

CORRECTIVE ACTION PROCEDURES

AND

FAIR HEARING PLAN ADDENDUM

To the Bylaws of the Medical Staff

of

Good Samaritan Health Center, Inc.

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**FAIR HEARING PLAN
ADDENDUM**

To the Bylaws of the Medical Staff

of

Good Samaritan Health Center, Inc.

ARTICLE 1

CORRECTIVE ACTION

The Executive Committee of the Medical Staff shall be the disciplinary body of the Hospital Medical Staff. Corrective action may be requested by any officer of the Medical Staff, by the chief of any service, the chair of any standing or special committee, by the Hospital President, or by the Governing Body. Except when a suspension is imposed pursuant to Section 1.4, 1.5 or 1.6 of this Plan, all requests for corrective action shall be in writing to the Executive Committee, and the request shall contain a detailed description of the activity or conduct upon which the request is based.

1.1 Grounds for Request

Conduct or activity upon which the request for corrective action may be based shall include, but not be limited to:

- (a) Conduct or activity by a staff member considered to lower the standards or aims of the Medical Staff or to adversely reflect upon the reputation of the Medical Staff or Hospital as a whole in the community or which is disruptive to the operations of the Hospital or where a member's current physical, mental or emotional condition may pose a threat to patient care.
- (b) Conduct involving moral turpitude.
- (c) Conviction of a crime.
- (d) Unethical practice.
- (e) Incompetence.
- (f) Failure to keep adequate records.
- (g) Revocation, suspension or limitation of Practitioner's license by the applicable licensing board or voluntarily by Practitioner.

- (h) Loss or limitation of Practitioner's narcotics (DEA) license.
- (i) Exercising privileges while Practitioner's professional ability is impaired, whether through illness, accident, addiction, or from any other source.
- (j) Significant misstatement in or omission from any application for membership or privileges or any misrepresentation in presenting the Practitioner's credentials.
- (k) Violation of the Bylaws, Rules and Regulations of the Medical Staff, Hospital Bylaws, the applicable Code of Ethics, State of Wisconsin laws or rules or the Ethical and Religious Directives for Catholic Health Care Services as promulgated by the National Conference of Catholic Bishops, and the Hospital's mission statement.
- (l) Commission of an offense that bars the Practitioner from providing services in the Hospital under Chapter HFS 12 of the Wisconsin Administrative Code.
- (m) Failure to abide by the Corporate Responsibility Program, including without limitation the Hospital's Standards of Conduct and any related education and training requirements.
- (n) Breach of confidentiality.
- (o) Harassment, mistreatment or otherwise degrading of any patient, visitor, Hospital employee, Medical Staff member, Allied Health Professional, or member of the Governing Body.

1.2 Procedure to Determine Request

- (a) Except when a suspension under Section 1.4, 1.5 or 1.6 of this Plan has already occurred, whenever the request for corrective action is based on a question involving clinical ability and was not originated by the chief of the clinical service in which the Practitioner has privileges, the Executive Committee (or the President of the Medical Staff if time or special circumstances do not permit review by the Executive Committee) shall forward such request to the chief of the primary clinical service in which the Practitioner has privileges. Upon receipt of the request, the chief of the service involved may investigate the matter personally or, if appropriate, appoint an ad hoc committee from within the service to investigate the matter. The matter need not be referred to the service if the President of the Medical Staff determines that time or other special circumstances require a prompt or alternate review. While review of requests for corrective action shall principally be performed within clinical services, the President of the Medical Staff or the Executive Committee may conduct the review or appoint a special ad hoc committee to review the request and provide a recommendation to the Executive Committee.

- (b) If the request for corrective action is referred to a service, within 30 days after the investigating body's receipt of the request for corrective action, the investigating body shall make a report of its investigation to the Executive Committee. Prior to the making of this report, the Medical Staff member against whom corrective action has been requested shall have an opportunity for an interview with the investigating body. At this interview, the Practitioner shall be informed of the general nature of the charge(s), and shall be invited to discuss, explain or refute it/them. This interview shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in the Bylaws or this Plan with respect to hearings shall apply. A record of such interview shall be made by the investigating body.
- (c) The President of the Medical Staff shall promptly notify the Hospital President of all requests for corrective action received by the Executive Committee and shall continue to keep the Hospital President fully informed of all action taken with respect to the request for corrective action.

1.3 Executive Committee Action

- (a) Within 30 days following receipt of the report of the investigation, the Executive Committee shall take one or more of the following actions:
 - (1) Issue a warning letter to the staff member.
 - (2) Issue a letter of reprimand to the staff member.
 - (3) Issue a letter of admonition to the staff member.
 - (4) Reject, modify or dismiss the request for corrective action.
 - (5) Recommend that the Governing Body:
 - a. Require mandatory concurring consultation for a specified term.
 - b. Deny reinstatement from a leave of absence.
 - c. Impose probation that limits clinical privileges for a specified term.
 - d. Reduce clinical privileges.
 - e. Suspend clinical privileges.
 - f. Revoke clinical privileges.
 - g. Suspend staff membership.
 - h. Revoke staff membership.

- (6) Recommend that an already imposed suspension of clinical privileges be terminated, modified or sustained.
 - (7) Require a physical or mental examination and report by a physician or psychologist chosen by or acceptable to the Executive Committee and compliance with any recommendations issued as a result of such examination.
 - (8) Impose a fine.
 - (9) Require additional or remedial education.
 - (10) Recommend that other appropriate action be taken, including any combination of the above.
- (b) If the Executive Committee makes a recommendation to the Governing Body under Section 1.3(a)(5)e, it shall also recommend the interval status of the Practitioner during the Fair Hearing Process, if invoked.
 - (c) The Executive Committee shall make a written report of its action on the request for corrective action, including the reasons for the action taken and any minority views, and shall forward the report to the Hospital President for submission to the Governing Body. If the action taken by the Executive Committee is not a professional review action, as defined in Sections 2.1 and 2.2 of this Plan, the Governing Body, in its sole discretion, may conduct its own investigation, through whatever means, and, after receipt of the report of the investigation, impose any of the sanctions set forth in Section 1.3(a) above. Before imposing any such sanctions, the Governing Body shall refer the matter to a joint conference committee as provided in Article 10 of this Plan. The Governing Body's action on the matter following receipt of the joint conference committee's recommendation shall not be final until the affected Practitioner has exercised or waived his rights, if any, to hearing and review.
 - (d) Any recommendation by the Executive Committee or action of the Governing Body that constitutes a professional review action, as defined in Articles 2.1 and 2.2 of this Plan, shall entitle the affected Practitioner to a hearing, and the Executive Committee's recommendation need not be forwarded to the Governing Body until the affected Practitioner has exercised or waived his rights to such hearing and review.

1.4 Precautionary Suspension of Privileges

- (a) Any of the following: the Executive Committee, the President of the Medical Staff, any chief of service, the Hospital President, the Executive Committee of the Governing Body or the Governing Body shall each have the authority whenever precautionary action must be taken in the best interests of patient care in the Hospital, to suspend all or any portion of the clinical privileges of a Medical Staff

member and such suspension shall become effective immediately upon imposition. When possible, consultation with another individual or entity with suspension authority should be sought before taking action. If the suspension is for a period of more than 14 days, the Medical Staff member shall be entitled to a review, hearing and appellate review as hereafter provided. For suspensions of 14 days or less, the Executive Committee may upon request afford the Medical Staff member an opportunity to meet with the Executive Committee in special session to informally discuss the suspension. The Executive Committee shall be authorized to lift, maintain or modify the suspension of 14 days or less than, except a suspension imposed by the Governing Body.

