

FAIR HEARING PLAN

ADDENDUM

To the Bylaws of the Medical Staff Of Sacred Heart/Saint Mary's Hospitals Inc.

ARTICLE I

CORRECTIVE ACTION

The executive committee of the medical staff (the MEC) shall be the disciplinary body of the Hospital medical staff. Corrective action may be requested by any member of the active medical staff, by the chief executive officer, or by the governing body. Except for suspensions imposed pursuant to Section 1.4, 1.5 or 1.6, all requests for corrective action shall be in writing to the MEC, 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, is ineffective or inefficient as respects the Hospital's ability to operate or which is disruptive to the operations of the Hospital or 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) Commission of an offense which bars the practitioner from providing services in the Hospital under Chapter HFS 12 of the Wisconsin Administrative Code.
- (l) Violation of the bylaws, rules and regulations of the medical staff, Hospital bylaws, the Code of Ethics of the applicable professional association, State of Wisconsin rules, or the Ethical and Religious Directives for Catholic Health Services as promulgated by the National Conference of Catholic Bishops.
- (m) Harassment, mistreatment or otherwise degrading any patient, visitor, employee of the Hospital, member of the medical staff or allied health staff, or member of the governing body.

1.2 Procedure to Determine Request

- (a) Unless a suspension has already been imposed under Section 1.4, 1.5 or 1.6, following receipt of a request for corrective action, the MEC (or the president of the medical staff if time or special circumstances do not permit review by the MEC) shall forward such request to the chairman of the practitioner's primary clinical Service. The Service chairman or an ad hoc committee appointed by him or her shall conduct an investigation and report its findings to the MEC within 30 days of receipt of the request for corrective action. The matter need not be referred to the Service if the president of the medical staff determines that special circumstances require alternate review or if the request for corrective action originated in the Service and is supported by a written report of the Service. While investigation of requests for corrective action shall principally be performed within the Service, the president of the medical staff or the MEC may elect to review the requests or appoint a special ad hoc committee to investigate the matter and report the results to the MEC.
- (b) The investigation should include an interview, if possible, with the practitioner involved. The practitioner shall be informed of the general nature of the charges that have been brought and that such charges that may result in action entitling the practitioner to formal hearing.
- (c) The practitioner shall be permitted to discuss and explain his conduct. His appearance at the interview shall not constitute a formal hearing and is considered preliminary in nature and not subject to procedural rules. A record of the interview shall be made by the investigating body.
- (d) The president of the medical staff shall promptly notify the chief executive officer of all requests for corrective action received by the MEC and shall continue to keep the chief executive officer fully informed of all action taken.

1.3 MEC Action

- (a) Within 30 days following receipt of the report of the investigation made by the Service chairman or the ad hoc committee, the MEC shall take one of the following actions:

- (1) Issue a warning letter to the staff member.
 - (2) Issue a letter of reprimand to the staff member.
 - (3) Reject, modify, or dismiss the request for corrective action.
 - (4) Require a physical or mental examination and report by a physician or psychologist chosen by or acceptable to the MEC and compliance with any recommendations issued as a result of such examination.
 - (5) Recommend that the governing body:
 - (i) Require consultation.
 - (ii) Impose probation for a specified term.
 - (iii) Reduce privileges.
 - (iv) Suspend privileges.
 - (v) Revoke privileges.
 - (vi) Suspend staff membership.
 - (vii) Revoke staff membership.
 - (6) Other appropriate action including any combination of the above.
- (b) If the MEC makes a recommendation to the governing body under 1.3(a)(5), it shall also recommend the interval status of the practitioner during the Fair Hearing Process, if invoked.
- (c) The MEC shall make a written report of its action on the request for corrective action, including its reasons for the action taken and any minority views, and shall forward the report to the chief executive officer for submission to the governing body. If the action taken by the MEC is not a professional review action, as defined in Section 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 subsection (a) above. Before imposing any such sanctions, the governing body shall refer the matter to a joint conference committee as provided in Article VIII 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 or her rights, if any, to hearing and review.
- (d) Any recommendation by the MEC or action of the governing body that constitutes a professional review action, as defined in Sections 2.1 and 2.2 of this Plan, shall entitle the affected practitioner to a hearing, and the MEC's recommendation need not be forwarded to the governing body until the affected practitioner has exercised or waived his or her rights to such hearing and review.

