NOVANT HEALTH

SOUTH ASHEVILLE OUTPATIENT SURGERY CENTER

MEDICAL STAFF BYLAWS

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ARTICLE 1. GENERAL

SECTION 1-1. PURPOSE AND AUTHORITY

The purpose of this medical staff is to organize the activities of physicians and other practitioners who practice at Novant Health South Asheville Outpatient Surgery Center (the "Center") to carry out, in conformity with these bylaws, the functions delegated to the medical staff by the Center's governing body. Subject to the authority and approval of the governing body, the medical staff will exercise such power as is reasonably necessary to discharge its responsibilities under these bylaws, associated rules and regulations and policies, and Center policies and procedures.

SECTION 1-2. DELEGATION OF FUNCTIONS

When a function under these bylaws is to be carried out by the medical director, Center administrator, or by a medical staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee (or a committee of such individuals). Designees must treat and maintain all credentialing, privileging, and peer review information in a strictly confidential manner and are bound by all other terms, conditions, and requirements of the medical staff bylaws and related policies. In addition, the delegating individual or committee is responsible for ensuring the designee appropriately performs the function in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter. When a medical staff member is not available or able to perform a necessary function, one or more medical staff leaders may perform the function personally or delegate it to another appropriate individual.

SECTION 1-3. SUBSTANTIAL COMPLIANCE

While every effort will be made to comply with all provisions of the bylaws, substantial compliance is required. Technical or minor deviations from the procedures set forth within the bylaws do not invalidate any review or action taken.

SECTION 1-4. HEADINGS AND WORDING

Captions and headings are used for convenience only and are not intended to limit or define the scope or effect of any provision of these bylaws. Words are to be read as the masculine or feminine gender and as the singular or plural, as the content requires.

SECTION 1-5. DEFINITIONS

Unless otherwise indicated, the following definitions apply to terms used in these bylaws:

(A) ADVANCED PRACTICE PROFESSIONAL (APP) is a type of practitioner who provides a medical level of care or performs surgical tasks consistent with granted clinical privileges, who is currently licensed in North Carolina, and who may be required by law and/or the Center to

exercise some or all of those clinical privileges under the supervision and direction of, or in collaboration with, a supervising or collaborating physician pursuant to a written supervision/collaborative agreement. APPs are not members of the medical staff.

(B) AFFECTED INDIVIDUAL means a member of the medical staff or an applicant for medical staff membership against whom an adverse recommendation has been made that entitles him or her to the hearing and appeal rights described in Article 8.

(C) APPOINTMENT means the granting of membership to the medical staff by the governing body to one of the defined categories outlined in these bylaws or the granting of permission to practice to an APP.

(D) BYLAWS mean these medical staff bylaws.

(E) CENTER ADMINISTRATOR means the individual appointed by the governing body to act on its behalf in the overall management of the Center.

(F) CENTER means Novant Health South Asheville Outpatient Surgery Center, LLC.

(G) CLINICAL PRIVILEGES or PRIVILEGES means the authorization granted by the governing body to render specific patient care services, for which eligibility and other credentialing criteria and FPPE and OPPE standards have been developed. There are several types of clinical privileges, including but not limited to temporary privileges.

(H) DAYS means calendar days.

(I) DENTIST means both a doctor of dental surgery (DDS) and a doctor of dental medicine (DMD) currently licensed in North Carolina.

(J) INVESTIGATION means a non-routine, formal process to review questions or concerns pertaining to a practitioner. Only the Medical Executive Committee has the authority to initiate and conduct investigations. By contrast, the processes that address issues of clinical performance, professional conduct, and health involving practitioners that utilize collegial or mentoring efforts do not constitute investigations.

(K) GOVERNING BODY means the Board of Directors, Board of Trustees, or Board of Managers, as applicable, for the Center that has assumed legal responsibility for determining, implementing, and monitoring policies governing the Center's total operation. The governing body has oversight and accountability for the quality assessment and performance improvement program, ensures the Center policies and programs are administered to provide quality healthcare in a safe environment, and develops and maintains a disaster preparedness plan.

(L) MEDICAL EXECUTIVE COMMITTEE ("MEC") means the Medical Executive Committee of the medical staff.

(M) MEDICAL STAFF means all the physicians, dentists, oral and maxillofacial surgeons, and podiatrists who have been appointed to the Center's medical staff by the governing body.

(N) MEDICAL STAFF MEMBER means any physician, dentist, oral and maxillofacial surgeon, or podiatrist who has been granted appointment to the Center's medical staff by the governing body.

(O) MEDICAL STAFF SERVICES means the medical staff office for the Center or any delegated credentials verification office (CVO).

(P) NOTICE means written communication by regular U.S. mail, hand delivery, e-mail, facsimile, website, or other electronic method.

(Q) ORAL AND MAXILLOFACIAL SURGEON means an individual with a DDS or a DMD degree who has completed additional training in oral and maxillofacial surgery and who is currently licensed in North Carolina.

(R) PERMISSION TO PRACTICE means the authorization granted to APPs to exercise clinical privileges at the Center.

(S) PHYSICIAN means both a doctor of medicine (MD) and a doctor of osteopathy (DO) who are currently licensed in North Carolina.

(T) PODIATRIST means a doctor of podiatric medicine (DPM) who is currently licensed in North Carolina.

(U) PRACTITIONER means any individual who has been granted clinical privileges and/or appointment by the governing body, including medical staff members and APPs.

(V) REAPPOINTMENT means the granting of continued appointment to the medical staff by the governing body or the granting of continued permission to practice to an APP.

(W) RESTRICTION means a professional review action that: (i) is recommended by the Medical Executive Committee as part of an investigation or agreed to by the practitioner while he or she is under Investigation or in exchange for the Medical Executive Committee not conducting an investigation or taking an adverse professional review action; and (ii) limits the practitioner's ability to independently exercise his or her clinical judgment (*i.e.,* a mandatory concurring consulting requirement in which the consultant must approve the course of treatment in advance or a proctoring requirement in which the proctor must be present for the case and has the authority to intervene in the case, if necessary). Restrictions do not include the following, whether recommended by the Medical Executive Committee or by any other medical staff committee: (i) general consultation requirements, in which the practitioner agrees to seek input from a consultant prior to providing care; (ii) observational proctoring requirements, in which the practitioner agrees to have a proctor present to observe his or her provision of care; and (iii) other collegial performance improvement efforts, including informational or educational letters, or voluntary enhancement plans that are suggested and voluntarily agreed to by the practitioner as a part of the routine PPE process.

(X) SPECIAL NOTICE means hand delivery, certified mail (return receipt requested), or overnight delivery service providing receipt.

(Y) SUPERVISING/COLLABORATING PHYSICIAN means a medical staff member with clinical privileges who has agreed in writing to supervise/collaborate with an APP and to accept full responsibility for the actions of the APP while he or she is practicing in the Center.

(Z) VOLUNTARY ENHANCEMENT PLAN (VEP) is a voluntary agreement by which the practitioner takes certain steps to improve his or her clinical practice or conduct. A practitioner cannot be compelled to participate in a VEP. If a practitioner disagrees with the need for a VEP, the matter is referred to the Medical Executive Committee for its independent review and action pursuant to these bylaws.

(AA) VOTING STAFF means the members of the medical staff.

ARTICLE 2. GOVERNANCE

SECTION 2-1. MEDICAL DIRECTOR

The medical director must be a member of the medical staff, is appointed by the governing body, and serves as the sole officer of the medical staff.

The medical director is responsible to the governing body for maintaining the quality of professional care within the Center and has the authority in an emergency to intervene in the professional care of any patient when in the best interest of the patient and to maintain the professional standards of the Center. The medical director assists in developing and implementing Center policies and procedures, implementing governing body policies, and developing such programs as may be necessary or beneficial to achieve the purpose of the Center.

SECTION 2-2. MEDICAL EXECUTIVE COMMITTEE

The Medical Executive Committee (MEC) is a standing medical staff committee.

2-2(A) Qualifications

(1) MEC members must be members of the medical staff in good standing for at least one (1) year before being appointed to the MEC. If the Center has been in existence less than one (1) year, it is preferable that they have experience in a leadership position, or other involvement in performance improvement functions for at least two (2) years at other locations. It is also preferable that they be willing to attend continuing education on leadership and/or credentialing functions prior to or during the term of office.

(2) MEC members may not simultaneously serve as a medical staff officer, governing body member, department chairperson, or MEC committee member in a health care organization competing with the Center, as determined by the governing body. Noncompliance with this requirement will result in automatic removal from office unless the conflict is determined to be acceptable to the governing body.

2-2(B) MEC Membership

The governing body appoints qualified members of the MEC to serve as voting members. The medical director serves as the MEC chairperson and is an ex-officio member with vote. The Center administrator is an ex-officio non-voting member of the MEC.

2-2(C) Term

MEC members serve for a term of two (2) years or until a successor is appointed, unless they resign sooner or are removed from office. MEC members may serve an unlimited number of successive terms.

2-2(D) Resignation

Any MEC member may resign at any time by giving thirty (30) days' written notice to the Center administrator. Such resignation takes effect on the date specified therein or as otherwise agreed upon by the MEC member and Center administrator.

2-2(E) Removal

MEC members serve at the pleasure of the governing body and may be removed by the governing body.

2-2(F) MEC Meetings

2-2(F)(1) Frequency and notice

(a) The MEC meets at least four (4) times per year or more often as needed to perform its assigned functions, and meeting notices may be given in any manner deemed appropriate by the chair. Meetings may be held in person and/or virtually/ electronically in the discretion of the chair.

(b) Attendance of any MEC committee member at any meeting waives his or her objection to the notice given for the meeting.

(c) Records of the MEC's proceedings and actions are maintained and retained in accordance with Center's record retention policies and procedures.

2-2(F)(2) Quorum and voting

(a) A quorum exists when fifty percent (50%) of the members are present, either through physical presence or virtual/electronic mechanisms.

(b) Recommendations and actions are generally by consensus. If it is necessary to vote on an issue, the issue is determined by a majority vote of those voting committee members present. Voting may be by written ballot in the discretion of the MEC chair.

(c) Voting members may also be presented with a question by mail, facsimile, e-mail, hand delivery, website posting, or telephone with votes returned to the MEC chair by the method designated in the notice. A quorum for purposes of these votes is the number of responses returned to the MEC chair by the date indicated. The question raised is determined in the affirmative if a majority of responses returned so indicates.

(d) When determining whether a specific percentage or a majority has been achieved with respect to a vote, a voting member who has recused himself or herself from participation in the vote is not counted (*e.g.,* if there are 10 voting MEC members and one recuses himself or herself on a particular matter, the majority vote for that matter is calculated as five of the remaining nine votes).

2-2(G) Duties

The MEC acts on behalf of the medical staff between medical staff meetings, within the scope of its responsibilities as defined by the medical staff, and it:

(1) Makes recommendations directly to the governing body on medical staff membership, the structure of the medical staff, the process used to review credentials and delineate clinical privileges, the delineation of clinical privileges for each practitioner privileged through the medical staff process; and its review of, and actions on, reports from other medical staff committees.

(2) Requests evaluations of practitioners when there is doubt about the ability to perform the privileges requested.

(3) Requests professional reviews and investigations and collegial action or corrective action, as needed.

(4) Implements Center policies that affect the medical staff.

(5) Enforces the medical staff bylaws, rules & regulations and policies.

(6) Adopts and amends medical staff rules & regulations and policies as necessary to implement the general principles in these bylaws.

(7) Assists the Center in maintaining its accreditation status and informs the medical staff of applicable accreditation and regulatory requirements affecting the Center.

SECTION 2-3. OTHER MEDICAL STAFF COMMITTEES

(A) There may be other standing medical staff committees, as established by the governing body. The medical director serves as an ex-officio member, with vote, on all standing medical staff committees and may appoint ad hoc committees as necessary to address time-limited or specialized tasks.

(B) Committees meet as needed and attendance at a meeting may be by physical presence or by virtual/electronic mechanisms, in the discretion of the chair. A quorum is that number of voting committee members present at a meeting, (but not fewer than two). The recommendation of a simple majority of committee members present at a meeting at which there is a quorum shall be the action of the committee.