- (1) A precautionary suspension shall be deemed an interim precautionary step in the professional review activity related to the ultimate action that may be taken with respect to the suspended individual, but it is not a complete professional review action in and of itself.
 - (2) If the conduct forming the basis for the precautionary suspension has not been investigated by the chief of service or Executive Committee prior to imposition of the precautionary suspension (including an interview, if possible, with the Practitioner involved), the matter shall be investigated pursuant to the procedures set forth in Section 1.2 of this Plan.
 - (3) Until the Executive Committee receives and considers the results of the investigation and takes or recommends corrective action, a precautionary suspension shall not imply any final finding adverse to the suspended Practitioner.
 - (4) The precautionary suspension shall be reported in writing to the Hospital President, the President of the Medical Staff and the appropriate chief of service, and the affected Practitioner shall be notified by Special Notice of the terms of the precautionary suspension. Other clinical services (such as the emergency department) that need to know of the affected Practitioner's unavailability will be informed that the Practitioner is not available for patient care during the relevant time period. A copy of the report of the precautionary suspension shall be placed in the Practitioner's Medical Staff file. The Practitioner may submit a written response to this report for inclusion in the Practitioner's file.
- (b) A Medical Staff member whose precautionary suspension pursuant to this Section is for more than 14 days shall be entitled to request that the Executive Committee hold a hearing on the matter within such reasonable time period as a hearing committee may be convened in accordance with the Bylaws, not to exceed 10 days after receipt by the Hospital President of a request for review, unless the Practitioner requests more time. Such hearing shall be held in general accord with the procedures set forth in this Plan, except as to the timelines set for action. Since this process is an expedited review to facilitate and accommodate the needs of a Practitioner who may be under precautionary suspension, should a

Practitioner so request, a hearing on the suspension may be held at a later time than 10 days after receipt of the request for review. If an expedited hearing is held at the Practitioner's request under this Section, it shall replace and not be in addition to any right to hearing otherwise available to the Practitioner under this Plan.

- (c) The Executive Committee may, upon the Practitioner's request, and as soon as practicable, afford the Practitioner an opportunity to meet with the Executive Committee in special session to informally discuss the precautionary suspension, whether or not a hearing is requested. The Executive Committee shall be authorized to lift, maintain or modify the suspension, except a suspension imposed by the Governing Body or its Executive Committee. If the precautionary suspension:
 - (1) is lifted or modified by the Executive Committee but either the Hospital President or the President of the Medical Staff objects in writing to such action; or
 - (2) is not lifted by the Executive Committee and the Practitioner requests a hearing on the professional review action, but not an expedited hearing as provided in Article 1.4(b), and also requests removal of the suspension until hearing,

the precautionary suspension shall remain in effect and the Executive Committee of the Governing Body shall be convened within four days of receipt of the request for hearing or of the written objections from the Hospital President or the President of the Medical Staff. The Executive Committee of the Governing Body shall consider the written position of the Practitioner and the Executive Committee on the sole issue of maintenance of the suspension pending hearing and appellate review, as well as the recommendation of the Hospital President, the President of the Medical Staff and the Practitioner's chief of service. The Executive Committee of the Governing Body shall be authorized to maintain, modify or lift the suspension pending hearing and shall reduce its determination to a written finding.

- (d) After hearing held pursuant to Section 1.4(b), the Executive Committee may recommend modification, continuance or termination of the terms of the precautionary suspension. If, as a result of such hearing, the Executive Committee does not recommend immediate termination of the suspension, the affected Practitioner shall, in accordance with the Fair Hearing Plan, be entitled to request an appellate review by the Governing Body. The terms of the precautionary suspension as sustained or as modified by the Executive Committee shall remain in effect pending a final decision by the Governing Body.
- (e) Immediately upon the imposition of a precautionary suspension, the President of the Medical Staff or responsible chief of service shall provide for alternative medical coverage for the patients of the suspended Practitioner still in the Hospital at the time of such suspension. To the extent possible, the patients'

preference shall be obtained before an alternative Practitioner is selected. The suspended Practitioner shall confer with the alternative Practitioner to the extent necessary to safeguard the patient.

- (f) Precautionary suspensions under this Section still in effect after 30 days will be reported to the National Practitioner Data Bank through the appropriate licensing board whenever reporting is required by law, unless the Practitioner timely files a request for hearing. A request for hearing properly filed shall toll the reporting requirement.

1.5 Temporary Suspension

A temporary suspension in the form of a withdrawal of a Practitioner's admitting privileges shall be imposed automatically after warning of delinquency for failure to complete medical records as required in the Medical Staff Rules and Regulations. The suspension shall continue until the records are complete. No such suspension of privileges shall affect the status or privileges of the Practitioner as regards patients who are at the time of the temporary suspension in the Hospital under the care of the Practitioner, nor shall it give rise to any hearing or review rights.

1.6 Automatic Suspension

- (a) Action by the applicable licensing board revoking or suspending a Practitioner's license shall automatically suspend all of the Practitioner's clinical privileges. This shall occur whether the action of the applicable licensing board is unilateral or agreed to by the licensee. Any practice restrictions, limitations or other special conditions imposed by an applicable licensing board short of suspension shall automatically be considered conditions of the Practitioner's Medical Staff appointment and of the exercise of clinical privileges. A Practitioner who has special conditions imposed by the applicable licensing board shall, within 15 days of such action, have his privileges reviewed by the Executive Committee, which shall submit a report and recommendation to the Governing Body regarding the continued Medical Staff status and clinical privileges of the Practitioner.
- (b) A Practitioner whose DEA number is revoked or restricted or voluntarily surrendered shall automatically be divested of the right to prescribe medications controlled by such number. Further, all the Practitioner's clinical privileges which require the ability to prescribe such medications shall be automatically suspended.
- (c) An automatic suspension of all privileges of a Practitioner shall be imposed upon notification received by the Hospital President of the conviction of a Practitioner of a felony. The Executive Committee may, upon request of the affected Practitioner, convene to review the matter and shall submit a recommendation to the Governing Body regarding the continuation of the membership and privileges of the Practitioner.

- (d) An automatic suspension of all privileges may be imposed upon a Practitioner's failure to notify the Hospital President within five days of receipt by the Practitioner of an initial sanction notice of a gross and flagrant violation, or of the commencement of a formal investigation or the filing of charges, by a Medicare quality improvement organization, the Department of Health and Human Services, or any law enforcement agency or health regulatory agency of the United States or the State of Wisconsin. The Executive Committee shall promptly review the matter and submit a recommendation to the Governing Body regarding the continued Medical Staff status and clinical privileges of the Practitioner. The Executive Committee shall, if the Hospital President concurs, be authorized to lift or modify any such automatic suspension pending final determination by the Governing Body.
- (e) An automatic suspension may be imposed upon a Practitioner's failure without good cause to supply information or documentation requested by any of the following: the Hospital President or his designee, the Executive Committee or the Governing Body. Such suspension shall be imposed only if: (1) the request for information or documentation was in writing, (2) the request was related to evaluation of the Practitioner's current qualifications for membership or clinical privileges, (3) the Practitioner failed to either comply with such request or to satisfactorily explain his inability to comply, and (4) the Practitioner was notified in writing that failure to supply the requested information or documentation within 15 days from receipt of such notice would result in automatic suspension. Any automatic suspension imposed pursuant to this paragraph may be a suspension of any portion or all of the Practitioner's privileges and shall remain in effect until the Practitioner supplies the information or documentation sought or satisfactorily explains his failure to supply it.
- (f) An automatic suspension of all privileges shall be imposed upon a Practitioner's failure to renew his license to practice.
- (g) **Caregiver Background Check Suspension**
- (1) Subject to proof of rehabilitation review approval, an automatic suspension of all privileges of a Practitioner shall be imposed upon notification received by the Hospital President that the Practitioner:
- a. Has been convicted of a serious crime, act or offense or has pending charges for a serious crime, act or offense as defined in Chapter HFS 12 of the Wisconsin Administrative Code.
 - b. Has been found by a unit of government to have abused or neglected a client or misappropriated a client's property.
 - c. Has been determined under the Children's Code to have abused or neglected a child.

