Saint Mary’s Hospital

MEDICAL STAFF BYLAWS

Volume III:

INVESTIGATION, CORRECTIVE ACTION and FAIR HEARING PROCEDURE

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Collegial Intervention

It is the policy of the medical staff of the Hospital to work collegially with its members to assist them in delivering safe and good quality medical care, to continually improve their clinical skills, to comply with medical staff and Hospital policies, and to meet all performance expectations as established from time to time by the medical staff. Medical staff policies, including those on peer review, performance improvement, conduct, and physician health and impairment describe some of the collegial interventions available to medical staff leaders in working with colleagues whose clinical performance or professional conduct is problematic. Collegial intervention may include letters of warning/concern, a reprimand, a notice that the physician’s conduct will be monitored for a period of time and/or that similar conduct in the future will be reported to the MEC for a formal peer review investigation, a voluntary agreement to attend meetings, CME courses, obtain consultations, or other appropriate action. Collegial intervention is not considered disciplinary action and shall not entitle a practitioner to a hearing or appeal. However, the results of the collegial intervention will be documented and signed by the participants and retained in the credentials file in a sealed envelope labeled “confidential collegial intervention”. The envelope may be reviewed by the individual and appropriate medical staff leaders involved in the credentialing and peer review processes. The reason for, date of and identity of the person conducting a review of the “confidential collegial intervention” will be documented directly on the envelope. The envelope and contents will be kept in the credentials file for a time period consistent with State law.

The provisions of this procedure describe the steps that the medical staff and Hospital will undertake when such collegial efforts fail or are insufficient to protect the well being of patients, staff, colleagues, or the Hospital.

When appropriate, nothing in these Bylaws, the medical staff rules and regulations, or Hospital policies shall prohibit initial informal efforts by clinical service chairpersons, staff leadership, or Hospital administration to improve or correct the level of care provided by staff members, prior to or instead of proceeding through a formal peer review process.

ARTICLE I
INVESTIGATIONS

1.1 Criteria for Formal Initiation

Any person may provide information to any member of the MEC or other medical staff leader about the conduct, performance, or competence of medical staff members. When reliable information indicates a member may have exhibited in any location acts, demeanor, or conduct, reasonably likely to be (1) detrimental to patient safety or to the delivery of quality patient care within the Hospital; (2) unethical or illegal; (3) contrary to the Medical Staff Bylaws, associated procedures, Hospital or medical staff policies and/or any rules and regulations; (4) harassing or intimidating to Hospital employees, medical staff colleagues, patients or their families; (5) disruptive of Hospital or medical staff operations; (6) below applicable professional standards for competency or as

established by the medical staff; or (7) harmful to the reputation of the Hospital and/or medical staff, a request for an investigation or action against such member may be initiated by the President of the Medical Staff, MEC, Chief Medical Officer, or the Hospital CEO. The purpose of an investigation is to determine if a MEC recommendation to the Board for corrective action is warranted or determine what additional information should be gathered or collegial interventions attempted prior to making such a recommendation. Routine peer review and performance monitoring (e.g. focused and ongoing professional practice evaluation) will not be considered "investigations" as described in this Article.

1.2 Initiation

A request for an investigation may be submitted by one of the above parties to the MEC and supported by reference to the specific activities, concerns, or conduct alleged to warrant the investigation. If the MEC authorizes the investigation it shall make a record of this action in its official minutes.

1.3 Procedure

If the MEC concludes an investigation is warranted, it shall direct an investigation to be undertaken by a designated subcommittee or medical staff committee. The MEC may ask the Hospital to undertake external peer review if it believes such a step is warranted to conclude its investigation. Strong consideration should be given to use of external peer review if any of the following circumstances is present:

1. The MEC and the Credentials Committee are presented with ambiguous or conflicting recommendations from medical staff reviewers or committees, or where there does not appear to be a strong consensus for a particular recommendation.

2. There is a reasonable probability that litigation may result in response to an MEC recommendation regarding the practitioner under review;

3. There is no one on the medical staff with expertise in the subject under review, or when the only practitioners on the medical staff with the requisite expertise are direct competitors, partners, or associates of the practitioner under review.

The investigation shall proceed within ten (10) calendar days following the date the MEC determines that the investigation is warranted. A written report of the investigation findings will be submitted to the MEC as soon as practicable. The report may include recommendations for appropriate corrective action. The medical staff member at issue shall be notified that the investigation is being conducted and shall be given an opportunity to provide information in a manner and upon such terms as the Credentials Committee deems appropriate. The MEC may, but is not obligated to, conduct interviews with persons knowledgeable about the practitioner under review, however, such investigation shall not constitute a "hearing" as that term is used in this Investigation, Corrective Action and Fair Hearing Procedure, nor shall the procedural rules with respect to hearings or appeals apply. Despite the status of any investigation, at all times the MEC

shall retain authority and discretion to take whatever action it feels may be warranted by the circumstances to protect the Hospital, its staff, and its patients, including suspension or limitations on the exercise of privileges as provided herein. Any report of an external peer review provider shall be made part of the Hospital's internal peer review process and copies shall be provided to both the Hospital's Peer Review Committee and the practitioner under review. Any response to the external peer review reports made to the Board within thirty (30) days of the report shall be considered by the Board as part of its consideration.

1.4 Completion of Formal Investigation

The Credentials Committee shall strive to conclude investigations within sixty (60) days of a referral from the MEC. Where the MEC believes it is necessary, an investigation can be extended for an additional sixty (60) day period or longer by mutual agreement of the MEC and the practitioner.

When the Credentials Committee submits a report of its investigation the MEC will determine if it is complete and sufficient for the MEC to make a determination whether corrective action should be recommended. When it makes this decision the MEC will indicate in its minutes that the investigation is completed and so notify the practitioner involved.