SECTION 2-4. MEDICAL STAFF MEETINGS

There are no regularly scheduled meetings of the medical staff, but the medical director may call a meeting of the medical staff at any time.

2-4(A) Notice

(1) Notice of a medical staff meeting is given to medical staff members at least three (3) days before the meeting and may be provided by e-mail, mail, facsimile, hand delivery, posting in a designated electronic or physical location, or telephone. The notice will include the date,

time, and place of the meeting. In the discretion of the medical director, meetings may be held in person and/or virtually/electronically.

(2) Attendance of any medical staff member at any meeting waives his or her objection to the notice given for the meeting.

2-4(B) Quorum and Voting

(1) Those voting members of the medical staff who are present (but not fewer than two) constitute a quorum.

(2) Recommendations and actions of the medical staff are generally by consensus. If it is necessary to vote on an issue, the issue is determined by a majority vote of those voting members present. Voting may be by written ballot in the discretion of the medical director.

(3) Voting members of the medical staff may also be presented with a question by mail, facsimile, e-mail, hand delivery, website posting, or telephone with votes returned to the medical director by the method designated in the notice. A quorum for purposes of these votes is the number of responses returned by the date indicated. The question raised is determined in the affirmative if a majority of responses returned so indicates.

SECTION 2-5. MEDICAL STAFF BYLAWS AND RULES & REGULATIONS

(1) The MEC may propose amendments to medical staff bylaws, rules & regulations, and policies to the governing body. Amendments are not effective until they are approved by the governing body and must then be communicated promptly to the medical staff.

(2) The MEC, on its own, may adopt and approve technical corrections to the bylaws or the rules & regulations (*e.g.,* the MEC may correct errors in punctuation, spelling, or grammar and may correct inaccurate cross-references, labeling, or numbering). Technical corrections are effective immediately.

SECTION 2-6. MEDICAL STAFF POLICIES

Medical staff policies may be developed as necessary to implement the general principles in these bylaws. Medical staff policies are effective once approved by the MEC and must then be communicated promptly to the medical staff.

ARTICLE 3. MEDICAL STAFF CATEGORIES & ADVANCED PRACTICE PROVIDERS

SECTION 3-1. MEDICAL STAFF CATEGORIES

The medical staff consists of all the physicians, dentists, oral and maxillofacial surgeons, and podiatrists who have been appointed to the Center's medical staff by the governing body. There are no medical staff categories.

3-1(A) Prerogatives

Members of the medical staff may:

(1) Attend medical staff meetings and any medical staff or organizational education programs.

(2) Vote on all matters presented to the medical staff and committee(s) to which the member is assigned.

(3) Be the chairperson of any medical staff committee in accordance with any qualifying criteria set forth elsewhere in these bylaws or medical staff rules and regulations or policies.

3-1(B) Responsibilities

Members of the medical staff shall:

(1) Contribute to the organizational and administrative affairs of the medical staff.

(2) Actively participate as requested or required in activities and functions of the medical staff, including but not limited to quality/performance improvement and peer review, credentialing, risk, and utilization management.

(3) Fulfill or comply with any applicable medical staff or organizational policies or procedures.

SECTION 3-2. ADVANCED PRACTICE PROVIDER STAFF

The advanced practice provider (APP) staff consists of APPs who are granted clinical privileges and appointed to the APP staff by the governing body, but they are not members of the medical staff. While the APP staff is not a category of the medical staff, it is included in this Article for convenient reference.

3-2(A) Prerogatives

APP staff may:

(1) Attend meetings of the medical staff and of any relevant departments, without vote.

(2) Be appointed to serve on committees, with or without vote.

3-2(B) Conditions of Practice

As a condition of being granted permission to practice at the Center, all APPs specifically agree to abide by the standards of practice set forth in this Section. In addition, as a condition of utilizing the services of APPs in the Center, all medical staff members who serve as supervising/ collaborating physicians to such APPs also specifically agree to abide by the standards set forth in this section.

(1) Any activities permitted to be performed at the Center by an APP will be performed only in collaboration with or under the supervision or direction of a supervising/ collaborating physician.

(2) APPs may function in the Center only so long as (a) they are supervised by a supervising/ collaborating physician who is currently appointed to the medical staff, and (b) they have a current, written supervision or collaboration agreement with the supervising/ collaborating physician, as required by applicable law. In addition, if the medical staff appointment or clinical privileges of the supervising/ collaborating physician are revoked or terminated, the clinical privileges of the APP will be automatically relinquished (unless the APP will collaborate with or be supervised by another physician appointed to the medical staff).

(3) APPs and the supervising/ collaborating physician must provide the Center with a copy of any written supervision or collaboration agreement that may be required by the state as well as notice of any revisions or modifications that are made to any such agreements between them. This notice must be provided to medical staff services within three (3) days of any such change.

(4) Any question regarding the clinical practice or professional conduct of an APP must be immediately reported to the medical director or Center administrator who will address the matter in accordance with Article 7. The individual to whom the concern has been reported may also discuss the matter with the supervising/ collaborating physician.

(5) The supervising/ collaborating physician will be kept informed of any review process when concerns exist about an APP. This may include copying the supervising/ collaborating physician on all correspondence the APP receives from medical director, Center administrator, or MEC and/or invitation to participate in any meetings or interventions. The supervising/ collaborating physician will maintain all such information in a confidential manner.

(6) APPs are not entitled to exercise the hearing and appeal procedures set out in Article 8 of these bylaws.

ARTICLE 4. QUALIFICATIONS, CONDITIONS & RESPONSIBILITIES

SECTION 4-1. QUALIFICATIONS

4-1(A) Threshold Eligibility Criteria

To be eligible to apply for initial appointment, reappointment, and/or clinical privileges and as a condition of maintaining ongoing appointment and/or clinical privileges, applicants and practitioners must satisfy the following applicable threshold eligibility criteria.

4-1(A)(1) All applicants and practitioners

Applicants and practitioners must:

(a) Have a current, unrestricted license to practice in North Carolina that is not subject to any restrictions, conditions or probationary terms.

(b) Not be currently under investigation by any state licensing agency and have never had a license to practice denied, revoked, restricted or suspended by any state licensing agency.

(c) Where applicable to their practice, have a current, unrestricted DEA registration and state-controlled substance license and have never had a DEA registration or state-controlled substance license denied, revoked, restricted or suspended.

(d) Have current, valid professional liability insurance coverage with limits of at least one million dollars for each claim and three million dollars in the aggregate from an insurance company that is licensed or approved to do business in North Carolina.

(e) Have not been convicted of, or entered a plea of guilty or no contest to, Medicare, Medicaid, or other federal or state governmental or private third-party payer fraud or program abuse, nor have been required to pay civil monetary penalties for the same.

(f) Have not been, and are not currently, excluded, precluded, or debarred from participation in Medicare, Medicaid, or other federal or state governmental health care program.

(g) Have not been terminated from a post-graduate training program for reasons related to clinical competence or professional conduct (residency or fellowship or a similarly equivalent program for other categories of practitioners) or have resigned from such a program during an investigation or in exchange for the program not conducting an investigation.

(h) Have not had appointment or clinical privileges denied, suspended, restricted, revoked, or terminated by any health care facility or health plan for reasons related to clinical competence or professional conduct.

(i) Have not resigned appointment or relinquished clinical privileges during an investigation or in exchange for not conducting an investigation.

(j) Not be under any current criminal investigation or indictment and have not been convicted of or entered a plea of guilty or no contest to any felony or to any misdemeanor relating to controlled substances, illegal drugs, insurance or health care fraud or abuse, child abuse, elder abuse, violence, or the practitioner-patient relationship.

(k) Demonstrate recent clinical activity in their primary area of practice during the last year.

(l) Meet any current or future eligibility requirements that are applicable to the clinical privileges sought.

(m) Document compliance with all applicable training and educational protocols as well as orientation requirements that may be adopted by the MEC or required by the governing body, including, but not limited to, those involving electronic medical records, computerized physician order entry (CPOE), the privacy and security of protected health information, infection control, and patient safety.

(n) Document compliance with any health screening requirements.

4-1(A)(2) Additional criteria for medical staff

Applicants for medical staff membership and members of the medical staff also must:

(a) Have successfully completed:

(i) a residency or fellowship training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) in the specialty in which he/she seeks clinical privileges;

(ii) a dental or oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association (ADA); or

(iii) a podiatric surgical residency program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(b) Be board certified in their primary area of practice at the Center by the appropriate specialty/subspecialty board of the American Board of Medical Specialties (ABMS), the AOA, the American Board of Oral and Maxillofacial Surgery, the ADA, the American Board of Foot and Ankle Surgery, or the American Board of Podiatric Medicine, as applicable.

(i) Those applicants who are not board certified at the time of application but who have completed their residency or fellowship training within the last five (5) years, are eligible for medical staff appointment. However, to remain eligible, they must achieve board certification in their primary area of practice within five (5) years from the date of completion of their residency or fellowship training.

(ii) Board certification in their primary area of practice at the Center must be maintained on a continuous basis and all requirements of the relevant specialty/subspecialty board necessary to do so must be satisfied.

(iii) In exceptional circumstances, the five-year time frame for initial applicants and the time frame for maintenance/recertification by existing members may be extended for one (1) additional period, not to exceed two (2) years, to permit the practitioner an additional opportunity to obtain or maintain certification. To be eligible to request an extension in these situations, a practitioner must, at a minimum, satisfy the following criteria:

- Have been on the Center's medical staff for at least two (2) full years.
- Have not had any significant documented peer review concerns related to their competence or behavior at the Center during their tenure.
- Provide a letter from the appropriate certifying board confirming that he/she remains eligible to take the certification examination within the next two (2) years.
- Have a favorable report concerning his/her qualifications from the medical director.

(c) Have clinical privileges at an acute care hospital in sufficient proximity to the Center to allow prompt and responsive care for patients.

4-1(A)(3) Additional criteria for APPs

APP applicants and APPs on the APP staff must:

(a) Have a written collaborative/supervision agreement, as applicable, with a supervising/ collaborating physician who is currently on the medical staff in good standing or is simultaneously applying for membership and clinical privileges, that meets any applicable requirements under state law and Center policy.

(b) Have completed his/her professional education and is either certified by the appropriate nationally recognized certification organization or, if not certified, must acquire the appropriate nationally recognized professional certification at the first-time certification is available. All certifications must be maintained to remain eligible for appointment and clinical privileges.

4-1(B) Factors for Evaluation

The six ACGME general competencies (patient care, medical knowledge, professionalism, system-based practice, practice-based learning, and interpersonal communications) will be evaluated as part of the assessment of the initial grant or renewal of clinical privileges at time of appointment and reappointment, as reflected in the following factors:

(1) Relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, and clinical judgment, and an

understanding of the contexts and systems within which care is provided.

(2) Adherence to the ethics of their profession, continuous professional development, an understanding of and sensitivity to diversity, and responsible attitude toward patients and their profession.

(3) Good reputation and character.

(4) Ability to safely and competently perform the clinical privileges requested.

(5) Ability to work harmoniously with others, including, but not limited to, interpersonal and communication skills sufficient to enable them to maintain professional relationships with patients, families, and other members of health care teams.

(6) Recognition of the importance of, and willingness to support, the Center's and medical staff's commitment to quality care and a recognition that interpersonal skills and collegiality are essential to the provision of quality patient care.

4-1(C) Nondiscrimination

Applicants and practitioners will not be denied membership or clinical privileges on the basis of national origin, culture, race, gender, age, ethnic/national identity, religion, veteran's status or disability unrelated to the provision of patient care to the extent he or she is otherwise qualified.

4-1(D) No Entitlement

Applicants and practitioners are not entitled to receive an application, to be appointed or reappointed to the medical staff, or to be granted any particular clinical privileges because he or she:

(1) Is licensed to practice in this, or any other, commonwealth or state.

(2) Is a member of any particular professional organization.

(3) Has had, or currently has, medical staff appointment or privileges at this Center, any hospital, or any health care facility.

(4) Resides in the geographic service area of the Center.

(5) Is affiliated with, or under contract to, any managed care plan, insurance plan, HMO, PPO or other entity.