- (2) As soon as possible after such automatic suspension under subsection (1) above, the Executive Committee shall convene to review and consider the facts under which the individual was barred from providing services under Chapter HFS 12 of the Wisconsin Administrative Code. The Executive Committee may then take such further corrective action as is appropriate under the circumstances. If the Practitioner provides evidence that rehabilitation review approval has been received, the Executive Committee must determine whether the rehabilitation review approval in any way limits the Practitioner's ability to practice the privileges granted and if it wishes to retain the Practitioner on the Medical Staff. The Executive Committee may then take such further corrective action as is appropriate under the circumstances.
- (3) A suspension of all privileges of a Practitioner may be imposed by the Hospital President upon notification that a Practitioner:
 - a. Is under investigation for a serious crime, act or offense as defined in Chapter HFS 12 of the Wisconsin Administrative Code.
 - b. Is being investigated by a unit of government or an entity subject to HFS 12 for abuse or neglect of a client or misappropriation of a client's property.
 - c. Is being investigated under the Children's Code or an entity under HFS 12 for abuse or neglect of a child.
- (4) As soon as possible after suspension under subsection (3) above, the Executive Committee shall convene to review and consider the facts under which the individual was suspended and determine whether or not to continue the suspension pending the outcome of the investigation, terminate the suspension subject to monitoring or other safeguards pending the outcome of the investigation, or to take such further corrective action as is appropriate under the circumstances.

(h) **Suspension for Exclusion from Federally Funded Health Care Program**

- (1) An automatic suspension of all privileges of a Practitioner shall be imposed if the Practitioner is excluded from a federally funded health care program. If the Practitioner immediately notifies the Hospital President of any proposed or actual exclusion from any federally funded health care program as required by the Bylaws, a simultaneous request in writing by the Practitioner for a meeting with the Hospital President and the President of the Medical Staff or their designees to contest the fact of the exclusion and present relevant information shall be granted. This meeting shall be held as soon as possible but in no event later than five business days from the date of the written request. The Hospital President and the President of the Medical Staff or their designees shall determine within 10

business days following the meeting, and after such follow-up investigation as they deem appropriate, whether the exclusion has occurred, and whether the Practitioner's staff membership and privileges shall be immediately terminated. The determination of the Hospital President and the President of the Medical Staff or their designees regarding the matter shall be final, and the Practitioner shall have no further procedural rights. The Practitioner shall be given Special Notice of the termination decision.

- (2) A Practitioner who does **not** immediately notify the Hospital President of any proposed or actual exclusion from any federally funded health care program as required by the Bylaws shall have his staff membership and privileges terminated, effective immediately, at such time as the Hospital President or his designee receives reliable information of the member's exclusion. The Practitioner shall be given notice of the termination in the most expeditious manner possible, and shall also promptly receive written notice of the termination.
 - (3) No action based on a Practitioner's exclusion from a health care program funded, in whole or in part, by the federal government shall be reported to the state examining board or the National Practitioner Data Bank, whether that action involves a decision to not process an application or to terminate a Practitioner's membership and privileges, because the action taken is based on the Practitioner's failure to meet a basic qualification of membership rather than an individualized assessment of competence or conduct.
- (i) **Data Bank Report in Contradiction of Application Information.** A Practitioner whose appointment or reappointment is conditioned upon subsequent receipt of a National Practitioner Data Bank report that does not contradict information known at the time of appointment or reappointment shall be automatically suspended upon receipt of a Data Bank report that contradicts that information. The suspended Practitioner shall, within 15 days of suspension, have his privileges reviewed by the Executive Committee, which shall immediately submit a report and recommendation to the Governing Body regarding the continued Medical Staff status and clinical privileges of the Practitioner. The Executive Committee shall, if concurred with by the Hospital President, be authorized to lift or modify this automatic suspension pending final determination by the Governing Body.
 - (j) **Failure to Meet Financial Responsibility.** If at any time a Practitioner fails to maintain acceptable malpractice insurance coverage or provide other evidence of financial responsibility in the minimum amounts determined by Wisconsin Statutes covering all clinical privileges granted, the Practitioner's privileges that are no longer covered shall be automatically suspended until acceptable coverage or evidence of financial responsibility is secured. The Practitioner must provide

proof of coverage or of financial responsibility before the suspension can be lifted.

- (k) Automatic suspension activated pursuant to this Section 1.6 shall not be a professional review action and thus not give rise to any right of hearing or appellate review, including the maintaining of any suspension instituted as a result of licensing board or DEA action except as otherwise expressly set forth in this Section.
- (l) Whenever a Practitioner's membership or privileges are terminated or suspended pursuant to this Section, the President of the Medical Staff and applicable chiefs of service will assign any patients currently under the Practitioner's care in the Hospital to the care of another appropriate Practitioner, taking the patient's wishes into account when possible.
- (m) It shall be the duty of the President of the Medical Staff to cooperate with the Hospital President in enforcing all automatic suspensions.

1.7 Time Periods for Processing

Requests for corrective action shall be considered in a timely and good faith manner by all individuals and groups required by the Bylaws to act thereon and, except for good cause, shall be processed within the time periods specified in this Plan. The time periods specified for corrective action are to guide the acting parties in accomplishing their tasks and shall not be deemed to create any right for the Practitioner to have a suspension lifted or to have a request for corrective action dismissed within those time periods.

ARTICLE 2

HEARING PREREQUISITES

2.1 Recommendations or Actions Entitling Practitioner to a Hearing

The following recommendations or actions shall, if deemed a professional review action pursuant to Section 2.2 of this Plan, entitle the affected Practitioner (whether presently on staff with privileges or a new applicant requesting staff membership and privileges) to a hearing:

- (a) Denial of initial staff appointment, except an administrative denial as provided under Section 5.10 of the Bylaws.
- (b) Denial of staff reappointment.
- (c) Suspension of staff membership (other than suspensions pursuant to Section 1.5 or 1.6 of this Plan), for more than 14 days.
- (d) Revocation of staff membership, except for revocation under Section 1.6(h) of this Plan.