1.5 Reporting to the National Practitioner Data Bank (NPDB) and Regulatory Agencies

If the practitioner under investigation resigns membership or privileges while the investigation is underway, the MEC will inform the medical staff office and a report will be made in accordance with the requirements of the National Practitioner Data Bank. Reports regarding investigations and corrective actions will also be made to state regulatory agencies as required under state regulations and statutes.

1.6 Medical Executive Committee Action

As soon as practicable after the conclusion of the investigation, the MEC shall take action that may include, without limitation:

1.6.1 Determining no corrective action is necessary.

1.6.2 Deferring action if it believes more information is needed. However, such deferral should not be longer than one hundred and twenty (120) days from the formal recommendation for an investigation.

1.6.3 Issuing letters of admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude clinical service chairs from issuing informal written or oral warnings outside of the mechanism for corrective action. In the event such letters are issued, the affected practitioner may make a written response, which shall be placed in the practitioner's file.

1.6.4 Recommending the imposition of terms of probation or special limitation upon continued medical staff membership or exercise of privileges, including, without limitation, requirements for co-admissions and co-management of patients, mandatory consultation, or monitoring.

1.6.5 Recommending denial, restriction, modification, reduction, suspension or revocation of clinical privileges.

1.6.6 Recommending reductions of medical staff membership status or limitation of any prerogatives directly related to the member's delivery of patient care.

1.6.7 Recommending suspension, revocation, or probation of medical staff membership.

1.6.8 Taking other actions deemed appropriate by the MEC under the circumstances.

ARTICLE II
IMPOSITION OF PRECAUTIONARY SUSPENSION OR DISCIPLINARY RESTRICTION OF PRIVILEGES OR MEMBERSHIP

2.1 Authority to Temporarily Suspend Privileges

The President of the Medical Staff, a clinical service chair, or the Board Chairperson shall each have the authority to temporarily suspend all or any portion of the clinical privileges of a medical staff appointee or practitioner holding privileges whenever he perceives a reasonable possibility that the continued practice of the member or practitioner constitutes an immediate danger to the public, including patients, visitors and Hospital employees and staff (and can document or provide other reliable information relevant thereto). Such a suspension will not become effective until agreed to by the Hospital CEO or other individual designated by the CEO. Unless otherwise indicated, this suspension will take place immediately and the President of the Medical Staff, the Hospital Board Chair, and the affected practitioner will be promptly informed. The imposition of the suspension will result in a meeting of the MEC as soon as reasonably possible (and in any event no more than fourteen (14) days) to determine whether the suspension should be affirmed, lifted, expunged or modified.

Suspensions undertaken to protect the well-being of patients are considered precautionary in nature and will be described as 'Precautionary Suspensions'; which term is considered the synonymous with the term "summary suspension" as such term is used in State and Federal laws.

2.2 Assignment of Patients

Where any or all of the privileges of a medical staff member or practitioner are terminated, revoked, or restricted, such that she/he can no longer treat all or some of his patients at the Hospital for any period of time, such patients who are then in the Hospital

shall be assigned for the period of such termination, revocation, or restriction to another qualified practitioner by the President of the Medical Staff, or, in his absence, by the chair of the affected practitioner's clinical service. Where feasible, the wishes of the patient shall be considered in choosing a substitute practitioner.

2.3 Interview

When a practitioner has had privileges or membership status suspended, the practitioner will be afforded an interview with the MEC upon request. The interview shall not constitute a hearing, shall be informal in nature, and shall not be conducted according to the procedural rules provided with respect to hearings under this Investigation, Corrective Action and Fair Hearing and appeal procedure. Request to meet with the MEC must be made within five (5) business days of notification of the precautionary suspension of privileges or medical staff membership. Request must be made in writing and delivered to the President of the Medical Staff or designee within the designated timeframe. Meeting with the MEC will be scheduled as soon as practicable after imposition of the suspension, but in no event later than forty-five (45) days.

2.4 Medical Executive Committee Action

As soon as reasonably possible after the imposition of a precautionary suspension, the MEC shall recommend to the Governing Board whether the suspension should be modified, continued or terminated, including whether further corrective action should be taken or whether there is a need for an investigation by the Credentials Committee. Unless the precautionary suspension was imposed by action of the Governing Board, such recommended action by the MEC shall take immediate effect and remain in effect pending a final decision after expedited consideration by the Board. The MEC shall give notice to the affected medical staff member of its recommendations as soon as possible or within five (5) days of the adoption of such recommendation.

2.5 Procedural Rights of Practitioners Subject to Precautionary Suspension

Whenever a practitioner has been suspended for more than fourteen (14) days or when the MEC makes a recommendation, he will be entitled to request a fair hearing as described below in Article VI of this procedure within fifteen (15) days of the imposition of the suspension.

2.6 Disciplinary Restriction

The MEC may, with approval of the Hospital CEO and/or the Chair of the Governing Board or their designees, institute one or more disciplinary restrictions of a practitioner for a cumulative period not to exceed fourteen (14) consecutive days in a calendar year. A disciplinary restriction may be instituted only when:

1. The action that has given rise to the restriction relates to non-compliance with a medical staff and Hospital policies on professional conduct, completion of medical records, or on-call coverage requirements;

2. The practitioner has received at least two (2) written warnings within the last twenty-four (24) months regarding the policy violation in question. Such warnings must state the conduct or behavior, or policy violation that is questioned and specify or refer to the applicable policy, and state the consequence(s) of repeat violations of the policy, including the possibility of a disciplinary restriction, or;

3. The affected practitioner has been requested to meet with the MEC or a designated subcommittee prior to the imposition of the disciplinary restriction. Failure on the part of the practitioner to accept the MEC offer of a meeting will constitute a violation of the Bylaws regarding "mandatory meetings" described in Section 8.8 Volume I of these Bylaws.