SECTION 4-2. GENERAL CONDITIONS

4-2(A) Grant of Immunity & Authorization to Obtain/ Release Information

By requesting an application and/or applying for appointment, reappointment, or clinical privileges, an applicant or practitioner, as applicable, expressly accepts these conditions:

4-2(A)(1) Immunity

To the fullest extent permitted by law, the applicant or practitioner releases from any and all liability, extends immunity to, and agrees not to sue the Center or the governing body, its

medical staff, the Center administrator, any medical staff member, APP, or governing body member, their authorized representatives, or third parties who provide information for any matter relating to appointment, reappointment, clinical privileges, or the applicant or practitioner's qualifications for the same. This immunity covers any actions, recommendations, communications, and/or disclosures involving the applicant or practitioner that are made, taken, or received by any entities or individuals named above in the course of credentialing and peer review activities. This immunity also extends to any reports that may be made to government regulatory and licensure boards or agencies pursuant to federal or state law.

4-2(A)(2) Authorization to obtain information

The applicant or practitioner specifically authorizes the Center, its medical staff, medical staff leaders, and their authorized representatives (i) to consult with any third party who may have information bearing on his/her professional qualifications, credentials, clinical competence, character, ability to perform clinical privileges safely and competently, ethics, behavior, or any other matter reasonably having a bearing on his or her qualifications for initial and continued appointment and/or clinical privileges, and (ii) to obtain any and all communications, reports, records, statements, documents, recommendations or disclosures of third parties that may be relevant to such questions. The applicant or practitioner also specifically authorizes these third parties to release this information to the Center, its medical staff, medical staff leaders, and their authorized representatives upon request. Further, the applicant or practitioner agrees to sign necessary consent forms to permit a consumer reporting agency to conduct a criminal background check on him/her and report the results to the Center.

4-2(A)(3) Authorization to release information

The applicant or practitioner also authorizes the Center, its medical staff, and their authorized representatives to release information to (i) other hospitals, health care facilities, managed care organizations, and their agents when information is requested in order to evaluate his or her professional qualifications for appointment, clinical privileges, and/or participation at the requesting organization/facility; (ii) persons or entities external to the Center that are assessing the applicant or practitioner's professional qualifications, competence, or health pursuant to a review occurring under applicable Center or medical staff bylaws, rules and regulations or policies; and (iii) any government regulatory and licensure boards or agencies pursuant to federal or state law. The disclosure of any peer review information in response to such inquiries does not waive any associated privilege, and any and all such disclosures will be made with the understanding that the receiving entity will only use such peer review information for peer review purposes.

4-2(A)(4) Authorization to share information among facilities within the system

The applicant or practitioner specifically authorizes each hospital, health care facility, or other organization that provides health care services, and which is under common ownership, control, or management with the Center ("facilities within the System") to share credentialing, peer review, and other information and documentation pertaining to his or her clinical competence, professional conduct and health. This information and documentation may be shared at any time, including, but not limited to, any initial evaluation of an applicant or practitioner's qualifications, any periodic reassessment of those qualifications, or when a question is raised about him/her.

4-2(A)(5) Hearing and appeal procedures

The applicant or practitioner agrees that the hearing and appeal procedures set forth in these bylaws are the sole and exclusive remedy with respect to any professional review action taken by the Center.

4-2(A)(6) Legal actions

If, despite this section, an applicant or practitioner institutes legal action challenging any credentialing, privileging, peer review, or other action affecting appointment, reappointment, or clinical privileges, or any report that may be made to a regulatory board or agency, and does not prevail, he or she shall reimburse the Center, any of its affiliates or subsidiaries, and any of their governing body members, medical staff members, APPs, Center administrator, authorized representatives, agents, and employees who are involved in the action for all costs incurred in defending such legal action, including reasonable attorney's fees, expert witness fees, and lost revenues.

4-2(A)(7) Scope of section

All the provisions in this section 4-2(A) are applicable:

(a) Whether or not appointment, reappointment, or clinical privileges are granted.

(b) Throughout the term of any appointment or reappointment period and thereafter.

(c) Should appointment, reappointment, or clinical privileges be revoked, reduced, restricted, suspended, and/or otherwise affected as part of the Center's professional review activities.

(d) To any third-party inquiries received about a practitioner's tenure at the Center after he or she leaves practice at the Center.

(e) To any reports that may be made to government regulatory and licensing boards or agencies pursuant to federal or state law.

4-2(B) Burden to Provide Required Information

(1) Applicants have the burden of producing information deemed adequate by the Center for a proper evaluation of current competence, character, ethics, and other qualifications and for

resolving any doubts about the applicant's qualifications. The information to be produced includes such quality data and other information as may be needed to assist in an appropriate assessment of overall qualifications for appointment, reappointment, and current clinical competence for any requested clinical privileges, including, but not limited to, information from training programs, hospitals and other health care facilities, the applicant's office practice, insurers or managed care organizations in which the applicant participates, and/or receipt of confidential evaluation forms completed by peers.

(2) Applicants have the burden of providing a complete application.

(a) An application is complete when all questions on the application form have been answered, all supporting documentation has been supplied, all information has been verified from primary sources, and any required application fees and applicable fines have been paid.

(b) An application becomes incomplete if the need arises for new, additional, or clarifying information at any time during the credentialing process. When there is a need for new, additional, or clarifying information that is outside of the normal, routine credentialing process, the application will not be processed until the information needed to resolve the doubt or concern is provided.

(c) If the application continues to be incomplete 45 days after the applicant has been notified of the additional information required, the application will be deemed to be voluntarily withdrawn, the applicant is not entitled to exercise the hearing and appeal procedures in these bylaws, and the applicant may not submit another application for appointment or clinical privileges for a period of two (2) years.

(3) Applicants also have the burden of providing evidence that all the statements made and information given on the application are accurate and complete.

(a) Any misrepresentation or misstatement in, or omission from, the application (whether intentional or not) is grounds for the automatic rejection of the application, resulting in denial of membership and/or clinical privileges.

(b) If membership or clinical privileges were granted before discovering a misrepresentation, misstatement, or omission, the practitioner's membership and/or clinical privileges may be summarily dismissed.

(c) If there is any misstatement in, or omission from, the application, the Center may stop processing the application, or if appointment has been granted prior to the discovery of a misstatement or omission, appointment and clinical privileges may be deemed to be automatically relinquished. There is no entitlement to a hearing or appeal in either situation. The applicant or practitioner will be informed in writing of the nature of the misstatement or omission and permitted to provide a written response for the MEC's consideration.

(d) If the determination is made to not process an application or that appointment and clinical privileges should be automatically relinquished pursuant to this section, the applicant or practitioner may not reapply for a period of at least two (2) years.

4-2(C) Basic Responsibilities & Requirements

As a condition of being granted appointment, reappointment, and/or clinical privileges, and as a condition of maintaining ongoing appointment and/or clinical privileges, every practitioner specifically agrees, as applicable:

(1) To provide continuous and timely quality care to all patients for whom the practitioner has responsibility.

(2) To abide by all bylaws, policies, and rules and regulations of the Center and medical staff in force during the time the practitioner is appointed.

(3) To participate in medical staff affairs through committee service, participation in activities related to the evaluation of professional practice and performance improvement, and by performing such other reasonable duties and responsibilities as may be assigned.

(4) To comply with care standards or evidence-based medicine protocols that are established by, and must be reported to, regulatory or accrediting agencies or patient safety organizations, including those related to national patient safety initiatives and core measures, or clearly document the clinical reasons for variance.

(5) To comply with all applicable training and educational protocols as well as orientation requirements that may be adopted by the MEC or required by the governing body, including, but not limited to, those involving electronic medical records, CPOE, the privacy and security of protected health information, infection control, and patient safety.

(6) To inform medical staff services, in writing or via e-mail, as soon as possible, but in all cases within 10 days, of any change in the practitioner's status or any change in the information provided on their application form. This information must be provided with or without request and will include, but not be limited to:

(a) All complaints about, or changes in, licensure status or DEA or state-controlled substance authorization.

(b) Adverse changes in professional liability insurance coverage.

(c) Judgments or settlements related to a professional liability lawsuit against the practitioner.

(d) Changes in the practitioner's status (appointment or clinical privileges) at any other hospital or health care entity because of peer review activities or to avoid an investigation or initiation of peer review activities.

(e) Changes in the practitioner's employment status at any medical group or hospital because of issues related to clinical competence or professional conduct.

(f) Knowledge of criminal investigations involving the practitioner, arrests, charges, indictments, convictions, or pleas of guilty or no contest in any criminal matter other than misdemeanor traffic citations.

(g) Exclusion, preclusion, or withdrawal from participation in Medicare/Medicaid or any sanctions imposed.

(h) Any changes in the practitioner's ability to safely and competently exercise clinical privileges or perform the duties and responsibilities of appointment because of health status issues, including, but not limited to, a physical, mental, or emotional condition that could adversely affect the practitioner's ability to practice safely and competently, or impairment due to addiction, alcohol use, or other similar issue.

(i) Any referral to a state board health-related program (excluding self-reports).

(j) Any charge of, or arrest for, driving while under the influence (DUI or DWI).

(7) To immediately submit to an appropriate evaluation, which may include, but is not limited to, diagnostic testing such as a blood and/or urine test, when there is the potential for imminent danger to patients or staff or significant concerns exist regarding the practitioner's ability to safely and competently care for patients.

(8) To meet with the medical director, MEC, or Center administrator upon request, to provide information regarding professional qualifications upon written request, and to participate in collegial efforts as may be requested.

(9) To appear for personal or phone interviews about an application for initial appointment or reappointment, if requested.

(10) To maintain and monitor a current e-mail address with medical staff services, which will be the primary mechanism used to communicate all medical staff information to the practitioner.

(11) To provide valid contact information to facilitate practitioner-to-practitioner communication (e.g., mobile phone number or valid answering service information).

(12) To participate in a Center-approved secure communication platform.

(13) To not engage in illegal fee splitting or other illegal inducements relating to patient referral.

(14) To not delegate responsibility for patients to any individual who is not qualified or adequately supervised.

(15) To not deceive patients about the identity of any individual providing treatment or services.

(16) To seek consultation in accordance with the Center's or medical staff's rules and regulations or policies.

(17) To complete in a timely and legible manner all medical and other required records, containing all information required by the Center, and to utilize the electronic medical record as required.

(18) To cooperate with all care management activities.

(19) To participate in an Organized Health Care Arrangement (OCHA) with the Center and abide by the terms of the Center's Notice of Privacy Practices with respect to health care delivered in the Center.

(20) To perform all services and always conduct himself/herself in a cooperative and professional manner.

(21) To promptly pay any applicable dues, assessments, and/or fines.

ARTICLE 5. INITIAL APPOINTMENT & REAPPOINTMENT

SECTION 5-1. PROCEDURE FOR INITIAL APPOINTMENT

5-1(A) Request for Application

Applications for appointment will be on approved forms or submitted through the Center's approved portal/website. Residents or fellows who are in the final six (6) months of their training may apply, and such applications may be processed, but final action on the applications will not become effective until all applicable threshold eligibility criteria in Section 4-1(A) are satisfied.

5-1(B) Application Information

(1) Applications for appointment and reappointment will contain a request for specific clinical privileges and will require detailed information concerning the individual's professional qualifications. The applications for initial appointment and reappointment existing now and as may be revised are incorporated by reference and made a part of these bylaws.

(2) In addition to other information, the application will seek:

- (a) Information about whether the applicant's appointment or clinical privileges have been voluntarily or involuntarily relinquished, withdrawn, denied, revoked, suspended, subjected to probationary or other conditions, reduced, limited, terminated, or not renewed at any other hospital, health care facility, or other organization.
- (b) Information about whether the applicant's appointment or clinical privileges are currently being investigated or challenged at any other hospital, health care facility, or other organization.
- (c) Information about whether the applicant's license to practice any relevant profession in any state, DEA registration, or any state's controlled substance license has been voluntarily or involuntarily suspended, modified, terminated, restricted, or relinquished or is currently being investigated or challenged.
- (d) Information concerning the applicant's professional liability litigation experience, including past and pending claims, final judgments, or settlements; the substance of the allegations as well as the findings and the ultimate disposition; and any additional information concerning such proceedings or actions as the medical director, MEC, Center administrator, or governing body may request.
- (e) Current information regarding the applicant's ability to safely and competently exercise the clinical privileges requested.
- (f) A copy of a government-issued photo identification.

