hearing within thirty (30) days of the date of receipt of such notice and provide a summary of the rights in the hearing.

2. Request for Hearing. To request a hearing, the provider or applicant must make the request, in writing, and deliver the same to PHP, Attention: Chief Executive Officer and the Medical Director of PHP. The written request may be personally delivered or made by certified mail, return receipt requested. The failure of a provider or applicant to request a hearing within thirty (30) days after receipt of the notice described in Section VIII.A.1. shall be deemed a waiver of the right to such a hearing and to any appellate review to which the Provider or Applicant might otherwise have been entitled in the matter.
3. Notice of Hearing. Within ten (10) days after receipt of a request for a hearing, the PROC shall schedule such a hearing and shall notify the provider or applicant, by certified mail, return receipt requested or by hand delivery, of the time, place, and date of the hearing, and a list of the witnesses,

if any, expected to testify at the hearing on behalf of PHP. The date of the hearing shall be not less than thirty (30) days from the date of notice.

4. Hearing Committee. The PROC shall appoint the members of the Hearing Committee. All members of the Hearing Committee must be present when the hearing takes place. This Committee shall be composed of three (3) participating providers not otherwise involved in management of the provider network and, if possible, at least one (1) of the members shall be a clinical peer of the provider under review. Where the affected provider is a physician, the Hearing Committee shall be composed of all physician members who need not be trained in the same specialty or subspecialty. No member of the Hearing Committee shall be in direct economic competition with the provider involved, and no member of the Committee shall have actively participated in the deliberations leading to the recommended Adverse Action.

    i. Hearing Officer. The PROC shall appoint a hearing officer who is not a member of the PROC to preside at the hearing. The hearing officer shall determine the order of procedure during the hearing, assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence, rule on procedural matters, and maintain decorum. The hearing officer may be an attorney of law but may not act as an advocate for either party to the hearing. The hearing officer may participate in the deliberations of the Hearing Committee and be a legal advisor to it but shall not be entitled to vote.

    ii. Record of Hearing. An accurate record of the hearing shall be made by a court reporter or, upon the consent of both the Committee identified in paragraph 4 hereof and provider or applicant, by electronic recording. The provider or applicant has the right to obtain a copy of the record. The cost of preparation of the record, including production of a copy for the provider or applicant, shall be borne by the provider or applicant.

    iii. Appearance Required. The personal presence of the provider or applicant for whom the hearing has been scheduled shall be required. A provider or applicant who fails, without good cause, to appear and proceed at such hearing shall be deemed to have waived the right to a hearing or appeal.

    iv. Postponements. Postponement of scheduled hearings shall be made for good cause and in the sole discretion of the Hearing Committee.

    v. Representation of Provider or Applicant. The affected provider or applicant shall be entitled to be accompanied and represented at the hearing by an attorney or other representative. The cost of such representation shall be borne by the provider or applicant.

    vi. Evidence. The hearing shall not be conducted in strict accordance with the rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be considered without regard to its admissibility in a court of law. The provider or applicant shall be entitled to submit, prior to and during the hearing, memoranda concerning any issue of procedure or of fact. The provider or applicant shall also be entitled to submit a written statement at the close of the hearing which, along with any memoranda previously submitted, shall become a part of the hearing record. The court reporter (or hearing officer, if there is no court reporter) shall swear all witnesses and maintain all documents or exhibits during such hearing.

    vii. Representation of the PHP Committee. The Committee whose action has prompted the hearing, (i.e., the Credentials Committee or Quality Improvement Committee initially recommending an Adverse Action) or the Investigating Committee (if the investigation arises from a complaint or recommendation of the Board), shall appoint a member of the Committee to represent it at the hearing and may also be represented at the hearing by an attorney. Any cost incurred as a result of the representation of the Committee shall be borne by PHP. The Committee shall have the obligation to present appropriate evidence in support of the recommendation for Adverse Action.

viii. Rights of Parties in the Hearing. The affected provider or applicant shall have the following rights: to testify on his/her own behalf and to make a closing statement; to call and examine witnesses; to be advised in advance with reasonable notice of the nature of the claims or charges and evidence and witnesses to be used in support of the recommendation for Adverse Action; to introduce evidence and exhibits determined to be relevant by the hearing officer, regardless of its admissibility in a court of law; to cross-examine any witness on any matter relevant to the issue of the hearing; to have a record made of the proceedings, a copy of which may be obtained by the provider upon payment of any reasonable charges associated with the preparation thereof; and to submit a written statement at the close of the hearing. If the provider or applicant does not testify in his/her own behalf, he may be called by the Committee recommending the Adverse Action or the Hearing Committee and examined as if under cross-examination.

ix. Recess. Subject to the consent of the affected provider or applicant (which shall not be unreasonably withheld), the hearing officer may recess the hearing and reconvene the same for the convenience of the participants.

x. Deliberation of Hearing Committee. At the conclusion of the hearing, the Hearing Committee shall deliberate, in one or more sessions, to consider any modification or amendment to its recommendation.

xi. Report of Hearing Committee. Within fifteen (15) days after the close of the hearing, the Hearing Committee shall make, by majority vote, a written report, including a recommendation and a statement of the basis for its recommendation, with a copy to the affected provider or applicant. The report may recommend confirmation, modification, or rejection of the original recommendation for Adverse Action.