- (e) Denial of requested advancement in staff category.
- (f) Limitation of admitting prerogatives, except for suspensions pursuant to Section 1.5 or 1.6 of this Plan.
- (g) Denial of requested clinical privileges, except an administrative denial under Section 5.10 of the Bylaws.
- (h) Reduction or suspension of clinical privileges for more than 14 days (other than pursuant to Section 1.5 or 1.6 of this Plan).
- (i) Revocation of clinical privileges, except for revocation under Section 1.6(h) of this Plan.
- (j) Terms of probation or preceptorship which limit clinical privileges.
- (k) Requirement of mandatory concurring consultation (meaning that a Practitioner must obtain a second opinion regarding the appropriateness of the proposed treatment or procedure before the Practitioner can provide the treatment or procedure).
- (l) Denial of reinstatement following a leave of absence.

2.2 When Deemed a Professional Review Action

- (a) A recommendation or action listed in Section 2.1 of this Plan shall be deemed a professional review action only when it:
 - (1) has been recommended by the Executive Committee; or
 - (2) has been taken by the Governing Body contrary to a favorable recommendation by the Executive Committee under circumstances where no right to hearing existed; or
 - (3) is a suspension of more than 14 days, which is continued in effect after the review provided under Section 1.4 of this Plan; or
 - (4) has been taken by the Governing Body on its own initiative without benefit of a prior recommendation by the Executive Committee.
- (b) Only the actions identified in Section 2.2(a) of this Plan shall constitute professional review action for the purpose of this Plan. Except as otherwise expressly provided in the Bylaws, only activity deemed a professional review action shall entitle a Practitioner to the hearing and appellate review procedure set forth in this Plan. All actions and recommendations made by other Medical Staff committees or officials are preliminary in nature and do not constitute professional review action.

2.3 Basis for Professional Review Action

In formulating any professional review action or recommendation, the acting body should conclude that:

- (a) there is a reasonable belief that the action is in furtherance of quality health care; and
- (b) reasonable efforts are taken to obtain the pertinent facts; and
- (c) a reasonable belief exists that the action is warranted by the facts.

2.4 Notice of Professional Review Action

A Practitioner against whom professional review action has been taken pursuant to Section 2.2 of this Plan shall within 10 business days be given Special Notice of such action by the Hospital President. The notice to the Practitioner shall state:

- (a) that a professional review action has been taken or is proposed to be taken against the Practitioner;
- (b) the reasons for the professional review action;
- (c) that the Practitioner has a right of hearing pursuant to this Plan and must submit a request for hearing in the manner specified in Section 2.5 of this Plan within 30 days from the date of furnishing the notice or such hearing right shall be waived;
- (d) a summary of the hearing procedures and rights of the Practitioner, which summary can be accomplished by furnishing the Practitioner a copy of this Plan with the notice; and
- (e) that the Practitioner will be notified of the date, time, and place of the hearing after making a timely and proper request.

2.5 Request for Hearing

A Practitioner shall have 30 days following the receipt of a notice pursuant to Section 2.4 of this Plan within which to file a written request for a hearing. Such request shall be delivered to the Hospital President either in person or by certified or registered mail so that he receives it within the 30-day time limit. Any time limits set forth in this Plan may be extended or accelerated by mutual agreement of the Practitioner and the Hospital President.

2.6 Effect of Waiver by Failure to Request a Hearing

A Practitioner who fails to request a hearing within the time and in the manner specified in Section 2.5 of this Plan waives any right to such hearing and to any appellate review to which the Practitioner might otherwise have been entitled. Such waiver of the right to hearing shall result in the following:

- (a) A professional review action taken by the Governing Body shall thereupon become effective as the final decision of the Governing Body.
- (b) An adverse action or recommendation by the Executive Committee shall remain in effect pending the final decision of the Governing Body. At the Governing Body's next regular meeting following waiver, it shall:
 - (1) Consider the Executive Committee's recommendation review all the information and material considered by the Executive Committee, and consider all other relevant information received from any source.
 - (2) If the Governing Body's action on the matter is in accord with the Executive Committee's recommendation, such action shall constitute the final decision of the Governing Body.
 - (3) If the Governing Body's action has the effect of changing the Executive Committee's recommendation, the matter shall be submitted to a joint conference as provided in Article 10 of this Plan. The Governing Body's action on the matter following receipt of the joint conference committee's recommendation shall constitute its final decision.
- (c) The Hospital President shall promptly send the Practitioner Special Notice informing him of each action taken pursuant to this Section 2.6 of this Plan and shall notify the President of the Medical Staff and the Executive Committee of each such action.
- (d) Within 15 days of the final action, as defined above, the Hospital President shall file a report with the appropriate licensing body for reporting to the National Practitioner Data Bank whenever reporting is required by law.

ARTICLE 3

ACTION FOLLOWING REQUEST FOR HEARING

3.1 Notice of Time and Place for Hearing

- (a) Upon receipt of a timely request for hearing, the Hospital President shall deliver such request to the President of the Medical Staff or to the Chair of the Governing Body, depending on whose recommendation or action prompted the request for hearing.
- (b) The President of the Medical Staff, or the Chair of the Governing Body, shall schedule a date and arrange for a hearing.
- (c) The Hospital President shall send the Practitioner notice of the time, place and date of the hearing. Unless otherwise agreed to by the Practitioner in writing and by the Hospital President, the hearing date shall not be less than 30 days from the date of the notice of such hearing.

- (d) For a Practitioner who is under suspension which will be continued in effect for more than 14 days, at the Practitioner's specific request for an expedited hearing, a hearing shall be held as soon as the arrangements for it may reasonably be made. Such expedited hearing shall be held no later than 10 days from the date of the Hospital President's receipt of the request for expedited hearing, unless the Practitioner authorizes a longer period in the request. In such event, the 30-day notice requirement is deemed waived. The Hospital President shall instead send the Practitioner notice of the time, place and date of hearing as soon as practicable after scheduling same.

3.2 Failure to Appear for Hearing

Failure without good cause of the Practitioner to appear and proceed at such hearing shall constitute voluntary abandonment of the appeal and the professional review action involved shall become final and effective immediately when approved by the Governing Body. Postponement of a hearing may be effected for good cause if mutually acceptable to the parties concerned.

3.3 Statement of Issues, Events and Witnesses

The notice of hearing required by Section 3.1 of this Plan shall be accompanied by a concise statement of the Practitioner's alleged act(s) or omission(s); a list by number of the specific or representative patient records in question; a preliminary list of witnesses, if any, who may be requested to testify on behalf of the body whose action prompted the request for hearing; the other reasons or subject matter, if any, forming the basis for the professional review action which is the subject of the hearing; and the names of those individuals who have been chosen to serve on the Hearing Committee.

3.4 Appointment of Hearing Committee

(a) By Medical Staff

A hearing occasioned by an Executive Committee recommendation or action pursuant to Section 2.2(a)(1) or Section 2.2(a)(3) of this Plan shall be conducted by a Hearing Committee appointed by the President of the Medical Staff and composed of at least three members of the active Medical Staff. The President of the Medical Staff shall designate one of the members so appointed as Chair. If a Hearing Officer is appointed in accord with Section 11.2 of this Plan, the Hearing Officer shall preside as committee chair. Voting members of the Hearing Committee shall not be Practitioners in direct economic competition with the Practitioner, unless, due to the size of the Medical Staff, it is otherwise impossible or impractical to select a representative group. For purposes of this Plan, direct economic competition shall be defined to mean those Practitioners actively engaged in practice in the primary medical community of the Practitioner, and who practice in the same medical specialty or subspecialty. The Hearing Committee may utilize, on a consulting basis, non-voting members of the same medical specialty or subspecialty.