(3) The applicant will sign and date the application and certify that he or she is able to perform the clinical privileges requested and the responsibilities of appointment.

5-1(C) Initial Review of Application

(1) A completed application form with copies of all required documents must be returned to medical staff services.

(2) As a preliminary step, the application will be reviewed to determine that all questions have been answered and that the applicant satisfies all applicable threshold eligibility criteria (*see* Section 4-1(A)). Incomplete applications will not be processed. Individuals who fail to submit a completed applications or fail to meet the threshold eligibility criteria will be notified that their applications will not be processed. A determination of ineligibility or that an application is incomplete does not entitle the individual to the hearing and appeal rights outlined in these bylaws and is not reportable to the National Practitioner Data Bank.

(3) Medical staff services will also oversee the process of gathering and verifying relevant information and confirming that all references and other information or materials deemed pertinent have been received.

5-1(D) Steps to Be Followed for All Initial Applicants

(1) Evidence of the applicant's character, professional competence, qualifications, behavior, and ethical standing will be examined. This information may be contained in the application and obtained from peer references (from the same discipline where practicable) and from other available sources, including residency training directors, and others who may have knowledge about the applicant's education, training, experience, and ability to work with others.

(1) Interviews with the applicant may be conducted. The purpose of the interview is to discuss and review any aspect of the applicant's application, qualifications, and requested clinical privileges. This interview may be conducted by a combination of any of the following: the medical director, the MEC, and/or the Center administrator. Applicants do not have the right to be accompanied by legal counsel to requested interviews, and no recording (audio or video) of the meeting will be permitted or made.

5-1(E) Medical Director Recommendation

(1) Medical staff services will transmit complete applications and all supporting materials to the medical director. The medical director will make a recommendation to the MEC on the applicant's request for appointment and clinical privileges, including any proposed conditions on appointment or limitations on privileges.

(2) The medical director will be available to the MEC and the governing body to answer any questions that may be raised with respect to the applicant.

5-1(F) MEC Recommendation

(1) After receipt of the recommendation of the medical director, and after determining that an applicant is otherwise qualified for appointment and clinical privileges, if there is any question about the applicant's ability to perform the clinical privileges requested and the

responsibilities of appointment, the MEC may require the applicant to provide information regarding his or her health status and/or undergo a physical, mental, and/or behavioral examination by a physician(s) satisfactory to the MEC. The results of this examination will be made available to the MEC for its consideration. Failure of an applicant to undergo an examination within a reasonable time after being requested to do so in writing by the MEC will be considered a voluntary withdrawal of the application and all processing of the application will cease. The cost of the health assessment will be borne by the applicant.

(2) The MEC may recommend specific conditions on appointment and/or clinical privileges. These conditions may relate to behavior (*e.g.,* personal code of conduct) or to clinical issues (*e.g.,* general consultation requirements, appropriate documentation requirements, proctoring, completion of CME requirements). The MEC may also recommend that appointment be granted for a period of less than two (2) years to permit closer monitoring of an applicant's compliance with any conditions. Unless these matters involve an affected individual and the specific adverse recommendations set forth in Section 8-1(A), as pertinent, such conditions do not entitle an applicant to the hearing and appeal rights outlined in these bylaws.

(3) If the recommendation of the MEC is to appoint, the recommendation will be forwarded to the governing body.

(4) If the recommendation of the MEC entitles an affected individual to request a hearing per Section 8-1(A), the MEC will forward its recommendation to the Center administrator who will promptly send a special notice to the affected individual. The Center administrator will then hold the application until after the affected individual has completed or waived a hearing and appeal.

5-1(G) Governing Body Action

5-1(G)(1) Expedited review

The governing body may delegate to a committee, consisting of at least two (2) members, action on appointment, reappointment, and clinical privileges if there has been a favorable recommendation from the MEC. Any decision reached by the committee to appoint will be effective immediately and will be forwarded to the governing body for ratification at its next meeting.

5-1(G)(2) Full governing body review

(a) When there has been no delegation to the governing body committee, upon receipt of a recommendation that the applicant be granted appointment and clinical privileges, the governing body may:

(i) Appoint the applicant and grant clinical privileges as recommended;

(ii) Refer the matter back to the MEC or to another source inside or outside the Center for additional research or information; or

(iii) Reject or modify the recommendation.

(b) If the governing body determines to reject a favorable recommendation, it should first discuss the matter with the MEC chairperson. If the governing body's determination remains unfavorable to an affected individual, the Center administrator will promptly send a special notice to the affected individual that he/she is entitled to request a hearing per Section 8-1(C).

(c) Any final decision by the governing body to grant, deny, revise or revoke appointment and/or clinical privileges will be disseminated to appropriate individuals and reported to appropriate entities, as required.

5-1(H) Time Periods for Processing

Once an application is deemed complete and verified, it is expected to be processed within 90 days, unless it becomes incomplete. This time is intended to be a guideline only and does not create any right for the applicant to have the application processed within this precise time period.

5-1(I) Duration of Appointment

All initial appointments and any other initial grants of clinical privileges will be for no more than two (2) years.

SECTION 5-2. REAPPOINTMENT

All terms, conditions, requirements, and procedures relating to initial appointment set out in Section 4-2 apply to continued appointment, reappointment, and clinical privileges.

5-2(A) Eligibility for Reappointment

To be eligible to apply for reappointment and renewal of clinical privileges, practitioners must have during the previous appointment term:

(1) Satisfied all applicable responsibilities, including payment of any dues or fines, if any.

(2) Continued to meet all qualifications and criteria for appointment and the clinical privileges requested, including those set out in Section 4-1(A).

(3) Sufficient patient contacts to enable the assessment of current clinical judgment and competence for the clinical privileges requested. Any practitioner seeking reappointment who has minimal activity at the Center must submit such information as may be requested (such as a copy of his/ her confidential quality profile from his/ her primary hospital, clinical information from the his/ her private office practice, and/or a quality profile from a managed care organization or insurer) before the application will be considered complete and processed further.

(4) Paid the reappointment processing fee, if any.

5-2(B) Factors for Evaluation

In considering a practitioner's application for reappointment, the factors listed in Section 4-1(B) will be considered. Additionally, the following factors will be evaluated as part of the reappointment process:

(1) Compliance with the bylaws, rules and regulations, and policies of the medical staff and the Center.

(2) Participation in medical staff or APP duties, including committee assignments, quality of medical record documentation, cooperation with activities related to the evaluation of professional practice, participation in performance improvement, utilization activities, and such other reasonable duties and responsibilities as assigned.

(3) The results of the Center's activities related to the evaluation of professional practice and performance improvement, taking into consideration practitioner-specific information compared to aggregate information concerning other individuals in the same or similar specialty (provided that other practitioners will not be identified).

(4) Any focused professional practice evaluations.

(5) Verified complaints received from patients, families, and/or staff.

(6) Other reasonable indicators of continuing qualifications.

5-2(C) Reappointment Application

(1) An application for reappointment will be furnished to practitioners prior to the expiration of their current appointment term. A completed reappointment application must be returned to medical staff services by the specified due date.

(2) Failure to submit a complete application by the specified due date may result in the assessment of a reappointment late fee, which, if imposed, must be paid before the application is processed. In addition, failure to submit a complete application by the specified due date may result in the automatic expiration of appointment and clinical privileges at the end of the current term of appointment unless the application can still be processed in the normal course, without extraordinary effort on the part of medical staff services and medical staff leaders.

(3) Reappointment will be for a period of no more than two (2) years.

(4) The application will be reviewed by medical staff services to determine that all questions have been answered, and that the practitioner satisfies all threshold eligibility criteria for reappointment and for the clinical privileges requested.

(5) Medical staff services will oversee the process of gathering and verifying relevant information and will also be responsible for confirming that all relevant information has been received.

5-2(D) Processing Applications for Reappointment

(1) Medical staff services will forward the complete applications to the medical director and the

application for reappointment will be processed in a manner consistent with applications for initial appointment.

(2) Additional information may be requested from the practitioner if any questions or concerns are raised with the application or if new clinical privileges are requested.

5-2(E) Conditional Reappointments

(1) Recommendations for reappointment and renewed clinical privileges may be contingent on a practitioner's compliance with certain specific conditions that have been recommended. These conditions may relate to behavior *(e.g.,* personal code of conduct) or to clinical issues (*e.g.,* appropriate documentation requirements, including timely completion of medical records, proctoring, completion of CME requirements). Unless the conditions involve an affected individual and the adverse recommendations set forth in Section 8-1(A), such conditions do not entitle a practitioner to the hearing and appeal rights set forth in Article 8.

(2) Reappointments may be recommended for periods of less than two years to allow closer monitoring of a practitioner's compliance with any conditions that have been recommended. A recommendation for reappointment for a period of less than two (2) years does not, in and of itself, entitle an affected individual to the procedural rights set forth in Article 8.

(3) In addition, in the event the applicant for reappointment is the subject of an unresolved professional practice evaluation concern, an investigation, or a hearing at the time reappointment is being considered, a conditional reappointment for a period of less than two (2) years may be granted pending the completion of that process.

5-2(F) Potential Adverse Recommendation

(2) If the MEC considers a recommendation to deny reappointment or to reduce clinical privileges, the MEC chairperson will notify the practitioner of the possible recommendation and invite the practitioner to meet before any final recommendation is made.

(3) Prior to this meeting, the practitioner will be notified of the general nature of the information supporting the recommendation contemplated.

(4) At the meeting, the practitioner will be invited to discuss, explain, or refute this information. A summary of the interview will be made and included with the MEC's recommendation. This meeting is not a hearing, and none of the procedural rules for hearings will apply. The practitioner does not have the right to be accompanied by legal counsel at this meeting, and no recording (audio or video) of the meeting will be permitted or made.

(5) If the governing body determines to reject a favorable recommendation from the MEC, it should first discuss the matter with the MEC chairperson. If the governing body's determination is unfavorable to an affected individual, the Center administrator will promptly send a special notice to the affected individual that he/she is entitled to request a hearing per Section 8-1(C).

5-2(G) Time Periods for Processing

Once an application is deemed complete and verified, it is expected to be processed within 90 days, unless it becomes incomplete. This time is intended to be a guideline only and does not create any right for a practitioner to have the application processed within this precise time period.

ARTICLE 6. CLINICAL PRIVILEGES

SECTION 6-1. GENERAL

(A) Appointment or reappointment does not confer any clinical privileges or the right to treat patients at the Center. Each practitioner who has been granted appointment is entitled to exercise only those clinical privileges specifically granted by the governing body.

(B) For requests for clinical privileges to be processed, all threshold criteria applicable to the clinical privileges being requested must be satisfied.

(C) Requests for clinical privileges that are subject to an exclusive contract will not be processed except as consistent with the contract.

(D) Requests for clinical privileges that have been grouped into core privileges will not be processed unless the individual has applied for the full core and satisfied all threshold eligibility criteria.

(E) The clinical privileges recommended to the governing body will be based on the following factors:

(1) Education, relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, clinical judgment, interpersonal and communication skills, and professionalism with patients, families, and other members of the health care team and peer evaluations relating to these criteria.

(2) Appropriate utilization patterns.

(3) Ability to perform the clinical privileges requested competently and safely.

(4) Information resulting from ongoing and focused professional practice evaluation and other performance improvement activities, as applicable.

(5) Availability of other qualified staff members with appropriate clinical privileges (as determined by the MEC) to provide coverage in case of the applicant's illness or unavailability.

(6) Adequate professional liability insurance coverage for the clinical privileges requested.

(7) The Center's available resources and personnel.

(8) Any previously successful or currently pending challenges to any licensure or registration, or the voluntary or involuntary relinquishment of such licensure or registration.

(9) Any information concerning professional review actions or voluntary or involuntary termination, limitation, reduction, or loss of appointment or clinical privileges at a hospital.