ARTICLE III
AUTOMATIC SUSPENSION, LIMITATION, OR VOLUNTARY RELINQUISHMENT OR RESIGNATION OF MEDICAL STAFF MEMBERSHIP AND/OR PRIVILEGES

This article addresses automatic suspensions and limitations on membership and privileges and voluntary resignations/relinquishments of membership and privileges when these occur for administrative reasons relating to failure to meet eligibility requirements of membership or comply with additional requirements for membership or privileges found in the Bylaws and medical staff policies and procedures. These actions are not considered professional review actions, are not based on determinations of competence or unprofessional conduct, and are not entitled to the hearing or appeal procedures provided under these Bylaws and described in this procedure.

3.1 Suspension or Revocation of License

A medical staff member or practitioner with privileges, whose license, certification, or other legal credential authorizing practice in this or another state is suspended, the practitioner shall be immediately suspended from practicing in the Hospital pending final resolution and outcome by the applicable licensing agency. During this time the practitioner will be considered ineligible for medical staff membership or privileges and will not be entitled to the procedural due process rights provided in this procedure. If the licensing agency reinstates the practitioner without any limitations or conditions, the suspension may be lifted. If the licensing agency reinstates practitioner's license with limitations or conditions, suspension will remain in effect pending an interview with the Credentials Committee and recommendation from the MEC for action by the Governing Board.

If the practitioner's license, certification, or other legal credential authorizing clinical practice in this or another state is revoked, the practitioner shall immediately and automatically lose medical staff membership and/or privileges at the Hospital. This will not be considered a professional review action, but an administrative action for noncompliance with the medical staff eligibility requirements for membership and/or privileges. The practitioner shall not be entitled to the procedural due process rights outlined in this procedure.

3.2 Conviction of a Felony

A practitioner who has been convicted of, or pled “guilty” or “no contest” or its equivalent to a felony or to a misdemeanor involving a charge of wrongful or depraved conduct in any jurisdiction shall automatically relinquish medical staff membership and privileges. Such relinquishment shall become effective immediately upon such conviction, or plea, regardless of whether an appeal is filed. Such relinquishment shall remain in effect until the matter is resolved by subsequent action of the Board or through corrective action, if necessary.

3.3 Suspension for Failure to Complete Medical Records

An administrative suspension of privileges to admit new patients or to schedule new procedures shall be imposed for failure to complete medical records within the time periods established by the MEC and reflected in medical staff or Hospital policies. Such suspension shall not apply to patients already admitted or scheduled at the time of the suspension, to emergency patients, or to attendance at imminent deliveries. Temporary suspension shall be lifted upon completion of the delinquent records. The administrative suspension shall become an automatic permanent suspension for failure to complete all medical records within sixty (60) calendar days. However, affected practitioners may request reinstatement during a period of thirty (30) calendar days following permanent suspension if all delinquent records have been completed. Thereafter, such practitioners shall be deemed to have voluntarily resigned from the medical staff and must reapply for membership and privileges.

3.4 Failure to Attend Specially Notices Committee or Clinical Service Meeting when Requested

A practitioner, who fails to appear at a meeting where his or her special appearance is required under Section 8.8 of the Medical Staff Bylaws, shall automatically be suspended from exercising all clinical privileges unless he can establish good cause to the satisfaction of the President of the Medical Staff for missing the meeting. Failure to appear for a rescheduled meeting on more than one occasion shall be considered a voluntary resignation from the medical staff. Unless the practitioner was under formal investigation at time of this voluntary resignation, there will be no entitlement to the fair hearing and appeals procedures provided in this procedure.

3.5 Revocation or Suspension of DEA Number or State Pharmacy Board License

A medical staff member whose Drug Enforcement Administration (DEA) number or State Pharmacy Board license is relinquished, revoked or suspended shall immediately and automatically be divested of his privilege to prescribe drugs covered by such number/licenses within the Hospital. This is not a professional review action (unless conduct or competence-related) and the practitioner shall not be entitled to procedural due process as described in this procedure. As soon as possible, the Credentials Committee shall investigate the facts under which the medical staff member’s DEA

number was revoked or suspended, and may recommend to the MEC further corrective action if indicated.

3.6 Failure to Maintain Liability Insurance

A practitioner's medical staff appointment and/or privileges shall be immediately suspended for failure to maintain the minimum amount of professional liability insurance required by the Board and these Bylaws. Affected practitioners may request reinstatement during a period of ninety (90) calendar days following suspension upon presentation of proof of the required amounts of insurance. Thereafter, such practitioners shall be deemed to have voluntarily resigned form the staff and must reapply for medical staff membership and/or privileges.

3.7 Exclusion from Federal or State Insurance Programs or Conviction for Insurance Fraud

If a practitioner appears on the list of "Excluded Individuals/Entities" maintained by the HHS Office of Inspector General, or is excluded from any Federal insurance programs, the practitioner shall be considered to have automatically resigned from medical staff membership and/or privileges. Similarly, any practitioner convicted of violations of the Federal False Claims Act or of insurance fraud shall be considered to have automatically relinquished his medical staff membership and/or privileges.

3.8 Failure to Participate in an Evaluation or Assessment

A practitioner who fails or refuses to participate in an evaluation or assessment of his or her qualifications for medical staff membership and/or privileges as requested by the Clinical Service Chair, Credentials Committee Chair or the President of the Medical Staff as required under these Bylaws shall be automatically suspended. If, within thirty (30) days of the suspension the practitioner agrees to and participates in the evaluation or assessment, the practitioner shall be reinstated. After thirty (30) days, the practitioner will be deemed to have voluntarily resigned his or her medical staff membership and/or privileges.