1.4 Summary Suspension of Privileges

- (a) Any two of the following: the MEC or its chairman, the president of the medical staff, any Service chairman, the chief executive officer, the executive committee of the governing body or the governing body shall have the authority whenever 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.

- (b) A medical staff member whose suspension pursuant to this Section is for more than 14 days shall be entitled to request that a hearing be held on the matter within such reasonable time period as a hearing committee may be convened in accordance with Section 2.9 of this Plan, not to exceed ten days after receipt by the chief executive officer of a request for expedited hearing unless the practitioner requests more time. Such hearing shall be held in general accord with the procedures set forth in Article II of this Plan but adjusted as needed to facilitate expedited review while still affording due process to the practitioner. If an expedited hearing is held at the practitioner's request, it shall replace and not be an addition to any right to hearing otherwise available to the practitioner under this Plan.
- (c) The MEC may, upon the practitioner's request, and as soon as practicable, afford the practitioner an opportunity to meet with the MEC in special session to informally discuss the suspension, whether or not a hearing is requested under subsection (b). The MEC shall be authorized to lift, maintain or modify the suspension, except a suspension imposed by the governing body or its executive committee. If the suspension:
 - (1) is lifted or modified by the executive committee but either the chief executive officer or the president objects in writing to such action,
 - or
 - (2) is not lifted by the MEC and the practitioner requests a hearing on the professional review action, but not an expedited hearing as provided in subsection (b), and also requests removal of the suspension until hearing,

the 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. The executive committee of the governing body shall consider the written position of the practitioner and the MEC on the sole issue of maintenance of the suspension pending hearing and appellate review, as well as the recommendation of the chief executive officer, the president of the medical staff and the chairman of the practitioner's clinical 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 subsection (b), the governing body or MEC, as applicable, may recommend modification, continuance or termination of the terms of the suspension. If, as a result of such hearing, the governing body or MEC, as applicable, does not recommend immediate termination of the suspension, the affected practitioner shall, in accordance with this Plan, be entitled to request an appellate review by the governing body. The terms of the suspension as sustained or as modified by the MEC shall remain in effect pending a final decision thereon by the governing body.
- (e) Immediately upon the imposition of a suspension, the president of the medical staff or responsible Service chairman shall provide for alternative medical coverage for the patients of the suspended practitioner still in the Hospital at the time of such suspension. The patients' preference shall be obtained before an alternative practitioner is elected.

The suspended practitioner shall confer with the alternative practitioner to the extent necessary to safeguard the patient.

1.5 Temporary Suspension

A temporary suspension in the form of a withdrawal of a practitioner's admitting privileges shall be imposed automatically five days 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.

1.6 Automatic Suspension

- (a) Action by the applicable licensing board revoking or suspending a practitioner's license or failure by a practitioner to renew his license shall automatically suspend all of the practitioner's Hospital privileges. Such 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 a licensing board shall be obliged to report the same to the chief executive officer by no later than the day after their imposition. The MEC shall promptly review the matter, take such further corrective action as is appropriate under the circumstances, and submit a 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. As soon as possible after such automatic suspension, the MEC shall convene to review and consider the facts under which the DEA number was revoked or restricted. The MEC may then take such further corrective action as is appropriate under the circumstances.
- (c) An automatic suspension of all privileges of a practitioner shall be imposed upon notification received by the chief executive officer of the conviction of a practitioner of a felony. The MEC may, upon request of the affected practitioner, convene to review the matter and to submit a recommendation to the governing body regarding the continuation of the membership and privileges of the practitioner. The MEC may authorize temporary privileges in such instances, but such temporary privileges may not be extended beyond the next subsequent meeting of the governing body.
- (d) Failure to maintain financial responsibility, if required pursuant to Section 3.2 (d) of the medical staff bylaws, shall be grounds for automatic suspension of a member's clinical privileges, and, if within 90 days after written warning of the delinquency the member does not provide evidence of required financial responsibility, the member's membership shall be automatically terminated.

- (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 chief executive officer or his designee, the Credentials Committee, the MEC, 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 or her 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 or her failure to supply it.