(10) Practitioner-specific data as compared to aggregate data, when available.

(11) Morbidity and mortality data related to the specific individual, and when statistically and

qualitatively significant and meaningful, when available.

(12) Professional liability actions, especially any such actions that reflect an unusual pattern or excessive number of actions.

(F) Clinical privilege delineations and/or the criteria for the same are developed by the medical director and forwarded to the MEC, which will review the matter and forward its recommendations to the governing body for final action.

(G) The applicant has the burden of establishing his or her qualifications and current competence for all clinical privileges requested.

(H) The report of the medical director will be forwarded to the MEC and processed as a part of the initial application for appointment.

SECTION 6-2. INCREASED PRIVILEGES

Requests for increased clinical privileges must state the specific additional clinical privileges requested and provide information sufficient to establish eligibility, as specified in applicable criteria, and current clinical competence. If the practitioner is eligible and the application is complete, it will be processed in the same manner as an application for initial clinical privileges.

SECTION 6-3. CLINICAL PRIVILEGES FOR NEW PROCEDURES

Requests for clinical privileges to perform either a procedure not currently being performed at the Center or a new technique to perform an existing procedure (hereafter, "new procedure") will not be processed until (i) a determination has been made that the procedure shall be offered by the Center, and (ii) criteria to be eligible to request those clinical privileges have been established as set forth in this section.

(A) As an initial step in the process, the practitioner seeking to perform the new procedure will prepare and submit a report to the medical director addressing the following:

(1) Appropriate education, training, and experience necessary to perform the new procedure safely and competently.

(2) Clinical indications for when the new procedure is appropriate.

(3) Whether there is empirical evidence of improved patient outcomes with the new procedure or other clinical benefits to patients.

(4) Whether proficiency for the new procedure is volume-sensitive and if the requisite volume would be available.

(5) Whether the new procedure is being performed at other similar hospitals and the experiences of those institutions.

(6) Whether the Center currently has the resources, including space, equipment, personnel, and other support services, to safely and effectively perform the new procedure.

The medical director will review this report, consult with others, conduct additional research as may be necessary, and make a preliminary determination as to whether the new procedure should be offered to the community.

(B) If the preliminary determination is favorable, the medical director will determine whether the request constitutes a "new procedure" as defined by this section or if it is an extension of an existing clinical privilege. If it is determined that it does constitute a "new procedure," the medical director will develop threshold credentialing criteria to determine those individuals who are eligible to request the clinical privileges at the Center. In developing the criteria, the medical director may conduct additional research and consult with experts, as necessary, and develop recommendations regarding:

(1) The appropriate education, training, and experience necessary to perform the procedure or service.

(2) The clinical indications for when the procedure or service is appropriate.

(3) The manner of addressing the most common complications that may arise in the performance of the new procedure.

(4) The extent (time frame and mechanism) of focused monitoring and supervision that should occur if the clinical privileges are granted to confirm competence.

(5) How the procedure will be reviewed as part of the Center's ongoing and focused professional practice evaluation activities.

(C) The medical director will forward its recommendations to the MEC, which will review the matter and forward its recommendations to the governing body for final action.

SECTION 6-4. TEMPORARY CLINICAL PRIVILEGES

6-4(A) Eligibility to Request Temporary Clinical Privileges

6-4(A)(1) Applicants

Temporary privileges for an applicant for initial appointment may be granted by the Center administrator for a maximum period of 120 consecutive days when there is an important patient care, treatment, or service need under the following conditions:

(a) The applicant has submitted a complete application, along with any application fee.

(b) The verification process is complete, including verification of current licensure, relevant training or experience, current competence, ability to exercise the clinical privileges requested, and current professional liability coverage; compliance with clinical privileges criteria; and consideration of information from the National Practitioner Data Bank, from a criminal background check, and from OIG queries.

(c) The applicant demonstrates that (i) there are no current or previously successful challenges to his or her licensure or registration, and (ii) he or she has not been subject to involuntary termination of appointment or involuntary limitation, reduction, denial,

or loss of clinical privileges, at another health care facility.

(d) The application is pending review by the MEC and the governing body, following a favorable recommendation by the medical director.

6-4(A)(2) Locum tenens

The Center administrator may grant temporary privileges to an individual serving as a locum tenens for a member of the medical staff who is on vacation, attending an educational seminar, or ill, and/or otherwise needs coverage assistance for a period of time, under the following conditions:

(a) The applicant has submitted an appropriate application, along with any application fee.

(b) The verification process is complete, including verification of current licensure, current competence (verification of good standing in hospitals where the individual practiced for at least the previous year), ability to exercise the clinical privileges requested, and current professional liability coverage; compliance with clinical privileges criteria; and consideration of information from the National Practitioner Data Bank, from a criminal background check, and from OIG queries.

(c) The applicant demonstrates that (i) there are no current or previously successful challenges to his or her licensure or registration, and (ii) he or she has not been subject to involuntary termination of appointment or involuntary limitation, reduction, denial, or loss of clinical privileges, at another health care facility.

(d) The applicant has received a favorable recommendation from the medical director.

(e) The applicant will be subject to any focused professional practice requirements established by the Center.

(f) The individual may exercise locum tenens temporary clinical privileges for a maximum of 120 days, consecutive or not, anytime during the 24-month period following the date they are granted, subject to the following conditions:

i. The individual must notify medical staff services at least 10 days prior to each time that he or she will be exercising locum tenens temporary clinical privileges (exceptions for shorter notice periods may be considered in situations involving health issues).

ii. Along with this notification, the individual must inform medical staff services of any change that has occurred to any of the information provided on the initial application.

6-4(A)(3) Visiting

The Center administrator, upon recommendation of the medical director, may also grant temporary privileges in other limited situations when there is an important patient care,

treatment, or service need, under the following circumstances:

(a) The temporary privileges are needed (i) for the care of a specific patient; (ii) when a proctoring or consulting practitioner is needed but is otherwise unavailable; or (iii) when necessary to prevent a lack or lapse of services in a needed specialty area.

(b) The following factors are considered and/or verified prior to the granting of temporary privileges: current licensure, relevant training or experience, current competence (verification of good standing in the individual's most recent hospital affiliation), current professional liability coverage acceptable to the Center, and results of a query to the National Practitioner Data Bank, and from OIG queries.

(c) The grant of temporary privileges in these situations will not exceed 60 days. However, in exceptional situations, this period of time may be extended in the discretion of the Center administrator and medical director but cannot exceed 120 days.

6-4(B) Automatic Expiration

All grants of temporary privileges automatically expire upon the date specified at the time of initial granting.

6-4(C) Compliance with Bylaws and Policies

Prior to any temporary privileges being granted, the applicant must agree in writing to be bound by the bylaws, rules and regulations, policies, procedures, and protocols of the medical staff and the Center.

6-4(D) Supervision Requirements

Special requirements of supervision and reporting may be imposed on any applicant granted temporary clinical privileges.

6-4(E) Withdrawal of Temporary Clinical Privileges

(1) The Center administrator may withdraw temporary privileges at any time, after consulting with the medical director. Clinical privileges will then expire as soon as patients have been discharged or alternate care has been arranged.

(2) If the care or safety of patients might be endangered by continued treatment by the individual granted temporary privileges, the Center administrator or the medical director may immediately withdraw all temporary privileges.

SECTION 6-5. EMERGENCY SITUATIONS

In an emergency, which is a condition that could result in serious or permanent harm to a patient(s) and any delay in administering treatment would add to that harm, a practitioner may adminster treatment to the extent permitted by their license, regardless of specific grant of clinical privileges.

ARTICLE 7. PRACTITIONER MATTERS

SECTION 7-1. GENERAL PRINCIPLES

7-1(A) Collegial and Mentoring Efforts

Medical staff leaders have discretion to use various options to address and resolve questions that may be raised about a practitioner's clinical practice, professional conduct, and/or health. These options include, but are not limited to, collegial or mentoring efforts, and handling matters per a relevant medical staff policy. While use of collegial or mentoring efforts is encouraged, their use is not mandatory, and if, in the discretion of medical staff leaders, such approaches have not resolved an issue or an issue is of such severity that it requires enhanced review, the matter may be referred to the MEC for review per Section 7-3.

7-1(B) Confidentiality

It is the policy of the Center to maintain the confidentiality of all medical staff meetings, including, but not limited to, discussions relating to credentialing, quality assessment, performance improvement, and peer review activities. The discussions that take place at such meetings are private conversations that occur in a private place. In addition to existing bylaws and policies governing confidentiality, practitioners attending such meetings are prohibited from making audio or video recordings at such meetings unless authorized to do so in writing by the individual chairing the meeting, the medical director, or the Center administrator.

SECTION 7-2. REQUEST TO REFRAIN FROM PRACTICING & PRECAUTIONARY SUSPENSION

7-2(A) Grounds

(1) Whenever, in their sole discretion, failure to take such action may result in imminent danger to the health and/or safety of any individual, the Center administrator, medical director, and MEC each have authority to:

  (a) Request that the practitioner agree to voluntarily refrain from exercising clinical privileges pending further review of the circumstances by the medical director in accordance with Section 7-2(B)(1); or

  (b) If the practitioner is not willing to voluntarily refrain from practicing pending further review, to suspend or restrict all or any portion of the practitioner's clinical privileges as a precaution, pending further review by the MEC per Section 7-2(B)(2).

(2) The above actions may be taken at any time, including, but not limited to, immediately after the occurrence of an event that causes concern, following a pattern of occurrences that raise concerns, or following a recommendation of the MEC that would entitle an affected individual to request a hearing.

(3) An agreement to refrain and precautionary suspension or restriction are interim steps in a professional review activity but are not a complete professional review action in and of itself. They do not imply any final finding of responsibility for the situation that caused the suspension, restriction, or agreement.

(4) These actions become effective immediately, will be reported promptly in writing to the Center administrator and medical director, and will remain in effect unless the action is modified by the MEC.

(5) The practitioner will be provided with a letter via special notice that memorializes the agreement to voluntarily refrain from practicing or the imposition of a precautionary suspension or restriction along with any terms related to the same. The special notice will also contain a brief written description of the reason(s) for the action, including the names and medical record numbers of the patient(s) involved (if any), and will be provided to the practitioner within three (3) days of the action.

7-2(B) Review Process

7-2(B)(1) Agreements to voluntarily refrain from exercising clinical privileges

(a) The medical director will review the matter resulting in a practitioner's agreement to voluntarily refrain from exercising clinical privileges within a reasonable time under the circumstances, not to exceed 14 days. As part of this review, the practitioner will be given an opportunity to meet with the medical director. Neither the medical director nor the practitioner may be accompanied by legal counsel at this meeting, and no recording (audio or video) or transcript of the meeting will be permitted or made; however, minutes of the meeting will be prepared.

(b) After considering the matter resulting in an practitioner's agreement to voluntarily refrain and the practitioner's response, if any, the medical director will determine the appropriate next steps, which may include, but not be limited to, commencing a focused review, referring the matter for review pursuant to another policy, referring the matter to the MEC, or taking some other action that is deemed appropriate under the circumstances. The medical director will also determine whether the agreement to voluntarily refrain from practicing should be continued throughout any further review process.

(c) There is no right to a hearing or an appeal based on a practitioner's agreement to voluntarily refrain from practicing in accordance with this section.

7-2(B)(2) Precautionary suspensions or restrictions

(a) The MEC will review the matter resulting in a precautionary suspension or restriction within a reasonable time under the circumstances, not to exceed 14 days. As part of this review, the practitioner will be given an opportunity to meet with the MEC. The practitioner may propose ways other than a precautionary suspension or restriction to

protect patients and/or employees, depending on the circumstances. Neither the MEC nor the practitioner may be accompanied by legal counsel at this meeting, and no recording (audio or video) or transcript of the meeting will be permitted or made; however, minutes of the meeting will be prepared.

(b) After considering the matters resulting in the suspension or restriction and the practitioner's response, if any, the MEC will determine the appropriate next steps, which may include, but not be limited to, commencing a focused review or an investigation, referring the matter for review pursuant to another policy, or recommending some other action that is deemed appropriate under the circumstances. The MEC will also determine whether the precautionary suspension or restriction should be continued, modified, or terminated throughout any further review process (and hearing and appeal, if applicable).