3.9 Failure to Notify Hospital of Disciplinary or Final Malpractice Actions

A practitioner who fails to notify the President of the Medical Staff and the CEO in writing within ten (10) days of any of the following shall be automatically suspended:

1. if privileges in any hospital have been revoked or limited in any way;

2. if corrective action has been taken to revoke or limit privileges in any way at another health care facility or institution;

3. if a professional malpractice action has been settled;

4. if there is a change in his/her license to practice medicine or prescribe drugs in any State;

5. if removed or not renewed as an insurance plan provider due to quality of care issues; or

6. if s/he fails to notify the Hospital of any action taken by the Medical Board against the practitioner.

The suspension may be lifted by the MEC when the practitioner provides adequate documentation to the MEC of the circumstances that triggered the suspension. Failure to provide the information will be considered a voluntary resignation from medical staff membership and/or privileges.

3.10 Failure to Return from a Leave of Absence

If a practitioner granted a leave of absence (LOA) does not request reinstatement or an extension before the LOA expires, he will be considered to have voluntarily resigned his medical staff membership and/or privileges.

ARTICLE IV
ADDITIONAL EXCEPTIONS TO HEARING RIGHTS

4.1 Impact of Exclusive Contracts

4.1.1 Privileges can be reduced or terminated as a result of a decision by the Governing Board to limit the exercise of clinical privileges to practitioners engaged by the Hospital under the terms of an exclusive contract consistent with Volume III, Article IV, sections 4.1 and 4.2. These actions are not considered professional review actions and are not based on a determination of professional competence or unprofessional conduct. There is no right to a hearing or appeal of the loss of privileges or membership resulting from implementation of an exclusive contract.

4.1.2 The affected medical staff member/practitioner shall be provided with at least sixty (60) days advance notice of the effect on medical staff membership and/or privileges by an exclusive contract.

4.1.3 Any adverse decision on medical staff membership or privileges based on substantially economic factors under this section, after conclusion of all hearings, shall only occur after fifteen (15) days written notice is provided to the effected practitioner.

ARTICLE V
REPORTING REQUIREMENTS

5.1 Reporting to the National Practitioner Data Bank

Professional review actions based on reasons related to professional competence or conduct adversely affecting clinical privileges for longer than thirty (30) days or voluntary surrender or restriction of clinical privileges while under, or to avoid, investigation must be reported to the National Practitioner Data Bank ("NPDB"). The report must be made to the NPDB within fifteen (15) days of the final decision of the action. Precautionary suspensions lasting longer than thirty (30) days must be reported to the NPDB within fifteen (15) days of the MEC action. A copy of the NPDB report will be forwarded to the State Medical Board as required by the NPDB.

5.2 Reporting to State Agencies

Actions affecting privileges shall be reported to the appropriate State licensing board or other state regulatory agencies consistent with State law.

ARTICLE VI
INITIATION OF HEARING

6.1 Grounds for Hearing

Except as otherwise provided in these Bylaws, a recommendation by the MEC, or an action taken by the Board for one or more of the following adverse actions, or their imposition, if based on a determination of clinical incompetence or unprofessional conduct, shall constitute grounds for a hearing:

1. Denial of initial appointment to the medical staff;
2. Denial of reappointment to the medical staff;
3. Revocation of appointment to the medical staff;
4. Denial of some or all requested clinical privileges;
5. Revocation of some or all clinical privileges;
6. Suspension or restriction of some or all privileges for more than fourteen (14) days and is not caused by the member's failure to complete medical records or any other reason unrelated to clinical competence or professional conduct; (e.g. mandatory concurring consultation requirement, or an increase in the stringency of a pre-existing mandatory concurring consultation requirement, when such requirement only applies to an individual medical staff member).

6.1.1 The following will **not** constitute grounds for a hearing (this list is by way of example and is not meant to be a proscriptive):

1. Having a letter of guidance, warning, or reprimand issued to the practitioner or placed in the credentials or performance file of the practitioner;

2. Automatic relinquishment of privileges or membership as described in Article III above;

3. Imposition of a precautionary or disciplinary suspension that does not last for more than fourteen (14) days;

4. Denial of a request for a leave of absence or for an extension of a leave of absence;

5. Determination by the Hospital that an application for appointment or reappointment is untimely or incomplete for failure to submit all requested information;

6. A decision not to process an application under the available procedures for expedited review;

7. Assignment to a particular medical staff clinical service or category;

8. Imposition of a proctoring or monitoring requirement where such does not include a restriction on privileges;

9. Failure to process a request for a privilege when the applicant/member does not meet the eligibility requirements to hold that privilege;

10. Conduct of focused peer review (including external peer review) or a formal investigation;

11. Requirement to appear for a mandatory meeting under the provision of the Medical Staff Bylaws;

12. Termination or limitation of temporary privileges unless for demonstrated incompetence or unprofessional conduct;

13. Determination that an applicant for membership does not meet the requisite qualifications or criteria for membership;

14. Ineligibility to request membership or privileges or continue the exercise of privileges because a relevant specialty is closed under a medical staff development plan adopted by the Board or covered under an exclusive provider agreement approved by the Board;

15. Termination of any contract with or employment by the Hospital;

16. Any recommendation voluntarily accepted by the member as a result of peer review;

17. Removal or limitation of Emergency Department call obligations;

18. Any requirement by the MEC or Board to complete an educational assessment;

19. Any requirement by the MEC or Board to undergo a mental, behavioral, or physical evaluation to determine fitness for practice;

20. Appointment or reappointment for a duration of less than twenty-four (24) months;

21. Refusal of the Board to reinstate medical staff membership or privileges following a leave of absence;

22. Actions taken by the affected practitioner's licensing agency or any other governmental agency or regulatory body.

6.2 Notice to Practitioner

A practitioner with respect to whom adverse action listed in Section 6.1 above has been taken shall promptly be given written notice thereof by the President of the Medical Staff or, if such notice was prompted by action of the Governing Board, by the Chair of the Governing Board. This notice will include a description of the adverse action and the reasons for it, a copy of this Investigation, Corrective Action and Fair Hearing and Appeal Procedure, and an offer to provide the practitioner a hearing. The notice will also inform the practitioner that the corrective action or recommendation, if finally adopted by the Board, may result in a report to the state licensing authority (or other applicable state agencies) and the National Practitioner Data Bank. The practitioner shall have thirty (30) days following the date of receipt of such notice within which to request a hearing.