B. Appeal (Level II – Panel Review)

1. Request for Appeal. Within fifteen (15) days after receipt of the Hearing Committee's report and recommendation, either party may request an appellate review to be conducted by the Board of Directors. The request shall be submitted in writing to the Chief Executive Officer of PHP. Failure to make such a request within that time shall be deemed a waiver of the right to appeal.

2. Appellate Review Committee. The appellate review shall be conducted by the Board of Directors through an Appellate Review Committee (appointed by the Board), which shall include three (3) or more individuals who may, but need not be, members of the Board. Notwithstanding the foregoing, no person who has actively participated in consideration of the Adverse Action shall be a member of the Appellate Review Committee, including any members of the Hearing Committee, and, if possible, at least one member of the Appellate Review Committee shall be a participating provider not otherwise involved in management of the provider network and who is a clinical peer, but not in direct economic competition with the affected provider or applicant. The Appellate Review Committee shall act on behalf of the Board and its decision shall be final, not subject to further appeal.

3. Time for Appellate Review. The Board of Directors shall direct that the Appellate Review Committee meet within thirty (30) days after receipt of the notice of request for appellate review to conduct its review, except that when the provider is under a suspension that is then in effect, such review shall be scheduled as soon as arrangements may reasonably be made.

4. Written Statement of Professional Health Care Provider. The affected provider or applicant shall have access to the report, record, and transcript of the hearing and all other material, favorable or unfavorable, that were considered by the Hearing Committee in making the recommendation for Adverse Action. The provider or applicant shall have ten (10) days after the date of the request for appellate review to submit a written statement setting forth those factual and procedural matters with which he disagrees and his/her reasons for such disagreement. This written statement may cover any matters raised at any step in the procedure to which the appeal is related, and legal counsel may assist in its preparation. The provider or applicant shall submit the statement to the Board of Directors by certified mail, return receipt requested. A similar statement in support of the recommendation may be submitted by the Committee whose actions prompted the hearing. A copy of the statement shall be sent to the affected provider or applicant by certified mail, return receipt

requested or hand delivery, within five (5) days following receipt of the provider or applicant's written statement.

5. Review. In conducting the appellate review, the Appellate Review Committee shall review the record created in the proceedings and shall consider any written statements submitted for the purpose of determining whether the appealed decision is reasonable and warranted. The Appellate Review Committee may, but is not required to, allow oral argument which, if allowed, shall also be considered by the Appellate Review Committee in rendering its decision. New evidence shall not be admitted and considered by the Appellate Review Committee, except in the Appellate Review Committee's sole discretion under extraordinary circumstances. The affected provider or applicant shall have the right to be represented by legal counsel in connection with the appeal.

6. Final Determination. The Appellate Review Committee shall, within thirty (30) days after meeting to commence its appellate review, make a written report to the Board of Directors, including a determination that the decision under appeal be affirmed, modified, or reversed. The Appellate Review Committee's report and determination shall be the final decision of the Board of Directors. The affected provider or applicant shall be provided with a copy of the written decision, including a statement of the basis for the decision, by certified or overnight mail, return receipt requested. In the event neither party timely appeals the Hearing Committee's recommendation, the recommendation of the Hearing Committee shall become final.

C. Health Care Quality Improvement Act. Notwithstanding any other provision hereof, every Professional Review Action that is taken pursuant to this Peer Review Plan shall comply with the terms of the Health Care Quality Improvement Act of 1986 (42 U.S.C §§ 11101 et. seq. ("Act"), as amended from time to time. For purposes hereof, the term "Professional Review Action" has the same meaning as in said Act. In connection with any Professional Review Action, if there is a conflict between the requirements of said Act and the terms hereof, the requirements of said Act shall prevail, and the terms hereof shall be deemed amended to conform to the requirements of said Act. If there is a dispute as to the applicability of said Act or the existence of a conflict between the requirements of said Act and the terms hereof, the Board of Directors shall resolve the dispute.

X. SUMMARY RESTRICTION OR SUSPENSION

No prior hearing shall be required (i) where failure to take action may result in an imminent danger to the health or safety of any covered person or (ii) where a provider's or applicant's license or legal credential to practice medicine has been restricted, revoked, or suspended. Such summary restriction or suspension actions shall be governed by the following procedures:

A. Initiation – Credential Committee Action:

1. Whenever a provider's conduct appears to require that immediate action be taken to protect the health or safety of covered persons or to reduce a substantial and imminent likelihood of significant impairment of the life, health or safety of any person, either (i) the Medical Director, acting jointly with the Chief Executive Officer of PHP, or (ii) the Credentials Committee, may summarily restrict or suspend the privileges of such provider. Unless otherwise stated, such a summary restriction or suspension shall become effective immediately upon imposition, and the person or body responsible shall promptly give written notice to the provider. The summary restriction or suspension may be limited in duration and shall remain in effect for the period stated or, if no period is stated, until resolved as set forth herein.