(c) There is no right to a hearing or an appeal based on the imposition or continuation of a precautionary suspension or restriction.

7-2(C) Care of Patients

Immediately upon a practitioner's agreement to voluntarily refrain from practicing or the imposition of a precautionary suspension or restriction, the medical director may assign, as appropriate, to another practitioner with appropriate clinical privileges responsibility for care of the practitioner's patients, or to otherwise aid in implementing the precautionary suspension, restriction, or agreement to refrain from practicing. The assignment will be effective until the patients are discharged. The wishes of the patient will be considered in the selection of a covering physician but may not always be accommodated.

All practitioners have a duty to cooperate with the medical director, the MEC, and the Center administrator in enforcing precautionary suspensions or restrictions or agreements to voluntarily refrain from practicing.

SECTION 7-3. INVESTIGATIONS

7-3(A) Initial Review

(1) When collegial or mentoring efforts and/or other efforts have not resolved an issue and/or there is an issue of such severity that in the discretion of medical staff leaders it requires further review, questions regarding the following matters may be referred to the medical director or Center administrator:

(a) The clinical competence or clinical practice of any practitioner, including the care, treatment or management of a patient or patients.

(b) The safety or proper care being provided to patients.

(c) The known or suspected violation by any practitioner of applicable ethical standards or the bylaws, rules and regulations, and policies of the Center or the medical staff.

(d) Conduct by any practitioner that is considered lower than the standards of the Center or disruptive to the orderly operation of the Center or its medical staff, including the inability of the practitioner to work harmoniously with others.

(2) In addition, if the governing body becomes aware of information that raises concerns about any practitioner, the matter will be referred to the medical director, Center administrator, or MEC for review and appropriate action per these bylaws.

(3) The person to whom the matter is referred will conduct or arrange for an inquiry to determine whether the question raised has sufficient credibility to warrant further review and, if so, will forward it in writing to the MEC.

(4) No action taken pursuant to this section constitutes an investigation.

7-3(B) Initiation of Investigation

(1) When a question involving a practitioner's clinical competence or professional conduct is referred to, or raised by, the MEC, the MEC will review the matter and determine whether to conduct an Investigation, to direct the matter to be handled pursuant to another policy, or to proceed in another manner that the MEC believes is appropriate. Prior to making its determination, the MEC may discuss the matter with the practitioner involved but is not required to do so. An investigation will begin only after a formal determination by the MEC, which determination will be recorded in the minutes of the meeting where the determination is made.

(2) The MEC will inform the practitioner that an investigation has begun. The notification will include:

(a) The date on which the investigation began.

(b) The committee that will conduct the investigation, if already identified.

(c) A statement that the practitioner will be given the opportunity to meet with the investigating committee before the investigation concludes.

(d) A copy of this Section 7-3, which outlines the process for investigations.

This notification may be delayed if, in the MEC's judgment, informing the practitioner immediately would compromise the Investigation or disrupt the operation of the Center or medical staff.

7-3(C) Investigative Procedure

7-3(C)(1) Selection of investigating committee

Once a determination has been made to begin an investigation, the MEC will either investigate the matter itself or appoint an ad hoc committee to conduct the investigation. Any ad hoc committee may include practitioners not on the medical staff or APPs. When the questions raise concerns about the clinical competence of the practitioner under review,

the ad hoc committee will include a peer of the practitioner (*i.e.,* another physician if the investigation involves a physician).

7-3(C)(2) Investigating committee authority

(a) The committee conducting the investigation has the authority to review relevant documents and interview practitioners. A summary of each interview will be prepared, and the interviewee will be asked to review, revise, and sign his or her summary, which will then be included as an attachment to the investigating committee's report.

(b) The investigating committee will also have available to it the full resources of the medical staff and the Center, including the authority to arrange for an external review, if needed.

7-3(C)(3) External review

(a) An external review may be used whenever the Center and investigating committee determine that:

  (i) There are ambiguous or conflicting findings by internal reviewers.

  (ii) The clinical expertise needed to conduct the review is not available on the medical staff

  (iii) An external review is advisable to prevent allegations of bias, even if unfounded.

  (iv) The thoroughness and objectivity of the Investigation would be aided by such an external review.

(b) If a decision is made to obtain an external review, the Center administrator should be consulted if the Center is paying for the review.

(c) In addition, the practitioner under investigation will be notified of that decision and the nature of the external review. The practitioner may not demand an external review or dictate who performs the external review.

(d) Upon completion of the external review, the practitioner will be provided with a copy of the reviewer's report and provided an opportunity to respond to it in writing.

7-3(C)(4) Examination

The investigating committee may require a physical, mental, and/or behavioral examination of the practitioner by a health care professional(s) acceptable to it. The practitioner being investigated will execute a release (in a form approved or provided by the investigating committee) allowing (i) the investigating committee or its representative to discuss with the health care professional(s) conducting the examination the reasons for the examination and (ii) the health care professional(s) conducting the examination to discuss and provide

documentation of the results of such examination directly to the investigating committee. The cost of such health examination will be borne by the practitioner.

7-3(C)(5) Meeting with the investigating committee

(a) The practitioner will have an opportunity to meet with the investigating committee before it makes its report. Before this meeting, the practitioner will be informed of the general questions being investigated. The investigating committee may also ask the practitioner to provide written responses to specific questions related to the investigation and/or a written explanation of his or her perspective on the events that led to the investigation for review by the investigating committee prior to the meeting.

(b) This meeting is not a hearing, and none of the procedural rules for hearings will apply. No recording (audio or video) or transcript of the meeting will be permitted or made. Neither the practitioner being investigated nor the investigating committee will be accompanied by legal counsel at this meeting.

(c) At the meeting, the practitioner will be invited to discuss, explain, or refute the questions that gave rise to the Investigation or that have been identified by the investigating committee during its review. A summary of the interview will be prepared by the investigating committee and included with its report. The interview summary will be shared with the practitioner prior to the investigating committee finalizing its report, so that he or she may review it and recommend suggested changes. A suggested change should only be accepted if the investigating committee believes it more accurately reflects what occurred at the meeting.

7-3(C)(6) Time frame

The investigating committee will make a reasonable effort to complete the investigation and issue its report within 30 days of the commencement of the investigation, provided that an external review is not necessary. When an external review is necessary, the investigating committee will make a reasonable effort to complete the investigation and issue its report within 30 days after the completion of the external review. These time frames are intended to serve as guidelines and, as such, do not create any right for a practitioner to have an investigation completed within such precise time periods.

7-3(C)(7) Investigating committee's report

(a) At the conclusion of the investigation, the investigating committee will prepare a report. The report should include a summary of the review process (*e.g.,* a list of documents that were reviewed, any practitioners who were interviewed, etc.), specific findings and conclusions regarding each concern that was under review, and the investigating committee's recommendations.

(b) In making its recommendations, the investigating committee will strive to achieve a consensus as to what is in the best interests of patient care and the smooth operation of the Center, while balancing fairness to the practitioner, recognizing that fairness

does not require the practitioner to agree with the recommendation. Specifically, the investigating committee may consider:

(i) Relevant literature and clinical practice guidelines, as appropriate.

(ii) All opinions and views expressed throughout the review, including reports from any external reviews.

(iii) Any information or explanations provided by the practitioner under review.

(iv) Other information as deemed relevant, reasonable, and necessary by the investigating committee.

7-3(C)(8) Recommendation

(a) The MEC may accept, modify, or reject any recommendation it receives from an ad hoc investigating committee, if one was appointed by the MEC. In either case, at the conclusion of the investigation, the MEC may:

(i) Determine that no action is justified.

(ii) Issue a letter of guidance, counsel, warning, or reprimand.

(iii) Impose conditions for continued appointment.

(iv) Impose a requirement for monitoring, proctoring, or consultation.

(v) Impose a requirement for additional training or education.

(vi) Recommend reduction of clinical privileges.

(vii) Recommend suspension or restriction of clinical privileges for a term.

(viii) Recommend revocation of appointment and/or clinical privileges.

(ix) Make any other recommendation deemed necessary or appropriate.

(b) If the recommendation by the MEC entitles an affected individual to request a hearing in accordance with Section 8-1(A), the recommendation will be forwarded to the Center administrator, who will promptly inform an affected individual by special notice and hold the recommendation until after an affected individual has completed or waived a hearing and appeal.

(c) MEC determinations that do not entitle practitioners to request a hearing take effect immediately.

(d) All such determinations will be reported to the governing body and remain in effect unless modified by the governing body.

(e) If the governing body considers a modification to the MEC's recommendation that would entitle an affected individual to request a hearing, the governing body will inform the affected individual by special notice. No final action will occur until the affected individual has completed or waived a hearing and appeal.

(f) When applicable, any recommendations or actions that are the result of an investigation or hearing and appeal will be monitored on an ongoing basis through the

Center's performance improvement activities or pursuant to the applicable policies regarding conduct, as appropriate.

SECTION 7-4. AUTOMATIC RELINQUISHMENT

7-4(A) General

An automatic relinquishment is considered an administrative action that occurs by operation of these bylaws. As such, it does not trigger an obligation to file a report with the National Practitioner Data Bank and will take effect without hearing or appeal. Except as otherwise provided below, an automatic relinquishment is effective immediately upon actual or special notice to the practitioner. Such special notice will be provided after confirmation of the event(s) that led to the automatic relinquishment by the medical director or Center administrator.

7-4(B) Threshold Eligibility Criteria

(1) Any action taken by any licensing board, professional liability insurance company, court or government agency regarding any of the matters set forth below, or any failure to satisfy any of the threshold eligibility criteria set forth in Section 4-1(A), must be promptly reported to medical staff services. A practitioner's appointment and clinical privileges will be automatically relinquished, without the right to the procedural rights outlined in Article 8, if he/she fails to satisfy any of the threshold eligibility criteria set forth in Section 4-1(A) on a continuous basis (except for board certification requirements, which are assessed at the time of reappointment). This includes, but is not limited to, the following occurrences:

(a) Licensure (in any state): Revocation, expiration, suspension, the placement of restrictions on a Practitioner's license or certification, or a practitioner's license or certification being placed on probationary status.

(b) Controlled substance authorization: Revocation, suspension or the placement of restrictions on a practitioner's DEA registration or state-controlled substance authorization.

(c) Insurance Coverage: termination or lapse of a practitioner's professional liability insurance coverage, or other action causing the coverage to fall below the minimum required by the Center or cease to be in effect, in whole or in part.

(d) Medicare and Medicaid participation: Exclusion, preclusion, or debarment or proposed exclusion, preclusion, or debarment by government action or from participation in the Medicare/Medicaid or other federal or state health care programs.

(e) Criminal activity: Arrest, charge, indictment, conviction, or a plea of guilty or no contest pertaining to any felony or to any misdemeanor involving (i) controlled substances; (ii) illegal drugs; (iii) Medicare, Medicaid, or insurance or health care fraud or abuse; (iv) child abuse; (v) elder abuse; (vi) violence against another; or (vii) the practitioner-patient relationship.

(2) In addition to the above, an APP's appointment and clinical privileges also will be automatically relinquished upon the occurrence of the following:

(a) A determination is made that the services of a particular discipline or category of APP is no longer needed.

(b) An APP fails, for any reason, to maintain an appropriate relationship with a supervising/ collaborating physician as defined in these bylaws.

(c) Any APP employed by the Center has his or her employment terminated.

(3) Automatic relinquishment will take effect immediately upon special notice to the practitioner.

(4) If the underlying matter leading to automatic relinquishment is resolved within 60 days (*i.e.*, the practitioner can establish that s/he continues to meet all threshold eligibility criteria), the practitioner may request reinstatement in accordance with Section 7-4(F). In addition, if an arrest, charge or indictment as defined above has not been fully resolved within the 60 day time period, a practitioner may request reinstatement but bears the burden of demonstrating, in the full discretion of the MEC, that the underlying matter does not raise concerns about the individual's professional qualifications and/or ability to completely and safely exercise clinical privileges. Failure to resolve the matter within 60 days of the date of relinquishment will result in an automatic resignation of appointment and clinical privileges.