6.3 Practitioner's Request for Hearing

A practitioner's request for a hearing shall be made by means of written notice delivered either in person or by certified or registered mail to the Hospital CEO within thirty (30) days following the receipt of notice of a corrective action or recommendation.

6.4 Waiver of Hearing by the Practitioner

A practitioner who fails to request a hearing within the time attempted and in the manner specified above waives any right to a hearing to which he might otherwise have been entitled. Such waiver in connection with:

1. A decision or proposed decision by the Governing Board shall constitute acceptance of such decision, which shall thereupon become effective as the final decision of the Governing Board and will be reported as required by law.

2. A recommendation by the MEC shall constitute acceptance of such recommendation, which shall thereupon become and remain effective pending the final decision of the Governing Board.

The practitioner may also waive the right to a hearing by delivering a signed waiver to the Hospital CEO.

6.5 Stay of Adverse Decision

A request for a hearing does not automatically operate to stay any adverse recommendation of the MEC or adverse decision of the Governing Board, including the imposition of a precautionary suspension, and such recommendation or decision shall remain effective pending the final decision of the Governing Board.

ARTICLE VII
HEARING PREREQUISITES

7.1 Notice of Time and Place for Hearing

Upon receipt of a timely request for hearing, the Hospital CEO shall inform the President of the Medical Staff, MEC and Governing Board. Within thirty (30) days after receipt of such request the Hospital CEO shall schedule and arrange for a hearing. At least thirty (30) days prior to the hearing, the practitioner will be sent a special notice of the time, place, and date of the hearing, together with a statement of the matters to be considered and a list of witnesses (if any) expected to testify at the hearing on behalf of the MEC or Hospital Board. The hearing date shall commence not less than thirty (30) days nor more than sixty (60) days from the date of receipt of the request for hearing, unless the affected practitioner and Hospital CEO mutually agree to an earlier date. Once the date is set, the Hospital CEO and practitioner shall mutually agree to any change in the hearing date, however, neither party may change the date more than one time.

7.2 Statement of Issues and Events

As part of or together with the notice of the hearing, there shall be provided a written statement, in concise language, of the acts or omissions which support the decision to impose or recommend a corrective action against the medical staff member or practitioner, and the identification of any medical records (by chart or patient number where available) or other information or data which form the basis for the action. This statement and the list of supporting information may be amended or enhanced at any time, including during the hearing, if the additional material is relevant to the continued

appointment or clinical privileges of the practitioner, requesting the hearing and the practitioner and his counsel have sufficient time to study the material and rebut it.

7.3 Limited Right of Discovery

There shall be no right to discovery except as specifically provided in these Bylaws.

1. The Hospital CEO will provide the names of any hearing panel members, hearing officer, or presiding officer to the practitioner requesting the hearing within five (5) days of their appointment.

2. The Hospital or practitioner shall have the right to require up to ten (10) days before the scheduled date of the hearing, production of any documents or charts that are to be used as evidence at the hearing, except such documents or charts that are to be used only for impeachment purposes .

3. The Hospital CEO shall have the right to request, by special notice, a list of witnesses who will give testimony or evidence in support of the practitioner at the hearing. A party receiving such request shall, within ten (10) days of receipt of the request, furnish a list, in writing, of the names and addresses of the individuals, to the extent then reasonably known, who will be called as witnesses on his behalf and a brief summary of the nature of the anticipated testimony.

4. There shall be no right to discover the name of any individual who has produced evidence relating to the charges made against the practitioner who requested the hearing unless such individual is to be called as a witness at the hearing or unless the deposition or other written statement of such individual is to be evidence at the hearing.

5. There shall be no right to the discovery of credentials or quality files of other members of the medical staff, or peer review committee minutes or minutes of any other medical staff committee or activity unless specifically created and limited to addressing the competence and/or conduct concerns of the practitioner requesting the hearing.

7.4 Hearing Panel, Presiding Officer, Hearing Officer

7.4.1 Appointment of Hearing Panel Members

The President of the Medical Staff on behalf of the medical staff, after consultation and agreement by the Hospital CEO on behalf of the Board, shall appoint a Hearing Panel and a Presiding Officer or a Hearing Officer. A Hearing Panel shall be composed, whenever possible, of not fewer than three (3) voting members of the medical staff who meet the qualifications below. In the event that it is not possible to staff the Hearing Panel with three (3) voting members of the medical staff, physicians from outside the Hospital medical staff may be invited to serve as Hearing Panel members. The Presiding Officer will not have voting

privileges on the Hearing Panel. The practitioner requesting the hearing will be notified of the Hearing Panel members appointed by the President of the Medical Staff and will have five (5) days from receipt of notice to lodge in writing with the President of the Medical Staff any objections to any appointee. The practitioner requesting the hearing is not entitled to veto any appointee's participation.

A hearing occasioned by corrective action of the Board pursuant to Article 6.1 shall be conducted by a hearing committee appointed by the Board Chairperson and composed of five (5) persons who are qualified to serve. At least two (2) medical staff members shall be included on this committee. One (1) of the appointees to the committee shall be designated as chair. The three (3) non-medical members of the hearing committee shall be members of the Board.

7.4.2 Qualification of Members

Voting members of the hearing panel shall be licensed physicians who are voting medical staff members at the Hospital or other physicians consistent with 7.4.1 and who shall not have previously participated in the deliberations on the matter involved. If the practitioner requesting the hearing is other than a physician, at least one (1) member of the hearing panel shall be of the same general discipline (e.g. podiatrist, dentist).