(b) **By Governing Body**

A hearing occasioned by professional review action of the Governing Body pursuant to Section 2.2(a)(2) or 2.2(a)(4) shall be conducted by a Hearing Committee appointed by the Chair of the Governing Body and composed of five persons. At least two active Medical Staff members, not in direct economic competition with the Practitioner, shall be included on this Hearing Committee, unless, due to the size of the Medical Staff it is otherwise impossible or impractical to do so. The Chair of the Governing Body shall designate whenever feasible one of the appointees to the Hearing Committee as Chair of the Hearing Committee or such role may be filled by a Hearing Officer appointed pursuant to Section 11.2 of this Plan. The Hearing Committee may utilize, on a consulting basis, non-voting members of the same medical specialty or subspecialty.

- (c) Prior to final selection of the Hearing Committee, the affected Practitioner shall be given a list of seven individuals from which the Hearing Committee will be appointed. The Practitioner may strike two persons from the list. The Practitioner must inform the CEO in writing of the names to be stricken within five days of receipt of the list of names or the Practitioner will be deemed to have waived any objections to the composition of the Hearing Committee. The Hearing Committee will then be chosen from the remaining individuals as provided above.

3.5 Service on the Hearing Committee

A member of the active Medical Staff or of the Hospital Governing Body shall not be disqualified from serving on a Hearing Committee because he has heard of the case or has knowledge of the facts involved, or what he supposes the facts to be, or has participated in the review or investigation of the matter at issue. No member of the Medical Staff or Governing Body who requests corrective action pursuant to Article 1 of this Plan shall serve as a voting member of the Hearing Committee. However, such individuals may appear before the Hearing Committee if requested by either of the parties concerned. In any event, all members of a Hearing Committee shall be required to consider and decide the case with good faith objectivity.

3.6 Hearing Conducted by Independent Consultant

If in the judgment of the Hospital President, an insufficient number of active staff members not in direct economic competition with the Practitioner are available to form a committee under Section 3.4(a) of this Plan, the Hearing Committee may be composed of other physicians (whether or not Medical Staff members) or the affected Practitioner may request that an administrative hearing officer be designated. Such officer will be designated by the President of the Medical Staff. The Governing Body or the Executive Committee with the Governing Body's approval, at their sole discretion but with the written consent of the affected Practitioner, may elect to contract with an independent consultant to perform the functions of the Hearing Committee as set forth in this Plan. In such event, the composition of the Hearing Committee shall be determined by the

Governing Body in its arrangements with the independent consultant. The Governing Body may require the affected Practitioner to pay a share of the independent consultant's fees, up to one-half of the total charges.

3.7 Presiding Officer

- (a) The Chair of the Hearing Committee shall be the presiding officer at the hearing, unless a Hearing Officer is appointed pursuant to Section 11.2 of this Plan, in which case the Hearing Officer shall be the presiding officer at the hearing. Unless the presiding officer is a Hearing Officer appointed pursuant to Section 11.2 of this Plan, the presiding officer shall also vote on any final recommendations, as well as on any other matters giving rise to a vote of the Hearing Committee.
- (b) The presiding officer shall:
 - (1) act to ensure that all participants in the hearing have a reasonable opportunity to be heard and to present oral and documentary evidence subject to reasonable limits on the number of witnesses and duration of direct and cross-examination, applicable to both sides, as may be necessary to avoid cumulative or irrelevant testimony or to prevent abuse of the hearing process;
 - (2) prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant, abusive, or that causes undue delay;
 - (3) maintain decorum throughout the hearing;
 - (4) determine the order of procedure throughout the hearing;
 - (5) have the authority and discretion, in accordance with this Plan, to make rulings on all questions that pertain to matters of procedure and to the admission of evidence;
 - (6) act in such a way that all information relevant to the appointment or clinical privileges of the individual requesting the hearing is considered by the Hearing Committee in formulating its recommendations; and
 - (7) conduct argument by counsel on procedural points outside the presence of the Hearing Committee unless the Hearing Committee wishes to be present.
- (c) The presiding officer may be advised by legal counsel to the Hospital with regard to the hearing procedure.

ARTICLE 4

PRE-HEARING PROCEDURE

4.1 Representation

- (a) **By a Member of the Medical Staff.** The Practitioner who requested the hearing shall be entitled to be accompanied by and represented at the hearing by an active member of the Medical Staff in good standing, who shall be identified in the Practitioner's request for hearing or appellate review. The Executive Committee or the Governing Body, depending on whose professional review action prompted the hearing, shall appoint at least one of its members and/or another person of its choosing to represent it at the hearing to present the facts in support of the professional review action, and to examine witnesses. Both the Practitioner and the Executive Committee or the Governing Body shall designate their Medical Staff representative at least 10 days prior to the hearing and shall provide notice to each other as set forth under Section 4.2(b) of this Plan.
- (b) **By Legal Counsel.** If the affected Practitioner desires to be represented by an attorney at any hearing or at any appellate review appearance pursuant to this Plan, his request for hearing or appellate review must so state. The request for hearing or review must also include the name, address and phone number of the attorney. The Hearing Committee may preclude participation by legal counsel in the hearing or to adjourn the hearing for a period not to exceed 20 days if the Practitioner fails to notify the Hearing Committee in accord with this Section. The Executive Committee or the Governing Body may also be allowed representation by an attorney. While legal counsel may attend and assist the respective parties, it is intended that the hearing and review proceedings are not judicial in form but a forum for professional evaluation and discussion. Accordingly, the Hearing Committee and/or appellate review body retains the right to limit the role of counsel's active participation in the hearing. Any Practitioner who incurs legal fees in his behalf shall be solely responsible for payment of those fees.

4.2 Discovery

- (a) The hearing is not a trial but a hearing among peers. The right to discovery is limited as outlined in this Section and no other discovery rights exist outside of this Plan. The individual requesting the hearing shall be entitled, upon specific written request, to the following (provided that the written request indicates that all documents shall be maintained as confidential and shall not be disclosed or used for any purpose outside of the hearing):
 - (1) copies of, and/or reasonable access to, all patient medical records referred to in the notice of hearing, at the individual's expense;

- (2) reports of experts relied upon by the Executive Committee or the Governing Body;
 - (3) redacted copies of reviews relative to the affected Practitioner's performance;
 - (4) redacted copies of relevant committee or department meeting minutes; and
 - (5) copies of any other documents relied upon by the Executive Committee or the Governing Body.
- (b) **Exchange of Witness Lists.** At least 10 business days prior to the hearing, each party shall furnish to the other a written list of the names and addresses of the individuals that party intends to call as witnesses at the hearing and the name of the Medical Staff member chosen as the Practitioner's representative under Section 4.1(a) of this Plan (if any). Each party shall update its witness list if and when additional witnesses are identified prior to the hearing, and neither party shall call witnesses not named in advance except in rebuttal.
- (c) Prior to the hearing, on dates set by the presiding officer or agreed upon by counsel for both sides, each party shall provide the other party with a list of proposed exhibits. All objections to documents or witnesses to the extent then reasonably known, shall be submitted in writing in advance of the hearing. The presiding officer shall not entertain subsequent objections unless the party offering the objections demonstrates good cause.
- (d) Prior to the hearing, on dates set by the presiding officer, the individual requesting the hearing shall, upon specific request, provide the Executive Committee and/or the Governing Body copies of any expert report or other documents relied upon by the individual.
- (e) If the Hearing Committee determines to require the parties to submit written statements of the case as allowed by Section 5.6(d) of this Plan, notice to that effect shall be provided to each party at least 10 business days prior to the hearing. The written statements of the case shall be supplied both to the Hearing Committee and to the other party at least two business days prior to the commencement of the hearing.
- (f) There shall be no discovery regarding other individual Practitioners.
- (g) Neither the affected Practitioner, nor his attorney, nor any other person on behalf of the affected Practitioner, shall contact Hospital employees appearing on the Hospital's witness list concerning the subject matter of the hearing, unless specifically agreed upon by counsel.
- (h) Neither the Hospital nor its attorney nor any other person on behalf of the Hospital shall contact those persons appearing on the affected Practitioner's

witness list concerning the subject matter of the hearing, unless such witness is also listed as a witness for the Hospital or unless specifically agreed upon by counsel.