- (f) Subject to proof of rehabilitation review approval, an automatic suspension of all privileges of a practitioner shall be imposed upon notification received by the chief executive office that the practitioner:
 - (1) 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;
 - (2) Has been found by a unit of government to have abused or neglected a client or misappropriated a client's property;
 - (3) Has been determined under the Children's Code to have abused or neglected a child;

As soon as possible after such automatic suspension, the MEC 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 MEC 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 MEC must determine whether the rehabilitation review approval in any way limits the practitioner's ability to practice the privileges granted and/or if it wishes to retain the practitioner on the Medical Staff. The MEC may then take such further corrective action as is appropriate under the circumstances.

- (g) An automatic suspension of all privileges of a practitioner may be imposed upon notification received by the chief executive officer that the practitioner:
 - (1) Is under investigation for a serious crime, act, or offense as defined in Chapter HFS 12 of the Wisconsin Administrative Code;
 - (2) 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;
 - (3) Is being investigated under the Children's Code of an entity under HFS 12 for abuse or neglect of a child.

As soon as possible after such automatic suspension, the MEC 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) An automatic suspension of all privileges of a practitioner shall be imposed if the practitioner is excluded from a federally funded health care program.
 - (1) If the practitioner immediately notifies the chief executive officer 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 chief executive officer and the president of the medical staff, or their designees, to contest the fact of the exclusion and present relevant information will be granted. This meeting shall be held as soon as practicable, but not later than five business days from the date of the written request. The chief executive officer and the president of the medical staff, or their designees, shall determine within ten business days following the meeting, and after such follow-up investigation as they deem appropriate, whether an exclusion has occurred, and whether the practitioner's staff membership and privileges will be immediately terminated. The determination of the chief executive officer and the president of the medical staff, or their designees regarding the matter shall be final, and the practitioner will have no further procedural rights. The practitioner will be given notice of the termination decision.
 - (2) A member who does not immediately notify the chief executive officer of any proposed or actual exclusion from any federally funded health care program as required by the medical staff Bylaws will have his or her staff membership and privileges terminated, effective immediately, at such time as the chief executive officer or his/her designee receives reliable information of the member's exclusion. The member shall be given special notice of the termination as soon as practicable.
- (i) Each practitioner shall have the duty to notify the chief executive officer of any action which may constitute a cause for automatic suspension under subsections (a) through (h). Failure to report such action will result in automatic suspension.
- (j) Automatic suspension activated pursuant to this Section 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.

ARTICLE II

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.
- (b) Denial of staff reappointment.
- (c) Except for suspension pursuant to Section 1.6, suspension of staff membership.
- (d) Revocation of staff membership, except revocation pursuant to Section 1.6.
- (e) Limitation of admitting prerogatives, except for temporary suspension due to medical record delinquency.
- (f) Denial of requested clinical privileges.
- (g) Reduction in clinical privileges.
- (h) Suspension of clinical privileges (other than suspensions pursuant to Section 1.5 or Section 1.6 of this Plan) for more than 14 days.
- (i) Revocation of clinical privileges, except as a result of an exclusive contract to provide specified services or as a result of Section 1.6 of this Plan.
- (j) Terms of probation or preceptorship which limit clinical privileges.
- (k) Requirement of consultation which limits clinical privileges.

2.2 When Deemed a Professional Review Action

An adverse recommendation or action listed in Section 2.1 shall be deemed a professional review action only when it has been:

- (a) recommended by the MEC; or
- (b) taken by the governing body contrary to a favorable recommendation by the MEC under circumstances where no right to hearing existed; or
- (c) a suspension imposed pursuant to Section 1.4 of this Plan; or
- (d) taken by the governing body on its own initiative without benefit of a prior recommendation by the MEC.

Only the foregoing shall constitute professional review action for the purpose of this Plan. Since only the MEC and the governing body have the authority necessary to adversely affect a

practitioner's status, 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 of themselves constitute professional review action.

2.3 Basis for Professional Review Action

In formulating any professional review 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 shall within ten days be given special notice of such action by the chief executive officer. 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 request such hearing within 45 days from the date of furnishing the notice or such hearing right shall be waived; and
- (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.