Knowledge of the matter involved shall not preclude a person from serving as a member of the hearing panel. No member of the hearing panel may be a direct competitor of the member under review.

7.4.3 Presiding Officer

The Hospital CEO will appoint a Presiding Officer to chair the panel, set procedure for the hearing, and conduct all business before the panel, and support the panel in an advisory capacity. The Presiding Officer may be a physician on the medical staff, an active or retired judge or attorney, experienced physician executive, experienced human resources director, or any individual deemed by the CEO to have the capacity to manage the hearing effectively and efficiently. Any costs of using the Presiding Officer will be shared by the Hospital and the practitioner who requests the hearing.

7.4.4 Hearing Officer in Lieu of Panel

The Hospital CEO, after consultation with the President of the Medical Staff, may appoint a single Hearing Officer in lieu of a Hearing Panel where the issue triggering the hearing is unprofessional conduct rather than professional competency. The Hearing Officer may be a lawyer, physician executive, retired judge or other individual familiar with due process. The Hearing Officer may not be legal counsel to the Hospital, any individual who is in direct economic competition with the practitioner requesting the hearing, and cannot have been previously involved in the deliberations triggering the hearing. The Hearing

Officer will not act as a prosecuting officer or as an advocate for either side at the hearing. In the event that a Hearing Officer is appointed instead of a Hearing Panel, all references in this Investigation, Corrective Action and Fair Hearing Procedure to "Hearing Panel" or "Presiding Officer" shall be deemed to refer instead to the Hearing Officer, unless the context would clearly require otherwise. The cost of utilizing a Hearing Officer will be shared by the Hospital and the practitioner who requests the hearing.

ARTICLE VIII
HEARING PROCEDURE

8.1 Personal Presence

The personal presence of the practitioner who requested the hearing shall be required. A practitioner who fails without good cause to appear and proceed at such hearing shall be deemed to have waived his rights and thereby to have voluntarily accepted the corrective action that triggered the hearing.

8.2 Presentation

The hearings provided for in these Bylaws are quasi-judicial in nature, focused on resolution of matters bearing on professional conduct or competency. Accordingly, the presiding officer shall have the discretion to limit the role of legal counsel for either side. This means that the presiding officer may rule that the person requesting the hearing shall be required to have his or her case presented at the hearing only by a practitioner who is licensed to practice medicine in the State of Illinois and who, preferably, is a member in good standing of the medical staff. Where this is the case, the Hospital shall appoint a representative from the medical staff to present its recommendation and to examine witnesses. The foregoing shall not be deemed to deprive the practitioner or Hospital of the right to utilize legal counsel at his own expense in preparation for the hearing and such counsel may be present at the hearing, advise his or her client, and participate in resolving procedural matters.

8.3 Presiding Officer

The Presiding Officer shall act to ensure that all participants in the hearing have a reasonable opportunity to be heard and to present appropriate oral and documentary evidence subject to reasonable limits on the number of witnesses and duration of direct and cross examination, applicable to both sides, as may be necessary to avoid cumulative or irrelevant testimony or to prevent abuse of the hearing process. The Presiding Officer shall act to ensure that decorum is maintained throughout the hearing and to prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant, abusive, or that causes undue delay. The Presiding Officer shall be entitled to determine the order of procedure during the hearing, and shall have the authority and discretion, in accordance with these Bylaws, to make all rulings on all matters of procedure, including the admissibility of evidence. The Presiding Officer may conduct argument by counsel on

procedural points and may do so outside the presence of the Hearing Panel. The Presiding Officer may, in his sole discretion, set reasonable time limits on the duration of the hearing, testimony by witnesses, or arguments by parties to the hearing. Unless extenuating circumstances exist, it is expected that both sides will have equal time to present their case. In an attempt to respect the time commitment of all hearing participants, the approximate time the hearing is expected to last will be estimated at the pre-hearing conference.

In addition, the Presiding Officer will act in such a way that the Hearing Panel in formulating its recommendations considers all information reasonably relevant to the continued appointment or clinical privileges of the individual requesting the hearing. The presiding officer may seek legal counsel when he feels it is appropriate and may use Hospital or medical staff legal counsel for such advice.

8.4 Hearing Officer

Where a Hearing Officer is employed instead of a Hearing Panel, the Hearing Officer shall have the same authority as a Presiding Officer to determine the manner in which the hearing will be conducted and rule on all matters of procedure and evidence.

8.5 Pre-hearing Conference

The Presiding Officer or Hearing Officer may require a representative (who may be counsel) for the individual and for the MEC to participate in a pre-hearing conference. To the degree practicable, pre-hearing conferences shall occur at least ten (10) days prior to a hearing. At the pre-hearing conference, the Presiding Officer or Hearing Officer shall resolve all procedural questions, including any objections to exhibits or witnesses and the time to be allotted to each witness's testimony and cross-examination.

8.6 Record of Hearing

The Hearing Panel shall maintain a complete record of the hearing by having a certified court reporter present to make a record of the hearing. The cost for the certified court reporter shall be born by the Hospital. The Presiding Officer may, but shall not be required to, order that evidence shall be taken only upon oath or affirmation administered by any person entitled to notarize documents in Illinois. The record of the hearing may be requested by the practitioner requesting the hearing and will be forwarded to him/her by the Hospital upon payment of reasonable reproduction costs and payment of all outstanding fees owed to the Hospital, including any fees for compensation of a Hearing Officer.

8.7 Rights of Parties

The practitioner shall have a limited right, as determined by the Presiding Officer, to inquire as to possible biases of the Hearing Panel. Inquiry shall not be allowed into the medical qualifications or expertise of any such member.