4.3 Pre-Hearing Conference

- (a) The presiding officer shall require counsel for the affected Practitioner and for the Executive Committee (or the Governing Body) to participate in a pre-hearing conference for the purposes of resolving all procedural questions in advance of the hearing. At this conference, counsel for the affected Practitioner may state his objections (and the grounds for the objections) to any person named to serve on the Hearing Committee or to the Hearing Officer. The presiding officer shall have the sole authority to rule on the objections; counsel for the affected Practitioner may preserve his objections on the record.
- (b) The presiding officer may specifically require that:
 - (1) all documentary evidence be exchanged by the parties prior to this conference and any objections to the documents be made at this conference and be resolved by the presiding officer;
 - (2) evidence unrelated to the reasons for the adverse recommendation or unrelated to the affected Practitioner's qualifications for appointment or the relevant clinical privileges be excluded;
 - (3) any objections to hearing panel members and the basis for those objections be made at the pre-hearing conference; the presiding officer may recommend to the Hospital President that a panel member be replaced for reasonable cause;
 - (4) the names of all witnesses and a brief statement of their anticipated testimony be exchanged by the parties if not previously provided;
 - (5) the time granted to each witness's testimony and cross-examination be agreed upon, or determined by the presiding officer, in advance; and
 - (6) witnesses and documentation not provided and agreed upon in advance of the hearing shall be excluded from the hearing, except upon a showing of good cause and agreed to by all parties.

ARTICLE 5

HEARING PROCEDURES

5.1 Personal Presence

The personal presence of the Practitioner who requested the hearing shall be required. A Practitioner who fails without good cause to appear and proceed at such hearing shall be

deemed to have waived review rights in the same manner and with the same consequences provided in Section 2.6 of this Plan.

5.2 Rights of Parties

- (a) During a hearing, each of the parties shall have the right to:
 - (1) call, examine, and cross-examine witnesses, including expert witnesses;
 - (2) introduce exhibits and present relevant evidence as determined by the Hearing Officer or presiding officer;
 - (3) rebut any evidence;
 - (4) submit a written statement at the close of the hearing; and
 - (5) record the hearing by use of a court reporter or other mutually acceptable means of recording.
- (b) “Parties” for the purpose of this Plan shall be the affected Practitioner and the body taking or recommending the professional review action.
- (c) If the Practitioner who requested the hearing does not testify in his own behalf, the Practitioner may be called by the Hearing Committee or the other party and examined as if under cross-examination.

5.3 Record of Hearing

A record of the hearing shall be kept that is of sufficient accuracy to assure that an informed and valid judgment can be made by any group that may later be called upon to review the record and render a recommendation or decision in the matter. The Hearing Committee may select the method to be used for making the record, such as a court reporter, electronic recording unit, detailed transcription, or minutes of the proceedings. If an electronic recording unit is used, each person speaking should identify himself each time he speaks. A Practitioner electing an alternate method under Section 5.2 of this Plan shall bear its cost.

5.4 Postponement

Requests for postponement of a hearing shall be granted by the Hearing Committee only upon a showing of good cause. A hearing shall be postponed no more than two times at the request of the Practitioner.

5.5 Continued Presence Required

A majority of the Hearing Committee must be present throughout the hearing and deliberations. If a Committee member is absent from any significant part of the proceedings, he shall not be permitted to participate in the deliberations or the decision.

5.6 Procedure and Evidence

- (a) The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admissible if, in the judgment of the presiding officer, it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The parties shall be entitled to submit, prior to or during the hearing, memoranda concerning any issue of law or fact. These memoranda shall become a part of the hearing record.
- (b) The presiding officer may, but shall not be required to, order that oral evidence be taken only on oath or affirmation.
- (c) The Committee shall be entitled to consider any pertinent material contained on file in the Hospital and all other information that can be considered, pursuant to the Bylaws, in connection with applications for appointment or reappointment to the Medical Staff or for clinical privileges. The Hearing Committee shall be entitled to conduct independent review, research and interviews, but may utilize the products of such in its decision only if the parties are aware of such and have the opportunity to rebut any information so gathered.
- (d) The Hearing Committee may meet outside the presence of the parties to deliberate and/or establish procedures. The Hearing Committee may require that the parties submit written, detailed statements of the case to the Hearing Committee and to each other. Such statements of the case may be in a form which constitutes all the facts of the case. If so done, the hearing can consist of clarification and explanation of the written statements of the case. If a party is ordered by the Hearing Committee to supply a detailed statement of the case and fails to do so, the Hearing Committee can conclude that such failure constitutes a waiver of the party's case.
- (e) Statements from members of the Medical Staff, nursing or other Hospital staff, other allied health professionals, patients or others may be distributed to the Hearing Committee and the parties in advance of or at the hearing. They shall be made a part of the record of the hearing and given such credence as may be appropriate. These statements must be available to all parties. When time and distance allow, the authors of the statements should be available at the hearing, in person or by telephone, for questioning by either party if so requested.

5.7 Official Notice

In reaching a decision, the Hearing Committee may take official notice, either before or after submission of the matter for decision, of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noticed by the courts of the State of Wisconsin. Parties present at the hearing shall be informed on the matters to be noticed and those matters shall be noted in the hearing record. Any party shall be given opportunity, on timely request, to request that a matter be officially noticed and to

refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Hearing Committee.

5.8 Burden of Proof

The body whose professional review action occasioned the hearing shall have the initial obligation to present evidence in support of its actions. The Practitioner shall then be responsible for presenting evidence that the professional review action lacked any factual basis or that conclusions drawn from the facts are arbitrary, unreasonable or capricious. The Practitioner who requested the hearing shall at all times, however, have the burden of proving, by clear and convincing evidence, that the professional review actions lacks any factual basis or that the conclusions drawn from the facts are arbitrary, unreasonable or capricious.

5.9 Recesses and Adjournment

The Hearing Committee may recess the hearing and reconvene the same without additional notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. The Hearing Committee may allow submission of written closing statements if requested by either party. Upon conclusion of the presentation of oral and written evidence and any closing statements, the hearing shall be closed. The Hearing Committee may, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon conclusion of its deliberations, which shall not exceed 30 days after the close of the hearing, the hearing shall be declared finally adjourned.

ARTICLE 6

HEARING COMMITTEE REPORT AND FURTHER ACTION

6.1 Hearing Committee Report

Within 30 days after final adjournment of the hearing, the Hearing Committee shall make a written report of its findings and recommendations in the matter and shall forward the same, together with the hearing record and all other documentation considered by it, to the body (either the Executive Committee or the Governing Body) whose professional review action occasioned the hearing. The written report should include an explanation for the Hearing Committee's findings and recommendations that make a rational connection between the issues to be decided, the evidence presented or considered, and the conclusion reached.