2.5 Request for Hearing

A practitioner shall have 45 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 chief executive officer either in person or by certified or registered mail so that he receives it within the 45 day time limit. If an effective date is specified for a professional review action taken pursuant to Section 2.2, the recommended action shall take effect as of that date unless the practitioner submits a hearing request before that date. Receipt by the chief executive officer of a request for hearing shall toll the effective date of the action and maintain the status quo of the practitioner unless the executive committee of the governing body, with appropriate medical staff recommendation, imposes limitations on the privileges or membership of the practitioner pending completion of the hearing and review process.

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 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 in connection with:

- (a) A professional review action taken by the governing body shall constitute acceptance of that action, which shall become effective as the final decision of the governing body.
- (b) An adverse action or recommendation by the MEC shall constitute acceptance of that recommendation, which shall become and remain effective pending the final decision of the governing body. At the governing body's next regular meeting following waiver, it shall:
 - (1) Consider the MEC's recommendation, review all the information and material considered by the MEC 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 MEC'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 MEC's recommendation, the matter shall be submitted to a joint conference as provided in Article VIII 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 chief executive officer shall promptly send the practitioner notice informing him of each action taken pursuant to this Section 2.6 and shall notify the president of the medical staff and the MEC of each such action.

2.7 Notice of Time and Place for Hearing

- (a) Upon timely receipt of a written request for hearing, the chief executive officer shall deliver such request to the president of the medical staff or to the chairman of the governing body, depending on whose recommendation or action prompted the request for hearing.
- (b) The president of the medical staff, or the chairman of the governing body, shall promptly schedule a date and arrange for a hearing.
- (c) The chief executive officer 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 chief executive officer, 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 at least until hearing can be held, 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 ten days from the date of the chief executive officer's receipt of the request for expedited hearing. In such event, the 30 day notice requirement is deemed waived. The chief executive officer shall instead send the practitioner notice of the time, place and date of hearing as soon as practicable after the hearing date is scheduled.

2.8 Statement of Issues and Events

The notice of hearing required by Section 2.7 shall be accompanied by a concise statement of the practitioner's alleged acts or omissions, a list by number of the specific or representative patient records in question, if applicable, a list of preliminary witnesses, if any, expected 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. At least ten 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. Each party shall update its witness list if and when additional witnesses are identified prior to hearing. Neither party shall call witnesses not named at least two business days in advance of the hearing except in rebuttal.

2.9 Appointment of Hearing Committee

(a) By Medical Staff

A hearing occasioned by an MEC recommendation or action pursuant to Section 2.2(a) or 2.2(c) of this Plan or by the president of the medical staff, the MEC chairman, or the chief executive officer pursuant to Section 2.2(c) shall be conducted by a Hearing Committee appointed by the president of the medical staff and composed of at least three but no more than five members of the active medical staff. The president of the medical staff shall designate one of the members so appointed as chairman unless a Hearing Officer is appointed in accord with Section 9.2. Voting members of the Hearing Committee shall not be practitioners in direct economic competition with the practitioner. 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 sub-specialty. The Hearing Committee may use, on a consulting basis, members of the same medical specialty or sub-specialty.

(b) By Governing Body

A hearing occasioned by professional review action of the governing body pursuant to Section 2.2(b), 2.2(c) or 2.2(d) of this Plan shall be conducted by a Hearing Committee appointed by the chairman 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, whenever feasible. The chairman of the governing body shall designate one of the appointees to the committee as chairman unless a Hearing Officer is appointed pursuant to Section 9.2. The Hearing Committee may use, on a consulting basis, members of the same medical specialty or sub-specialty.

- (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 chief executive officer 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.

2.10 Service on the Hearing Committee

A member of the active medical staff or of the 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 Section 1.1 of this Plan shall serve as a voting member of the Hearing Committee. However, such individuals may appear before the 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.

2.11 Independent Hearing Conducted by Consultant

The governing body or the MEC with the governing body's approval, at its 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. The practitioner's refusal, when offered, to consent to a hearing by an independent consultant shall constitute a waiver of any objection to the composition of the Hearing Committee.

ARTICLE III

HEARING PROCEDURE

3.1 Failure to Appear for Hearing

Failure without good cause of the practitioner to appear in person and proceed at a 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.