During a hearing, subject to the provisions of this Article VIII, each of the parties shall have the right to:

1. call and examine witnesses
2. introduce exhibits
3. cross-examine any witness on any matter relevant to the issues
4. impeach any witness
5. rebut any evidence

If the practitioner who requested the hearing does not testify in his own behalf, such practitioner may be called and examined as if under cross-examination.

8.8 Admissibility of Evidence

The hearing shall not be conducted according to legal rules of evidence relating to the examination of witnesses or presentation of evidence. Any relevant evidence may be admitted by the Presiding Officer if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law, unless such evidence is deemed by the Presiding Officer to be cumulative. Hearsay evidence is admissible and shall be sufficient to support the decision of the Hearing Panel.

8.9 Official Notice

The Presiding Officer shall have the discretion to take official notice of any generally accepted technical or scientific matter relating to the issues under consideration or of any other matter that may be judicially noticed by the courts of the state. Participants in the hearing shall be informed of the matters to be officially noticed, and such matters shall be noted in the record of the hearing. Any party shall have the opportunity, upon timely request, to request that a matter be officially noticed or to refute the noticed matters by relevant evidence or by written or oral presentation of authority in a manner determined by the Hearing Panel. Reasonable or additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

8.10 Burden of Production or Proof

8.10.1 Burden of Production

In all cases in which a hearing is conducted, it shall be incumbent on the body whose action or decision prompted the hearing (i.e. the MEC or Governing Board) to come forward initially with evidence in support of its action or decision. Thereafter, the burden shall shift to the practitioner who requested the hearing to come forward with evidence in his support.

8.10.2 Burden of Proof

In all cases in which a hearing is conducted, after all the evidence has been submitted by both parties, the Hearing Panel shall rule against the practitioner who requested the hearing unless it finds that such person has proved, by clear and convincing evidence, that the factual allegations against the practitioner are untrue in total or in substantial part or unless it concludes, based on its findings of facts that the action of the entity whose decision prompted the hearing was arbitrary, unreasonable, or appears to be unfounded or unsupported by credible evidence. It is the burden of the practitioner requesting the hearing to demonstrate that s/he satisfies, on a continuing basis, all criteria for initial appointment, reappointment, and/or clinical privileges, and that he/she complies with all medical staff and hospital policies.

8.11 Presence of Panel Members and Vote

A majority of the members of the Hearing Panel must be present throughout the hearings and deliberations; provided; however, that, at the discretion of the Presiding Officer, if a member is absent from an insubstantial part of the hearing, such member may be allowed to read the transcript of the missed proceedings and, after doing so, may thereafter participate in the deliberations of the Panel.

8.12 Recesses and Conclusions

The Presiding Officer may recess the hearing and reconvene the same at any time for the convenience of the participants, without additional notice. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The Hearing Panel shall then conduct its deliberations outside the presence of either party to the hearing.

8.13 Postponements and Extension

Postponements and extensions of time beyond the times expressly permitted in these Bylaws may be requested by anyone, but shall be permitted only if the Hearing Panel, or the Presiding Officer acting on its behalf, determines that good cause has been shown.

ARTICLE IX
HEARING COMMITTEE REPORT AND FURTHER ACTION

9.1 Hearing Committee Report

Within thirty (30) days after the conclusion of the hearing, the Hearing Panel shall make a detailed written report signed by each panel member and setting forth separately each charge against the practitioner, a summary of the evidence that supports or rebuts such charges, its findings on each fact at issue, and recommendations based on such findings with respect to the matter. This report, together with the hearing record and all other documentation considered by it, will then be forwarded to the body whose

recommendation or decision prompted the hearing (MEC or Board). All findings and recommendations by the Hearing Panel shall be supported by reference to the hearing record and relevant documentation considered by the Hearing Panel. If the panel's decision is not unanimous, a minority report or reports may be issued. The practitioner requesting the hearing shall be provided the Hearing Panel's written recommendation and statement of the basis for it by special notice. The practitioner may also, upon request inspect all pertinent information in the Hospital's possession regarding the decision. The hearing panel shall have independent authority to recommend action to the Board.

9.2 Action on Hearing Committee Report

Within thirty (30) calendar days after receipt of the report of the Hearing Panel, the MEC or Governing Board, as the case may be, shall consider the same and affirm, modify or reverse its previous recommendation, decision or proposed decision in the matter. The applicable body shall indicate its action in writing, and shall transmit a copy of its written recommendation together with the hearing record, the report of the Hearing Panel, and all other relevant documentation, to the MEC or Governing Board. The practitioner has the right to receive the written decision of the MEC or Hospital Board, including a statement of the basis for the decision.

9.3 Notice and Effect of Results

The notice of the action taken by the Hearing Panel shall be given to the President of the Medical Staff, Hospital CEO and, by special notice, to the involved practitioner.

9.3.2 Effect of Favorable Result

1. Adopted by the Board
If the Governing Board's action is favorable to the practitioner, such action shall constitute the final decision of the Board and the matter shall be considered finally closed.

2. Adopted by the MEC
If the MEC's action is favorable to the practitioner, it shall be promptly forwarded, together with all supporting documentation, to the Board for its decision. The Board shall either adopt or reject the MEC's recommendation, in whole or in part, or refer the matter back to the MEC for further reconsideration. Any such referral shall include a statement of the reasons therefore and set a time limit within which a subsequent recommendation to the Board must be made. After receipt of such subsequent recommendation, the Board shall render its decision. The practitioner will be sent a special notice informing him or her of each action taken. A favorable decision shall constitute the final action of the Board, and the matter shall be considered finally closed. If the Board's decision is adverse, the special notice shall inform the practitioner of his or her right to request an appellate review by the Board as provided in this Investigation, Corrective Action and Fair Hearing and Appeal Procedure.

The practitioner shall be provided with written notice of the final adverse decision by the Governing Board.

3. Effect of Adverse Action
If the action of the Governing Board or MEC continues to be adverse to the Practitioner, the special notice required shall inform the practitioner of his or her right to request an appellate review by the Governing Board.