7-4(C) Failure to Complete Medical Records

Failure to complete medical records may result in the automatic relinquishment of clinical privileges in accordance with any process set forth in the medical staff or Center's rules and regulations or policies.

7-4(D) Failure to Provide Requested Information

(1) Failure to provide information pertaining to a practitioner's qualifications for continued appointment or clinical privileges, in response to a written request from the medical director, the MEC, or the Center administrator will result in the automatic relinquishment of all clinical privileges. The information must be provided within the time frame established by the requesting party. Any relinquishment will continue in effect until the information is provided to the satisfaction of the requesting party. If the requested information is not provided within 30 days of the date of relinquishment, it will result in automatic resignation of appointment and clinical privileges.

(2) Automatic relinquishment or resignation as described in this section will not occur if the practitioner's failure to provide written input is due to the legitimate unavailability of the practitioner. These circumstances are limited to a planned vacation out of town, attendance at a conference, illness, family emergency or other cause beyond the practitioner's control. In such case, the requesting committee or individual will establish a reasonable deadline depending on the circumstances.

7-4(E) Failure to Attend a Special Meeting

(1) If there is a concern regarding the clinical practice or professional conduct of any practitioner, the medical director, Center administrator, or MEC may require the practitioner to attend a special meeting with the MEC, medical director, Center administrator, other members of the administrative team, and/or with a standing or ad hoc committee of the medical staff.

(2) No legal counsel will be present at this meeting, and no recording (audio or video) or transcript will be permitted or made.

(3) Notice regarding this meeting will be given to the practitioner in writing at least three (3) days prior to the meeting and will inform the practitioner that attendance at the meeting is mandatory.

(4) Failure of the practitioner to attend the meeting will result in the automatic relinquishment of all clinical privileges until such time as the practitioner does attend the special meeting. If the practitioner does not attend the special meeting within 30 days of the date of relinquishment, it will result in automatic resignation of appointment and clinical privileges.

(5) Automatic relinquishment or resignation as described in this section will not occur if the practitioner's failure to attend a meeting is due to the legitimate unavailability of the practitioner. These circumstances are limited to a planned vacation out of town, attendance at a conference, illness, family emergency or other cause beyond the practitioner's control. In such case, the requesting committee or individual will establish a reasonable deadline depending on the circumstances.

7-4(F) Request for Reinstatement

(1) Requests for reinstatement following the expiration or lapse of a license, controlled substance authorization, and/or insurance coverage will be processed by medical staff services. If any questions or concerns are noted, medical staff services will refer the matter for further review in accordance with Section 7-4(F)(3) below.

(2) Requests for reinstatement following the relinquishment of clinical privileges due to medical record delinquencies will be accomplished in accordance with applicable medical record policies and/or rules and regulations.

(3) All other requests for reinstatement following a relinquishment of clinical privileges will be reviewed by the medical director. If the medical director makes a favorable recommendation on reinstatement, the practitioner may immediately resume clinical practice at the Center.

(4) If, however, the medical director has any questions or concerns, those questions will be noted, and the reinstatement request will be forwarded to the MEC for review and recommendation.

SECTION 7-5. RESIGNING MEMBERSHIP & CLINICAL PRIVILEGES

A request to resign appointment and relinquish all clinical privileges must specify the desired date of resignation, which must be at least 30 days from the date of the request. The medical director

will act on the resignation request and forward a report on the matter to the MEC. If a practitioner does not complete all medical record responsibilities before the effective date of the resignation or is under an investigation as described in Section 7-3 as of the effective date of resignation, he/she will not be considered to have resigned "in good standing" for purposes of future reference responses.

ARTICLE 8. HEARINGS & APPEALS

SECTION 8-1. HEARINGS

8-1(A) Grounds for a Hearing

8-1(A)(1) Only affected individuals

(a) Only affected individuals who are the subject of an adverse recommendation as explained below are entitled to request a hearing. A recommendation is only considered adverse when the MEC recommends, with respect to an affected individual, for reasons related to professional competence or professional conduct that adversely affects, or could adversely affect, the health or welfare of patients, that the governing body:

(i) Deny initial appointment.

(ii) Deny reappointment.

(iii) Revoke or terminate appointment.

(iv) Deny requested clinical privileges, whether at the time of initial appointment, reappointment, or during appointment.

(v) Revoke or terminate clinical privileges.

(vi) Suspend or restrict clinical privileges for more than 30 days (other than precautionary suspension or restriction in which the procedures outlined in Section 7-2(B)(2) apply, which are deemed fair under the circumstances).

(b) The recommendations listed above also are considered adverse when made by the governing body, with respect to an affected individual, for reasons related to professional competence or professional conduct that adversely affects, or could adversely affect, the health or welfare of patients, when the MEC's recommendation to the governing body was not adverse.

(c) No other recommendations or actions entitle affected individuals to request a hearing.

(d) APPs do not have the right to request a hearing.

8-1(B) Actions Not Grounds for a Hearing

The following decisions, determinations, and/or actions are not adverse, do not constitute grounds for a hearing, and take effect without hearing or appeal, provided that an applicant or practitioner is entitled to submit a written explanation to be placed into his or her confidential file:

(1) Failure to meet threshold eligibility criteria outlined in Section 4-1(A).

(2) Ineligibility to request appointment or clinical privileges, or to continue clinical privileges, because a relevant specialty is covered under an exclusive provider agreement.

(3) Failure to meet eligibility criteria to hold clinical privileges requested.

(4) Application is incomplete or untimely.

(5) Application will not be processed due to a misstatement or omission.

(6) Appointment and clinical privileges have expired due to failure to submit an application for reappointment within the allowable time period.

(7) Issuance of an informational letter, educational letter, or any other letter of guidance, counsel, warning, or reprimand.

(8) Conditions, monitoring, supervision, proctoring, or general consultation requirements (*i.e.*, the practitioner must obtain a consult but need not get prior approval for the treatment).

(9) Requirements for additional training or continuing education.

(10) Voluntary acceptance of a voluntary enhancement plan.

(11) Agreement to voluntarily refrain from practicing.

(12) Any requirement to complete a health assessment; diagnostic testing; a physical, mental or behavioral evaluation; or a clinical competency evaluation pursuant to any bylaws-related document.

(13) Conducting an investigation.

(14) Grant of conditional appointment or reappointment or of an appointment or reappointment period that is less than two years.

(15) Refusal to consider a request for appointment, reappointment, or clinical privileges after a final adverse decision regarding such request.

(16) Precautionary suspension or restriction.

(17) Restriction or suspension of clinical privileges for 30 days or less.

(18) Automatic relinquishment of appointment or clinical privileges or automatic resignation.

(19) Withdrawal of temporary privileges.

(20) Requirement to appear for a special meeting.

(21) Termination of any contract with, or employment by, the Center.

(22) Any other action not specifically listed in Section 8-1(A).

8-1(C) Notice of an Adverse Recommendation

When the MEC or governing body has made an adverse recommendation with respect to an affected individual as explained in Section 8-1(A), the Center administrator will give special notice of the recommendation that entitles the affected individual to request a hearing. This notice must include:

(1) The adverse recommendation made and the general reasons for it.

(2) A statement that the affected individual has the right to request a hearing within 30 days of receipt of the notice.

(3) A statement that the failure to request a hearing is a waiver of the hearing and appeal rights in this Article 8 and that the adverse recommendation will become final.

(4) A copy of this Article 8.

8-1(D) Request for a Hearing

The affected individual has 30 days following receipt of the notice to request a hearing. The request for a hearing must be in writing to the Center administrator; delivered either in person or by certified mail, return receipt requested; and include the name, address and telephone of the affected individual's legal counsel, if any. If a hearing is not requested as described, the affected individual is deemed to have waived the right to a hearing and to have accepted the adverse recommendation. The recommendation will become effective when the governing body takes final action on it.

8-1(E) Notice of Hearing and Statement of Reasons

(1) When a hearing has been requested as required by Section 8-1(D), the Center administrator will schedule the hearing and provide special notice to the affected individual that includes:
   (a) The date, time, and place of the hearing.
   (b) A proposed list of witnesses who will testify and a brief summary of the nature of the anticipated testimony.
   (c) The names of the hearing panel members and presiding officer, or the hearing officer, as applicable, if known.
   (d) A statement of the specific reasons for the adverse recommendation and a list of patient records and general description of the information supporting the recommendation. This statement does not prohibit presentation of additional information evidence or information at the hearing, so long as the additional material is relevant to the recommendation or the affected individual's qualifications and he/she has a sufficient opportunity to review and rebut the additional information.

(2) The hearing will begin no sooner than 30 days after the notice of the hearing, unless an earlier hearing date is specifically agreed to in writing by the parties.

8-1(F) Hearing Panel and Presiding Officer or a Hearing Officer

When a hearing has been properly requested, the Center administrator, in consultation with the medical director, will appoint either a hearing panel and a presiding officer or, as an alternative for matters limited to issues involving professional conduct, a hearing officer.

8-1(F)(1) Hearing panel

(a) A hearing panel must have at least three (3) members, at least two (2) of whom must be physicians, and include any combination of:
   (i) Any practitioner who has not actively participated in the matter at issue at any previous level; and/or
   (ii) Practitioners or lay people who are not connected with the Center.

(b) Knowledge of the underlying matter does not, in and of itself, preclude an individual from serving as a hearing panel member.

(c) Employment by, or other contractual arrangement with, the Center or an affiliate does not preclude an individual from serving as a hearing panel member.

(d) The hearing panel will not include anyone who is in direct, economic competition with the affected individual or anyone who is demonstrated to have an actual bias, prejudice, or conflict of interest that would prevent that individual from fairly and impartially considering the matter.

(e) When a hearing panel is appointed, the Center administrator also will select a presiding officer.

8-1(F)(2) Presiding officer

(a) The Center administrator, after consultation with the medical director, will appoint a presiding officer who will be an attorney at law. The presiding officer may not be, or represent clients who are, in direct competition with the affected individual requesting the hearing and may not currently represent the Center in any legal matters.

(b) The presiding officer will:

(i) Not act as an advocate for either side at the hearing.

(ii) Allow participants in the hearing to have a reasonable opportunity to be heard and to present evidence, subject to reasonable limits on the number of witnesses and duration of direct and cross examination.

(iii) Prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant, abusive, or that causes undue delay.

(iv) Maintain decorum throughout the hearing.

(v) Determine the order of procedure.

(vi) Rule on all matters of procedure and the admissibility of evidence.

(vii) Conduct argument by counsel on procedural points within or outside the presence of the hearing panel, at the presiding officer's discretion.

(c) The presiding officer may be advised by legal counsel to the Center regarding the hearing procedure.

(d) The presiding officer may participate in the private deliberations of the hearing panel and be a legal advisor to it but is not entitled to vote on its recommendations.

8-1(F)(3) Hearing officer

(a) As an alternative to a hearing panel, for matters limited to issues involving professional conduct, the Center administrator, in consultation with the medical director, may appoint a hearing officer, preferably an attorney, to perform the functions of a hearing

panel. The hearing officer may not be, or represent clients who are, in direct competition with the affected individual requesting the hearing.

(b) If a hearing officer is appointed instead of a hearing panel, all references in this Article to a hearing panel or presiding officer are deemed to refer instead to a hearing officer.

8-1(F)(4) Objections

Any objection to a hearing panel member, presiding officer, or hearing officer will be made in writing, within 10 days of receipt of notice, to the Center administrator, with a copy to the medical director, and must include the basis for the objection. The medical director will be given a reasonable opportunity to comment. The Center administrator will rule on the objection and give notice to the parties.

8-1(F)(5) Compensation

The hearing panel and presiding officer or the hearing officer may be compensated by the Center, but the affected individual requesting the hearing may elect to share in contributing to the compensation should he or she wish to do so.

8-1(G) Counsel

The presiding officer, hearing officer, and counsel for either party may be an attorney at law who is licensed to practice, in good standing, in any state.