6.2 Action on Hearing Committee Report

Within 30 days after receipt of the report of the Hearing Committee, the Executive Committee or Governing Body, as the case may be, shall consider the same and affirm, modify or reverse its recommendation or action in the matter. It shall transmit the results, together with the hearing record, the report of the Hearing Committee, and all other documentation considered to the Hospital President.

6.3 Notice and Effect of Result

(a) **Notice of Result.** The Hospital President shall notify the Practitioner of the results by Special Notice, with a copy to the President of the Medical Staff and to the Chair of the Governing Body. The Practitioner shall be furnished a copy of the Hearing Committee report with such notice, as well as the results of the body furnishing the final recommendation.

(b) **Effect of Favorable Result**

(1) **Adopted by the Governing Body**

If the Governing Body's result pursuant to Section 6.2 of this Plan is favorable to the Practitioner, such result shall become the final decision of the Governing Body and the matter shall be considered finally closed.

(2) **Adopted by the Executive Committee**

a. If the Executive Committee's result pursuant to Section 6.2 of this Plan is favorable to the Practitioner, the Hospital President shall promptly forward it, together with all supporting documentation, to the Governing Body for action.

b. The Governing Body shall adopt or reject the Executive Committee's result in whole or in part, or refer the matter back to the Executive Committee for further reconsideration. Any such referral shall state the reasons for the referral, set a time limit within which a subsequent recommendation to the Governing Body must be made, and may include a directive that an additional hearing be conducted to clarify issues that are in doubt. After receipt of such subsequent recommendation and any new evidence in the matter, the Governing Body shall take final action. The Hospital President shall promptly send the Practitioner Special Notice informing him of each action pursuant to this Section 6.3(b)(2)b.

(c) **Effect of Unfavorable (Adverse) Result**

If the result of the Executive Committee or of the Governing Body pursuant to Sections 6.2 of this Plan continues to be adverse to the Practitioner in any of the respects listed in Section 2.2 of this Plan, the Special Notice required by Section 6.3 of this Plan shall inform the Practitioner of the right to request an appellate review by the Governing Body as provided in Section 7.1 of this Plan.

ARTICLE 7

INITIATION AND PREREQUISITES OF APPELLATE REVIEW

7.1 Request for Appellate Review

- (a) The grounds for appellate review shall be limited to one or more of the following:
 - (1) there was substantial failure to comply with this Plan or the Bylaws during or prior to the hearing so as to deny a fair hearing;
 - (2) the recommendations of the Hearing Committee were made arbitrarily, capriciously or with prejudice; or
 - (3) the recommendation of the Hearing Committee were not supported by any substantial evidence.
- (b) A Practitioner shall have 15 days following receipt of a notice pursuant to Section 6.3(a) of this Plan to file a written request for appellate review. Such request shall be delivered to the Hospital President either in person or by certified or registered mail and may include a request for a copy of the hearing record and all other material, favorable or unfavorable, that was considered in making the adverse action or result.

7.2 Waiver by Failure to Request Appellate Review

A Practitioner who fails to request an appellate review within the time and in the manner specified in Section 7.1 of this Plan waives any right to such review. A Practitioner who fails to submit the written statement required by Section 8.2 of this Plan shall also be deemed to have waived the right to appellate review. Such waiver shall have the same force and effect as that provided in Section 2.6 of this Plan.

7.3 Notice of Appellate Review

Upon receipt of a timely request for appellate review, the Hospital President shall deliver such request to the Chair of the Governing Body. Within 15 days after receipt of such request, the Chair of the Governing Body shall schedule and arrange for an appellate review which shall be conducted not more than 60 days from the date the Hospital President received the appellate review request. However, an appellate review for a Practitioner who is under a suspension or revocation then in effect shall be held as soon as the arrangements for it may reasonably be made, but not later than 14 days from the date the Hospital President received the request for review. The Hospital President shall send the Practitioner Special Notice of the date of the review. The time for the appellate review may be extended by the Appellate Review Body for good cause. The appellate review can occur at a regular meeting of the Governing Body.

7.4 Appellate Review Committee

The Chair of the Governing Body shall determine whether the appellate review shall be conducted by the Governing Body as a whole or by an Appellate Review Committee composed of three to five members of the Governing Body, appointed by the Chair of the Governing Body. If a committee is appointed, the Chair of the Governing Body shall designate one of its members as Chair.

ARTICLE 8

APPELLATE REVIEW PROCEDURE

8.1 Nature of Proceedings

The proceedings by the Appellate Review Committee shall not be a new or additional hearing, but shall be in the nature of an appellate review based upon the record of the hearing before the Hearing Committee, that committee's report, and all subsequent results and actions. The Appellate Review Committee shall also consider the written statements, if any, submitted pursuant to Section 8.2 of this Plan and such other material as may be presented and accepted under Sections 8.4 and 8.5 of this Plan.

8.2 Written Statements

The Practitioner seeking the appellate review shall submit a written statement detailing the findings of fact, conclusions and procedural matters with which he disagrees, and the reasons for such disagreement. This written statement may cover any matters raised at any step in the hearing process. The statement shall be submitted to the Appellate Review Committee through the Hospital President no more than 10 days after the filing of the request for appellate review. A written statement in reply may be submitted by the Executive Committee or by the Governing Body, as appropriate; and if submitted, the Hospital President shall provide a copy of it to the Practitioner at least five days prior to the scheduled date of the appellate review. These filing deadlines will not apply to an expedited review for a Practitioner who is under suspension. In that case, the written statement shall be submitted with the request for appellate review. In any event, failure to submit the written statement by the applicable deadline shall constitute a waiver of the right to appellate review and the appellate review shall be canceled.

8.3 Presiding Officer

The Chair of the Appellate Review Committee shall be the presiding officer. The Chair shall determine the order of the procedure during the review, make all required rulings, and maintain decorum.

8.4 Oral Statement

The Appellate Review Committee, in its sole discretion, may allow the parties to personally appear and make oral statements in favor of their positions. Any party so appearing shall be

required to answer questions put to him by any member of the Appellate Review Committee. If a personal appearance is allowed, the Hospital President shall notify the Practitioner by Special Notice of the time and place scheduled for oral statements at least five days in advance, with a copy to the body whose decision resulted in the appellate review.

8.5 Consideration of New or Additional Matters

New or additional matters or evidence not raised or presented during the original hearing or in the hearing report and not otherwise reflected in the record shall be introduced at the appellate review only under unusual circumstances. The Appellate Review Committee, in its sole discretion, shall determine whether such matters or evidence shall be considered or accepted.

8.6 Powers

The Appellate Review Committee shall have all the powers granted to the Hearing Committee, and such additional powers as are reasonably appropriate to the discharge of its responsibilities.

8.7 Participation

A majority of the Appellate Review Committee must be present throughout the review and deliberations. If a member of the Appellate Review Committee is absent from any significant part of the proceedings, he shall not be permitted to participate in the deliberations or the decision.

8.8 Recesses and Adjournment

The Appellate Review Committee may recess the review proceedings and reconvene the same without additional notice for the convenience of the participants or for the purposes of obtaining new or additional evidence or consultation. Upon the conclusion of oral statements, if allowed, the appellate review shall be closed. The Appellate Review Committee shall then, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon the conclusion of those deliberations, the appellate review shall be declared finally adjourned.