ARTICLE X
INITIATION AND PREREQUISITE OF APPELLATE REVIEW

10.1 Request for Appellate Review

Within thirty (30) calendar days after receipt of the notice given, the practitioner who requested the hearing may request in writing an appellate review by the Governing Board. Such request shall be delivered to the Hospital CEO either in person or by certified or registered mail. The written request for an appeal shall also include a brief statement of the reasons for appeal.

10.2 Waiver by Failure to Request Appellate Review

If such appellate review is not requested within the time and in the manner specified in Section 10.1., the practitioner shall be deemed to have waived his right to appeal and to accept the action so noticed, and it shall thereupon become final and effective immediately.

10.3 Notice of Time and Place

In the event of any appeal to the Governing Board, the Board shall, within thirty (30) calendar days after the receipt of such notice of appeal, schedule and arrange for an appellate review. The Governing Board shall cause the practitioner to be given special notice of the time, place and date of the appellate review. The date of the appellate review shall be not less than fourteen (14) days nor more than sixty (60) days from the date of receipt of the request for appellate review; provided, however, that when a request for appellate review is made by a member who is under a suspension which is then in effect, the appellate review shall be held as soon as the arrangements may reasonably be made and not more than thirty (30) days from the date of receipt of the request for appellate review. The time for appellate review may be extended by the Governing Board for good cause.

10.4 Appellate Review Body

The Board shall determine whether the appellate review shall be conducted by the Board as a whole or by a special or adhoc Appellate Review Committee of not less than three (3) members of the Board appointed by the Chair of the Board. The Chair of the Board or his designee shall be the Presiding Officer and shall have the same responsibilities as

the Presiding Officer at the initial hearing. If an Appellate Review Committee is appointed, the Board shall delegate to such committee full authority to render a final decision on behalf of the Board. Members of the appellate review panel (the "Review Panel") may not be direct competitors of the practitioner under review and should not have participated in any formal investigation or deliberations leading to the recommendation for corrective action under consideration.

ARTICLE XI
APPELLATE REVIEW PROCEDURE

11.1 Grounds for Appeal

The grounds for appeal to the Governing Board shall be limited to the following:

1. There was substantial failure to comply prior to the hearing with the provisions contained in the Medical Staff Bylaws or this Investigation, Corrective Action and Fair Hearing Procedure so as to deny basic fairness or reasonable due process; or

2. the recommendation(s) of the MEC was made arbitrarily, capriciously, or with prejudice; or

3. the recommendation of the MEC and/or Hearing Panel was not supported by the hearing record.

In making this assessment the Governing Board will consider the record of the hearing before the Hearing Panel and any written statements submitted by parties to the hearing.

11.2 Written Statements

Each party shall have the right to present a written statement in support of its position on appeal, provided that such statement is submitted to the Board or the Committee of the Board, at least fifteen (15) days prior to the date of the appellate review, unless otherwise provided by the Board or the Appellate Review Committee of the Board. A copy shall be provided of each submitted written statement to the opposing party at least seven (7) days prior to the date of the appellate review.

11.3 Submission of Additional Evidence

The Review Panel may, but is not required to, accept additional oral or written evidence subject to the same cross-examination and admissibility provisions adopted at the hearing panel proceedings. Such additional evidence shall be accepted only if the party seeking to admit it can demonstrate that it is new, relevant evidence and that any opportunity to admit it at the hearing was denied.

11.4 Action

The Governing Board or the Committee of the Board, may affirm, modify or reverse the action which is the subject of the appeal, or refer the matter back to the MEC for further review and recommendation. If the matter is referred back to the MEC for further review and recommendation, the Review Panel shall promptly conduct its review and make its recommendations to the Governing Board or the Appellate Review Committee of the Board, in accordance with the instructions given to the Governing Board or the Appellate Review Committee of the Board. This further review process shall in no event exceed thirty (30) days in duration, except as the parties may otherwise stipulate.

ARTICLE XII
FINAL DECISION OF THE BOARD

12.1 Final Board Decision

Within thirty (30) calendar days after the conclusion of the proceeding before the Governing Board or the Appellate Review Committee of the Board, the Governing Board or the Appellate Review Committee of the Board shall render a final decision in writing and shall deliver copies thereof to the MEC and, by special notice, to the practitioner. This decision shall be effective immediately and shall not be subject to further review.

ARTICLE XIII
GENERAL PROVISIONS

13.1 Exhaustion of Administrative Remedies

By applying for membership on the medical staff or for privileges, each applicant agrees that, in the event of any corrective action or decision with respect to his medical staff membership and/or privileges, the applicant or medical staff member shall exhaust the administrative remedies afforded by the Medical Staff Bylaws, including this Procedure, before resorting to formal legal action.

13.2 Limit of One Appellate Review

Except as otherwise provided in this section, no applicant or member shall be entitled as a matter of right to more than one appellate review in total before the Governing Board or the Appellate Review Committee of the Board on any single matter which may be the subject of an appeal, without regard to whether such subject is the result of action by the MEC or the Governing Board, or the Appellate Review Committee of the Board or a combination of actions by such bodies.

13.3 Waiver

If at any time after receipt of special notice of an adverse recommendation, action or result, a practitioner fails to make a required request or appearance or otherwise fails to comply with this Investigation, Corrective Action and Fair Hearing Procedure, or to proceed with the matter, he shall be deemed to have consented to such adverse recommendation, action, or result and to have voluntarily waived all rights to which he might otherwise have been entitled under the Medical Staff Bylaws then in effect or under this Procedure with respect to the matter involved.

ARTICLE XIV
ADOPTION AND AMENDMENT

14.1 Amendment

This Investigation, Corrective Action & Fair Hearing Procedure, may be amended or repealed, in whole or in part, as described in Article XI of the Bylaws.