8-1(H) Pre-Hearing Procedures

8-1(H)(1) General procedures

(a) Pre-hearing and hearing processes will be conducted in an informal manner. Formal rules of evidence or procedure will not apply. Neither party has the right to issue subpoenas or interrogatories or to depose witnesses or other individuals prior to the hearing or to otherwise compel any individual to participate in the hearing or pre-hearing process.

(b) Neither the affected individual nor any other person acting on behalf of him or her may contact Center employees or practitioners whose names appear on the MEC's witness list or in documents provided pursuant to this Article concerning the subject matter of the hearing, until the Center has been notified and has contacted the individuals about their willingness to be interviewed. The Center will advise the affected individual once it has contacted such employees or practitioners and confirmed their willingness to meet. An employee or practitioner may agree or decline to be interviewed by or on behalf of the affected individual. If an employee or practitioner who is on the MEC's witness list agrees to be interviewed pursuant to this provision, legal counsel for the MEC may be present during the interview.

8-1(H)(2) Time frames

The following time frames, unless modified by mutual written agreement of the parties, govern the timing of pre-hearing procedures:

(a) The pre-hearing conference will be scheduled at least 14 days prior to the hearing.

(b) The parties will exchange witness lists and proposed documentary exhibits at least 10 days prior to the pre-hearing conference.

(c) Any objections to witnesses and/or proposed documentary exhibits must be provided at least five (5) days prior to the pre-hearing conference.

8-1(H)(3) Witness list

(a) At least 10 days before the pre-hearing conference, the affected individual will provide a written list of the names of witnesses expected to offer testimony on his or her behalf.

(b) The witness list will include a brief summary of the anticipated testimony.

(c) The witness list of either party may, in the discretion of the presiding officer, be amended at any time during the hearing, provided that notice of the change is given to the other party.

8-1(H)(4) Provision of relevant information

(a) Prior to receiving any confidential documents, the affected individual must agree that all documents and information will be maintained as confidential and will not be disclosed or used for any purpose outside of the hearing. The affected individual must also provide a written representation that his or her counsel and any expert(s) have executed Business Associate agreements in connection with any patient protected health information contained in any documents provided.

(b) Upon receipt of the above agreement and representation, the affected individual requesting the hearing will be provided with a copy of the following:

  (i) Copies of, or reasonable access to, all patient medical records referred to in the statement of reasons, at the affected individual's expense.

  (ii) Reports of experts relied upon by the MEC.

  (iii) Copies of relevant minutes (with portions regarding other practitioners and unrelated matters deleted).

  (iv) Copies of any other documents relied upon by the MEC.

  The provision of this information does not waive any privilege under any peer review protection or other similar statutes.

(c) The affected individual does not have the right to discovery beyond the above information. No information will be provided regarding other practitioners on the medical staff.

(d) At least 10 days prior to the pre-hearing conference (or as otherwise agreed upon by both sides), each party will provide the other party with its proposed exhibits. All objections to documents or witnesses will be submitted in writing at least five days in advance of the pre-hearing conference. The presiding officer will not entertain subsequent objections unless the party offering the objection demonstrates good cause.

(e) Evidence unrelated to the reasons for the recommendation or to the affected individual's qualifications for appointment or the relevant clinical privileges will be excluded.

8-1(H)(5) Pre-hearing conference

The presiding officer will require the affected individual and the MEC or their representatives (who may be counsel) to participate in a pre-hearing conference, which will be held no later than 14 days prior to the hearing. At the pre-hearing conference, the presiding officer will establish the time to be allotted to each witness' testimony and cross-examination and will resolve all procedural questions, including any objections to exhibits, witnesses, or the time limitation for the hearing.

8-1(H)(6) Stipulations

The parties and their counsel, if applicable, will use their best efforts to develop and agree upon stipulations, to provide for a more orderly and efficient hearing by narrowing the issues on which live testimony is reasonably required.

8-1(H)(7) Provision of information to the hearing panel

The following documents will be provided to the hearing panel in advance of the hearing:

(a) A pre-hearing statement that either party may choose to submit.

(b) Exhibits offered by the parties following the pre-hearing conference (without the need for authentication).

(c) Any stipulations agreed to by the parties.

8-1(I) Hearing Procedures

8-1(I)(1) Rights of both sides and the hearing panel at the hearing

(a) At a hearing, both sides will have the following rights, subject to reasonable limits determined by the presiding officer:

(i) To call and examine witnesses, to the extent they are available and willing to testify.

(ii) To introduce exhibits.

(iii) To cross-examine any witness on any matter relevant to the issues.

(iv) To have representation by counsel who may call, examine, and cross-examine witnesses and present the case.

(v) To submit proposed findings, conclusions and recommendations to the hearing panel as part of the post-hearing statement referenced in this Article, following the close of the hearing session(s).

(b) If the affected individual who requested the hearing does not testify, he or she may be called and questioned.

(c) The hearing panel may question witnesses, request the presence of additional witnesses, and/or request documentary evidence.

(d) It is expected that the hearing will not last more than 15 hours, with each side being afforded approximately seven and one-half hours (7 ½ hours) to present its case, in terms of both direct and cross-examination of witnesses. Both parties are required to prepare their case so that a hearing will be concluded after a maximum of 15 hours. The presiding officer may, after considering any objections, grant limited extensions upon a demonstration of good cause and to the extent compelled by fundamental fairness.

8-1(I)(2) Record of hearing

No recording (audio or video) of the hearing will be permitted or made. A stenographic reporter will be present to make a record of the hearing. The cost of the reporter will be borne by the Center. Copies of the transcript will be available at the affected individual's expense. Oral evidence will be taken only on oath or affirmation administered by any person entitled to notarize documents in this state.

8-1(I)(3) Failure to appear

Failure, without good cause, of the affected individual to appear and proceed at the hearing will constitute a waiver of the right to a hearing and the matter will be transmitted to the governing body for final action.

8-1(I)(4) Presence of hearing panel members

A majority of the hearing panel will be present throughout the hearing. In unusual circumstances when a hearing panel member must be absent from any part of the hearing, he or she will read the entire transcript of the portion of the hearing from which he or she was absent.

8-1(I)(5) Others to be present

The hearing will be restricted to those individuals involved in the proceeding, the medical director, and the Center administrator. In addition, administrative personnel may be present as requested by the Center administrator or the medical director.

8-1(I)(6) Order of presentation

The MEC will first present evidence in support of its recommendation. Thereafter, the burden will shift to the affected individual who requested the hearing to present evidence.

8-1(I)(7) Admissibility of evidence

The hearing will not be conducted according to rules of evidence. Evidence will not be excluded merely because it is hearsay. Any relevant evidence will be admitted if it is the sort of evidence on which responsible persons are accustomed to relying on in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The guiding principle will be that the record contains information sufficient to allow the governing body to decide whether the individual is qualified for appointment and clinical privileges.

8-1(I)(8) Post-hearing statement

Each party has the right to submit a written statement, and the hearing panel may request that statements be filed, following the close of the hearing.

8-1(I)(9) Postponements and extensions

Postponements and extensions of time may be requested by anyone but will be permitted only by the presiding officer on a showing of good cause.

8-1(J) Hearing Conclusion, Deliberations, and Recommendations

8-1(J)(1) Basis of hearing panel recommendation

Consistent with the burden on the affected individual to demonstrate that he or she satisfies, on a continuing basis, all criteria for initial appointment, reappointment and clinical privileges, the hearing panel will recommend in favor of the MEC unless it finds that the affected individual who requested the hearing has proved, by clear and convincing evidence, that the recommendation that prompted the hearing was arbitrary, capricious, or not supported by credible evidence.

8-1(J)(2) Deliberations and recommendation of the hearing panel

Within 20 days after final adjournment of the hearing (which may be designated as the time the hearing panel receives the hearing transcript or any post-hearing statements, whichever is later), the hearing panel will conduct its deliberations outside the presence of any other person except the presiding officer. Thereafter, the hearing panel will render a recommendation, accompanied by a report, which will contain a concise statement of the basis for its recommendation.

8-1(J)(3) Disposition of hearing panel report

The hearing panel will deliver its report to the Center administrator. The Center administrator will send by special notice a copy of the report to the affected individual who requested the hearing. The Center administrator will also provide a copy of the report to the MEC.

SECTION 8-2. APPEALS

8-2(A) Time for Appeal

Within 10 days after notice of the hearing panel's recommendation, either party may request an appeal. The request will be in writing, delivered to the Center administrator either in person or by certified mail, return receipt requested, and will include a statement of the reasons for appeal and the specific facts or circumstances which justify further review. If an appeal is not requested within 10 days, an appeal is deemed to be waived and the hearing panel's report and recommendation will be forwarded to the governing body for final action.

8-2(B) Grounds for Appeal

The grounds for appeal are limited to the following:

(1) There was substantial failure by the hearing panel to comply with these bylaws during the hearing, so as to deny a fair hearing; and/or

(2) The recommendations of the hearing panel were made arbitrarily or capriciously and/or were not supported by credible evidence.

8-2(C) Notice of Date, Time, and Place of Appeal

Whenever an appeal is requested as set forth in the preceding sections, the chair of the governing body (or the Center administrator on behalf of the chair) will schedule and arrange for an appeal. The affected individual will be given special notice of the date, time, and place of the appeal. The appeal will be held as soon as arrangements can be made reasonably, considering the schedules of all the individuals involved.

8-2(D) Nature of Appellate Review

(1) The governing body may serve as the review panel or the chair of the governing body may appoint a review panel composed of not less than three persons, either members of the governing body or others, including but not limited to reputable persons outside the Center, to consider the record upon which the recommendation before it was made and recommend final action to the governing body.

(2) Each party has the right to present a written statement in support of its position on appeal. The party requesting the appeal will submit a statement first and the other party will then have 10 days to respond. In its sole discretion, the review panel may allow each party or its representative to appear personally and make oral argument not to exceed 30 minutes.

(3) When requested by either party, the review panel may, in its discretion, accept additional oral or written evidence subject to the same rights of cross-examination provided at the hearing panel proceedings. Such additional evidence will be accepted only if the review panel determines that the party seeking to admit it has demonstrated that it is relevant, new

evidence that could not have been presented at the hearing, or that any opportunity to admit it at the hearing was improperly denied.

8-2(E) Governing Body

8-2(E)(1) Final decision

(a) Within 30 days after the governing body (i) considers the appeal as a review panel, (ii) receives a recommendation from a separate review panel, or (iii) receives the hearing panel's report and recommendation when no appeal has been requested, it will consider the matter and take final action.

(b) The governing body may review any information that it deems relevant, including, but not limited to, the findings and recommendations of the MEC, hearing panel, and review panel (if applicable). The governing body may adopt, modify, or reverse any recommendation that it receives or, in its discretion, refer the matter to any individual or committee for further review and recommendation, or make its own decision based upon the governing body's ultimate legal authority for the operation of the Center and the quality of care provided.

(c) The governing body will render its final decision in writing, including specific reasons, and will send special notice to the affected individual. A copy will also be provided to the MEC for its information.

8-2(E)(2) Further review

Except where the matter is referred by the governing body for further action and recommendation by any individual or committee, the final decision of the governing body will be effective immediately and will not be subject to further review. If the matter is referred for further action and recommendation, such recommendation will be promptly made to the governing body in accordance with the instructions given by the governing body.

SECTION 8-3. RIGHT TO ONE HEARING AND ONE APPEAL ONLY

No affected individual is entitled to more than one hearing and one appellate review on any matter. If the governing body denies initial appointment or reappointment or revokes the appointment and/or clinical privileges of a current affected individual, he or she is not eligible to apply for appointment or for those clinical privileges at the Center.

ARTICLE 9. MISCELLANEOUS

SECTION 9-1. HISTORIES AND PHYSICALS

(A) A preoperative history and physical examination, pertaining to the surgery or procedure to be performed, must be completed and documented by a physician, oral surgeon, or podiatrist, to the extent consistent with his or her delineated clinical privileges, no earlier than 30 days before the date of the scheduled surgery or procedure.

(B) If an H&P was performed outside the Center, upon admission and before surgery or a procedure requiring anesthesia services, an updated examination of the patient must be completed and documented for any changes in the patient's condition since the completion of the most recently documented H&P.

ARTICLE 10. INDEX