3.2 Presiding Officer

The Chairman of the Hearing Committee shall be the presiding officer and shall be the presiding officer at the hearing, unless a Hearing Officer is appointed pursuant to Section 9.2, in which case the Hearing Officer shall be the presiding officer at the hearing. The presiding officer shall act to maintain decorum and to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. The presiding officer shall be

entitled to determine the order of procedure during the hearing and shall make all rulings on matter of law, procedure, and the admissibility of evidence. Unless the presiding officer is a Hearing Officer appointed pursuant to Section 9.2, 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.

3.3 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 a member of the active medical staff in good standing. Such medical staff representative shall not include members of the MEC or any committee which formally considered and acted upon the action leading to the professional review action. The MEC or the governing body, depending on whose recommendation or 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.

(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 a 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 MEC of the governing body may also be allowed representation by an attorney. Since these proceedings are a forum for professional evaluation and discussion, legal counsel's role is primarily to attend and assist their party in the proceeding. The Hearing Committee and/or appellate review body retains 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.

3.4 Rights of Parties

"Parties" for the purpose of this Plan shall be the affected practitioner and the body whose action prompted the request for hearing. During a hearing, each of the parties shall have the right to:

- (a) Call, examine, and cross-examine witnesses, including expert witnesses.
- (b) Introduce exhibits and present relevant evidence as determined by the presiding officer.
- (c) Rebut any relevant evidence.
- (d) Submit a written statement at the close of the hearing.
- (e) Record the hearing by use of a court reporter or other mutually acceptable means of recording.

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.

3.5 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 any combination thereof. If an electronic recording unit is used, each person speaking should endeavor to identify himself each time he speaks. A practitioner electing an alternate method under Section 3.4(e) shall bear the cost thereof.

3.6 Postponement

Requests for postponement of a hearing shall be granted by the Hearing Committee only upon a showing of good cause and only if the request is prompt. A hearing shall be postponed no more than two times whether at the request of the practitioner or the other party.

3.7 Participation

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.

3.8 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. Each party shall, prior to or during the hearing, be entitled to submit memoranda concerning any issue of law or fact which shall become a part of the hearing record. The presiding officer may, but is not required to, order that oral evidence be taken only on oath or affirmation.
- (b) 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 medical staff 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 and have the opportunity to rebut any information so gathered.
- (c) 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 Committee and to each other. Such statements of the case may consist of a rendering of all the facts of the case. If so, 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.

- (d) If the Hearing Committee determines to require the parties to submit written statements of the case, notice to that effect shall be provided to both parties at least ten days prior to the hearing date. The written statements of the case shall be supplied both to the Committee and to the other party at least 48 hours prior to the commencement of the hearing.
- (e) Statements from members of the medical staff, nursing or other Hospital staff, other professional personnel, 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 for questioning by either party if so requested.

3.9 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.

3.10 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 the conclusions drawn are either arbitrary or capricious. The practitioner who requested the hearing shall, at all times, however, have the burden of going forward and the burden of proving, by clear and convincing evidence, that the professional review action lacks any substantial factual basis or that the conclusions drawn from the facts are arbitrary, unreasonable or capricious.

3.11 Recesses and Adjournment

The presiding officer or the Hearing Committee as a whole 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. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The Hearing Committee may, at a time convenient to itself, but no more than 30 days following the close of the hearing, conduct its subsequent deliberations outside the presence of the parties. Upon conclusion of its deliberations, the hearing shall be declared finally adjourned.

ARTICLE IV

HEARING COMMITTEE REPORT AND FURTHER ACTION

4.1 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 whose professional review action occasioned the hearing. The written report should include an explanation for the Hearing Committee's findings and recommendations that makes a rational connection between the issues to be decided, the evidence presented or considered, and the conclusions reached.

4.2 Action on Hearing Committee Report

Within 30 days after receipt of the report of the Hearing Committee, the MEC or governing body, as the case may be, shall consider the same and affirm, modify or reverse its recommendation or action in the matter. The results of that consideration shall be transmitted to the chief executive officer together with the hearing record, the report of the Hearing Committee and all other documentation considered.

4.3 Favorable Result

(a) By the Governing Body

If the governing body's result pursuant to Section 4.2 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.