8.9 Action Taken

- (a) The Appellate Review Committee shall submit a written report of its findings and recommendations in the matter to the Governing Body. If appellate review is conducted by the Governing Body as a whole, its conclusions shall be the Governing Body's final action unless otherwise provided in this Plan.
- (b) The Appellate Review Committee may recommend that the Governing Body affirm, modify or reverse the adverse result or action taken by the Executive Committee or by the Governing Body pursuant to Sections 6.2 or 6.3(b)(1) of this Plan. In its discretion, the Appellate Review Committee may refer the matter

back to the Hearing Committee for further review and require a recommendation to be returned to the Appellate Review Committee within 30 days and in accordance with its instructions. Any written report following referral shall be shared with the Practitioner. Within 10 days after receipt of such recommendation after referral, the Appellate Review Committee shall make its recommendations to the Governing Body.

8.10 Conclusion

The appellate review shall not be deemed to be concluded until all of the procedural steps provided in this Article 8 have been completed or waived.

ARTICLE 9

FINAL DECISION OF THE GOVERNING BODY

9.1 Governing Body Action

Within 30 days after receipt of the written recommendation of the Appellate Review Committee or after the adjournment if appellate review is conducted by the Governing Body itself, the Governing Body shall render its final decision in the matter in writing and shall send notice of its decision to the Practitioner by Special Notice and by regular notice to the President of the Medical Staff and the Executive Committee. If this decision is in accord with the Executive Committee's last recommendation in the matter, if any, it shall be immediately effective and final. If the Governing Body's action has the effect of changing the Executive Committee's last recommendation, if any, the Governing Body shall refer the matter to a the joint conference committee as provided in Article 10 of this Plan. The Governing Body's action on the matter following receipt of the joint conference committee's recommendation shall be immediately effective and final.

ARTICLE 10

JOINT CONFERENCE COMMITTEE REVIEW

10.1 Membership and Time Limits

Within 10 days following receipt of a matter referred to the joint conference committee by the Governing Body, a joint conference of equal numbers of members of the Executive Committee and Governing Body shall convene to consider the matter and shall submit its recommendations to the Governing Body within 30 days. The joint conference committee shall be composed of a total of six members selected in the following manner: three members from the Executive Committee appointed by the President of the Medical Staff, and three members from the Governing Body appointed by the Chair of the Governing Body.

ARTICLE 11

GENERAL PROVISIONS

11.1 Number of Hearings and Reviews

Notwithstanding any other provision of the Bylaws or of this Plan, no Practitioner shall be entitled as a right to more than one evidentiary hearing and appellate review with respect to professional review action.

11.2 Hearing Officer Appointment and Duties

The use of a Hearing Officer to preside at a hearing held in accord with this Plan is optional. The use and appointment of a Hearing Officer shall be determined by the Chair of the body whose decision is being contested, after consultation with the President of the Medical Staff or his designee. A Hearing Officer may or may not be an attorney-at-law, but must be experienced in conducting hearings. The Hearing Officer shall act in an impartial manner as the Chair and presiding officer of the hearing. If requested by the Hearing Committee, the Hearing Officer may participate in its deliberations and act as its advisor, but shall not be entitled to vote.

11.3 Attorneys

If the affected Practitioner desires to be represented by an attorney at any hearing or at any appellate review appearance pursuant to this Plan, his request for such hearing or appellate review must so state. The request must also include the name, address and phone number of the attorney. Failure to notify the Hearing Committee in accord with this Section shall permit the committee to preclude the participation by legal counsel or to adjourn the hearing for a period not to exceed 20 days. The Executive Committee or the Governing Body may also be allowed representation by an attorney. Since these proceedings are a forum for professional evaluation and discussion and are not judicial proceedings, legal counsel's role is primarily to attend and assist their party in the proceeding. The Hearing Committee and appellate review body retain the right to limit the role of counsel's active participation in the hearing process. Any Practitioner who incurs legal fees in his behalf shall be solely responsible for payment of those fees.

11.4 Waiver

If at any time after receipt of Special Notice of an adverse recommendation, action or result, a Practitioner fails to make a required request or appearance or otherwise fails to comply with this Plan, the Practitioner shall be deemed to have consented to such professional review action or result and to have voluntarily waived all rights to which he might otherwise have been entitled under the Bylaws then in effect or under this Plan with respect to the matter involved.

11.5 Agreement to be Bound by Bylaws

By requesting a hearing or appellate review under this Plan, the Practitioner agrees to be bound by the provisions of the Bylaws and this Plan in all requests.

11.6 Confidentiality

- (a) All actions taken and all recommendations made pursuant to this Plan shall be considered confidential and are not to be disclosed to individuals (other than legal counsel) not directly involved or authorized by the Executive Committee, the Hospital President, the President of the Medical Staff, the Hospital's legal counsel, or the Governing Body to receive the information. This shall not preclude the President of the Medical Staff or Hospital President from filing reports of actions taken to regulatory agencies in compliance with regulatory requirements or from disclosing practice restrictions to others within the Hospital as necessary to assure or monitor compliance with the restrictions.
- (b) All records and other information generated in connection with or as a result of professional review activities are part of the Hospital's program organized and operated to help improve the quality of health care. As such, they shall be confidential, and each individual or committee member participating in such review activities shall agree not to disclose such information except as authorized expressly in this Plan or the Bylaws or as authorized, in writing, by the Hospital President or by legal counsel for the Hospital. Any breach of confidentiality by an individual or committee member may result in corrective action.

11.7 Waiver of Time Limits

Any time limits set forth in this Plan may be extended or accelerated by mutual agreement of the Practitioner and the Hospital President or the Executive Committee. The time periods specified in this Plan for action by the Medical Staff, the Governing Body and the committees are to guide those bodies in accomplishing their tasks and shall not be deemed to create any right for reversal of the professional review action if the fair hearing process or corrective action procedures are not completed within the time periods specified.

11.8 Substantial Compliance

Technical or insignificant deviations from the procedures set forth in this Plan shall not be grounds for invalidating the action taken.

ARTICLE 12

AMENDMENT

12.1 Amendment

This Plan may be amended or repealed, in whole or in part, by a resolution of the Medical Staff adopted by simple majority, subject to recommendation to and adoption by the Governing Body, subject always to consistency with the Bylaws and corporate Bylaws of the Governing Body.

12.2 Medical Staff Responsibility and Governing Body Initiative

The principles stated in the Medical Staff and Governing Body Bylaws regarding Medical Staff responsibility and authority (but not to the methodology) to formulate, adopt and recommend Medical Staff Bylaws and amendments of the Bylaws, and the circumstances under which the Governing Body may resort to its own initiative in accomplishing those functions shall apply as well to the formulation, adoption and amendment of this Plan.

12.3 Adoption

(a) **Medical Staff**

The foregoing Corrective Action Procedures and Fair Hearing Plan Addendum was adopted and recommended to the Governing Body by the Medical Staff with, and subject to, the Medical Staff Bylaws, Rules and Regulations.

Date: May 25 2007



President of the Medical Staff

(b) **Governing Body**

The foregoing Fair Hearing Plan Addendum was approved and adopted by resolution of the Governing Body after considering the Medical Staff's recommendation, and in accordance with, and subject to, the Hospital corporate Bylaws.

Date: July 26 2007



Hospital President