2. Within fourteen (14) days after such summary restriction or suspension has been imposed, a meeting of the PROC shall be convened to review and consider the action. Upon request, the provider may attend and make a statement concerning the issues under investigation, on such terms and conditions as the PROC may impose, although, in no event, shall any meeting of the PROC, with or without the provider, constitute a "hearing" within the meaning of Article VIII, nor shall any procedural rules apply. The PROC may modify, continue, or terminate the summary restriction or suspension; but, in any event, it shall furnish the provider with notice of its decision.

B. Procedural Rights. Unless the PROC promptly terminates the summary restriction or suspension, the provider shall be entitled to the procedural rights afforded by Article VIII, including both a hearing before the PROC and appellate review by the Board of Directors.

C. Automatic Suspension or Limitation. In the following instances, a provider's privileges will be suspended, limited, or revoked, as described, which action shall be final, without a right to hearing or further review:

1. Whenever a provider's license or other legal credential authorizing practice in this State is revoked or suspended or whenever provider's Indiana controlled substance certificate and/or DEA certificate is revoked, limited, or suspended, privileges shall be automatically revoked as of the date such action becomes effective. In cases where the Indiana Controlled Substance Advisory Commission and/or DEA has issued limitations regarding a provider's or applicant's right to practice, either the PROC or provider or applicant may request that the provider or applicant appear before the PROC to discuss whether the provider or applicant may continue to practice with the limitations imposed. This meeting shall not include evidence designed to show that the authority or action of the Indiana Controlled Substance Advisory Commission and/or DEA was unwarranted and shall not constitute a "hearing" within the meaning of Article VIII.

2. Whenever a provider's license or other legal credential authorizing practice in this State is limited or restricted by the applicable licensing or certifying authority, any privileges which are within the scope of said limitations or restriction shall be automatically limited or restricted in a similar manner as of the date such action becomes effective and throughout its term.

3. Whenever a provider is placed on probation by the applicable licensing or certifying authority, his or her privileges shall automatically become subject to the same terms and conditions of the probation as of the date such action became effective and throughout its terms. In the event a *bona fide* dispute exists as to whether the circumstances described in C1-C3 above have occurred, the provider may request to appear before the PROC to make a statement or provide information to the PROC concerning whether the circumstances have occurred. In no event shall any such meeting with the PROC constitute a "hearing" within the meaning of Article VIII, nor shall any procedural rules apply.

D. Other. The Medical Director and Chair of the Credentials Committee may, at their discretion and on behalf of PHP, enter into a voluntary agreement with a provider to not exercise his/her privileges pending review, and if applicable, investigation of a matter at any time deemed appropriate by PHP.

XI. DEFINITIONS

Unless otherwise specifically defined herein, terms used herein shall be defined as follows:

"*Adverse Action"* shall mean an action or recommendation to take action, based on an evaluation of the competence or professional conduct of a provider or applicant (which affects, or could affect, adversely the health or welfare of a covered person) or patient care rendered by the provider, and which adversely affects (or may affect) privileges, such as a denial, refusal to renew, material restriction, suspension, revocation, or termination of privileges.

"*Applicant*" shall mean a licensed health care provider who has submitted an application to PHP seeking to become a provider.

"*Covered Person*" shall mean an individual (1) enrolled for coverage under a Benefit Contract issued by PHP; (2) enrolled for coverage under a Benefit Contract issued by a health benefits entity affiliated with PHP through ownership, contract, partnership, or joint venture; or (3) enrolled for coverage under a Benefit Contract administered by PHP.

"*Day(s)*" shall mean, with respect to time allowed for delivery or receipt of any notice, calendar days (*i.e.*, including Saturdays, Sundays, and legal holidays) unless the due date for such notice or receipt falls on a Saturday, Sunday or legal holiday, in which case, the due date shall be the first date immediately following which is not a Saturday, Sunday or legal holiday.

"*Health Services*" shall mean the health care services and supplies offered by provider which are covered under the Covered Person's Benefit Contract.

"Participating Provider" **shall mean an individual health care provider who is a party to a Provider Participation Agreement with PHP or who is identified as an eligible provider under a Provider Group Participation Agreement with PHP, or an individual health care provider who is affiliated with a participating provider.**

"*PHP*" shall mean Physicians Health Plan of Northern Indiana, Inc., an Indiana not-for-profit corporation, and its affiliated entities.

"*Privileges*" shall mean the right of a participating provider to provide health services to covered persons.

"*Provider(s)*" shall mean the following licensed health care providers: a physician, dentist, podiatrist, chiropractor, optometrist, psychologist, pharmacist, registered nurse, practical nurse, physical therapist, respiratory care practitioner, occupational therapist or clinical social worker -- in each instance who is under contract with PHP, or is affiliated with an individual or group practice under contract with PHP, to provide Health Services to Covered Persons.