(b) By the MEC

- (1) If the MEC result is favorable to the practitioner, the chief executive officer shall, within seven days of this receipt, forward it, together with all supporting documentation, to the governing body for action.
- (2) The governing body shall, within ten days following its Chairman's receipt of the favorable result of the MEC, take action thereon by adopting or rejecting the MEC's result in whole or in part, or by referring the matter back to the MEC for further consideration. Any referral back shall state the reasons therefore, 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.
- (3) Any favorable action by the governing body shall become its final action and the matter will be finally closed. Any unfavorable action by the governing body shall be controlled by Section 4.4 of this Plan.

4.4 Unfavorable (Adverse) Result

If the result of the MEC or of the governing body pursuant to Sections 4.2 or 4.3 of this Plan is or remains adverse to the practitioner as set forth in Section 2.2, the affected practitioner shall have the right to request an appellate review by the governing body as provided in Article V of this Plan. If it is the result of the MEC, the results will not be forwarded to the governing body for final action until the practitioner has either exercised or waived the right to appellate review.

4.5 Notice of Result

- (a) The chief executive officer shall promptly send a copy of the result under Section 4.2 of this Plan to the practitioner by special notice. The practitioner shall be furnished a copy of the Hearing Committee report with such notice as well as the written decision or recommendation of the body acting on the Hearing Committee report.
- (b) If the result sent to the practitioner is or continues to be unfavorable to the practitioner in any of the respects listed in Section 2.1 of this Plan, the special notice shall state, in addition to the result:
 - (1) that the practitioner has a right to request an appellate review by the governing body of the decision made pursuant to Section 4.2.
 - (2) that the practitioner has 15 days, following mailing the notice required by this Section, to file a written request for appellate review and that failure to properly request such review shall constitute a waiver of the right to review.
 - (3) a summary of the appellate review procedures, which summary can be accomplished by furnishing the practitioner a copy of this Plan with the notice.

ARTICLE V

INITIATION AND PREREQUISITES OF APPELLATE REVIEW

5.1 Request for Appellate Review

A practitioner shall have 15 days following the mailing of a notice pursuant to Section 4.5 of this Plan within which to file a written request for appellate review. Such request shall be delivered to the chief executive officer within the time specified either in person or by certified or registered mail and may include a request for a copy of the record of the Hearing Committee and all other material that was considered in making the adverse action or result, whether favorable or unfavorable, if not previously forwarded.

5.2 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 5.1 of this Plan or who fails to submit a written statement required by Section 6.2 of this Plan waives any right to such review. Such waiver shall have the same force and effect as that provided in Section 2.6 of this Plan.

5.3 Notice of Time, Place and Date

Upon receipt of a timely request for appellate review, the chief executive officer shall deliver such request to the chairman of the governing body. Within ten days after receipt of such request, the chairman of the governing body shall schedule and arrange for an appellate review which shall be conducted not more than 35 days from the date the chief executive officer received the appellate review request. At least 20 days prior to the appellate review, the chief executive officer shall send the practitioner notice of the date and time of the review. 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 20 days from the date the chief executive officer received the request for review. In such case, the practitioner shall be afforded notice of the date and time of review as soon as practicable. 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.

5.4 Appellate Review Committee

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 chairman of the governing body. If a committee is appointed, the chairman of the governing body shall designate one of its members as chairman.

ARTICLE VI

APPELLATE REVIEW PROCEDURE

6.1 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 thereon. The Appellate Review Committee shall also consider the written statements submitted pursuant to Section 6.2 of this Plan and such other material as may be presented and accepted under Sections 6.4 and 6.5 of this Plan.

6.2 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 chief executive officer at least ten days prior to the scheduled date of the appellate review. A written statement in reply may be submitted by the MEC or by the governing body, as the case may be; and if submitted, the chief executive officer shall provide a copy to the practitioner at least five days prior to the scheduled date of the appellate review. These filing deadlines do not apply to an expedited review as permitted in Section 5.3 of this Plan. Failure to submit a written statement by the deadline shall constitute a waiver of the right to appellate review and the appellate review shall be cancelled.

6.3 Presiding Officer

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

6.4 Oral Statement

The Appellate Review Committee, in its sole discretion, may allow the parties or their representatives to personally appear and make oral statements in favor of their positions. Any party or representative so appearing shall be required to answer questions directed to him by any member of the Appellate Review Committee. If the Appellate Review Committee decides to allow oral statements, the chief executive officer shall so notify the practitioner and identify the location of the review proceedings.

6.5 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. The party requesting the consideration of such matter or evidence shall explain the reasons for not presenting it earlier.

6.6 Powers

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

6.7 Participation

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

6.8 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. 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.

6.9 Action Taken

- (a) Within ten days following final adjournment, 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 4.2 and 4.3(b)(2) 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 20 days. Such recommendation shall be in accordance with the Appellate Review Committee's instructions. Any written report following referral shall be shared with the practitioner. Within ten days after receipt of such recommendation after referral, the Appellate Review Committee shall make its recommendation to the governing body to affirm, modify or reverse the professional review action of the body that occasioned the review.

6.10 Conclusion

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

ARTICLE VII

FINAL DECISION OF THE GOVERNING BODY

7.1 Governing Body Action

- (a) At its next regular meeting after receipt of the recommendation of the Appellate Review Committee or at the adjournment if the Appellate Review Committee is the governing body itself, the governing body shall render its final decision in the matter in writing and shall send notice to the practitioner by special notice and to the president of the medical staff and the MEC.
- (b) If the governing body's decision is to affirm its last adverse recommendation in the matter, if any, it shall be immediately effective and final.
- (c) If the governing body's decision is to affirm the MEC's last adverse recommendation in the matter, if any, it shall be immediately effective and final.
- (d) If the governing body's action has the effect of changing the MEC's last adverse recommendation, if any, the governing body shall refer the matter to a joint conference committee as provided in Article VIII 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.
- (e) When a final decision is made by the governing body, a copy of the decision will be sent by the chief executive officer to the practitioner, the president of the medical staff and the MEC.

ARTICLE VIII

JOINT CONFERENCE COMMITTEE REVIEW

8.1 Membership and Time Limits

- (a) Within seven days following receipt of a matter referred to it by the governing body pursuant to the provisions of this Plan, a joint conference committee of equal numbers of members of the MEC and the governing body shall convene to consider the matter.
- (b) Within seven days following the conclusion of its consideration, the joint conference committee shall submit its recommendation to the governing body.
- (c) The governing body's action on the matter following receipt of the joint conference committee's recommendation shall be immediately effective and final.

ARTICLE IX

GENERAL PROVISIONS

9.1 Number of Hearings and Reviews

Notwithstanding any other provision of the medical staff 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.

9.2 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 such Officer shall be determined by the chairman of the governing body after consultation with the president of the medical staff. A Hearing Officer may or may not be an attorney-at-law but must be experienced in conducting hearings. Such Hearing Officer shall act in an impartial manner as the 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.

9.3 Waiver

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

9.4 Release

By requesting a hearing or appellate review under this Plan, a practitioner agrees to be bound by the provisions of the medical staff bylaws and this Plan in all requests.-

9.5 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 chief executive officer or the MEC. 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.

9.6 Special Notice Definition

The term “special notice” means written notification send by certified or registered mail, return receipt requested, or hand-delivered to the addressee.

9.7 Substantial Compliance

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

ARTICLE X

AMENDMENT

10.1 Amendment

This Plan may be amended or repealed, in whole or in part, by a resolution of the medical staff which shall be recommended to and adopted by the governing body, subject always to consistency with the Medical Staff Bylaws and Corporate Bylaws of the governing body.

10.2 Medical Staff Responsibility and Governing Body Initiative

The principles stated in the medical staff and governing body bylaws regarding medical staff responsibility and authority to formulate, adopt and recommend medical staff bylaws and amendments thereof, 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.

10.3 Adoption

(a) Medical Staff

The foregoing Plan addendum was adopted and recommended to the governing body by Saint Mary’s Hospital’s Medical Staff with, and subject to, the Medical Staff Bylaws, rules and regulations on _____.

President of the Saint Mary’s Medical Staff Date

(b) Governing Body

The foregoing Plan addendum was approved and adopted by resolution of the governing body after considering the medical staffs' recommendations, and in accordance with, and subject to, the Hospital corporate bylaws on _____.

Secretary, Governing Body

Date