



# MEDICAL STAFF BYLAWS

## PART I: GOVERNANCE

DAVIS MEMORIAL HOSPITAL

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## PART I: GOVERNANCE

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### ARTICLE I: MEDICAL STAFF MEMBERSHIP

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#### SECTION 1. PURPOSE

The purpose of this medical staff is to bring qualified physicians, dentists, oral surgeons, and podiatrists who practice at Davis Memorial Hospital together into a cohesive, collegial body working as a team with other staff members to promote good care and to offer advice, recommendations, and input to the Chief Executive Officer (CEO) and the Board of Trustees.

#### SECTION 2. NATURE OF MEDICAL STAFF MEMBERSHIP

Membership on the medical staff of Davis Memorial Hospital is a privilege that shall be extended only to professionally competent practitioners who continuously meet the qualifications, standards, and requirements set forth in these Bylaws and associated policies of the medical staff of Davis Memorial Hospital.

#### SECTION 3. QUALIFICATIONS FOR MEMBERSHIP

- 2.1 No practitioner shall be entitled to membership on the medical staff or to clinical privileges merely by virtue of licensure, membership in any professional organization, or privileges at any other healthcare organization.
- 2.2 The following qualifications must be met by all applicants for appointment to the medical staff before an application will be processed:
  - 2.2.1 Demonstrate that he/she has successfully graduated from an approved school of medicine, osteopathy, dentistry or podiatry.
  - 2.2.2 Have a current unrestricted license as a physician or dentist required for the practice of his/her profession within the state of West Virginia.
  - 2.2.3 Possess a current, valid unrestricted drug enforcement administration (DEA) number, if applicable.
  - 2.2.4 Demonstrate recent clinical performance and competence within the last twelve (12) months with an active clinical practice in the area, in which clinical privileges are sought, for purposes of ascertaining current clinical competence.
  - 2.2.5 Provide evidence of skills to provide a type of service that the board has determined to be appropriate for performance within the hospital and for which a need exists.
  - 2.2.6 Provide evidence of professional liability insurance of a type and in an amount established by the board.

- 2.2.7 Have a record that is free from current Medicare/Medicaid/CHAMPUS sanctions or felony convictions (within the last three (3) years), or occurrences that would raise questions of undesirable conduct.
- 2.2.8 A physician applicant, MD or DO, must have successfully completed an allopathic or osteopathic residency program of at least three years, approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA), and be currently board certified or become board certified within seven (7) years of completing formal training as defined by the appropriate board of the American Board of Medical Specialties or the American Osteopathic Association; or be in active practice for the past fifteen (15) years, including at least ten (10) years as an active medical staff member at Davis Memorial Hospital.
- 2.2.9 Dentists must have graduated from an American Dental Association approved school of dentistry accredited by the Commission of Dental Accreditation.
- 2.2.10 Oral and maxillofacial surgeons must have graduated from an American Dental Association approved school of dentistry accredited by the Commission of Dental Accreditation and successfully completed an American Dental Association approved residency program and be board certified or become board certified within seven (7) years of completing formal training as defined by the American Board of Oral and Maxillofacial Surgery.
- 2.2.11 A podiatric physician, DPM, must have successfully completed a two-year residency program in surgical, orthopedic, or podiatric medicine approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association (APMA), and be board certified or become board certified within seven (7) years of completing formal training as determined by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedic and Primary Podiatric Medicine.
- 2.3 It is the policy of Davis Memorial Hospital to grant medical staff membership and clinical privileges only to individuals who meet the following criteria:
  - 2.3.1 Fulfill the criteria as identified in section 2.2 above.
  - 2.3.2 Demonstrate his/her background, experience and training, current competence, knowledge, judgment, ability to perform, and technique in his/her specialty for all privileges requested.
  - 2.3.3 Upon request provide evidence of both physical and mental health that does not impair the fulfillment of his/her responsibilities of medical staff membership and the specific privileges requested by and granted to the applicant.

- 2.3.4 Have appropriate personal qualifications, to include a record of applicant's observance of ethical standards including:
  - 2.3.4.1 Abstinence from any participation in fee splitting or other illegal payment, receipt, or remuneration with respect to referral or patient service opportunities.
  - 2.3.4.2 A record of working professionally and in a collaborative and cooperative manner with others within an institutional setting.
- 2.4.5 Appropriate written and verbal communication skills.
- 2.4.6 Any member of the medical staff who may have occasion to admit an inpatient must demonstrate the capability to provide continuous care by having a plan to reside and/or have established or plan to establish an office within a reasonable distance of Davis Memorial Hospital (unless the applicant is joining a group practice in which members of the group live within that distance). The applicant must provide evidence of acceptable patient coverage to the MEC.

#### **SECTION 4. NONDISCRIMINATION**

The Davis Memorial Hospital will not discriminate in granting staff appointment and/or clinical privileges on the basis of national origin, gender, religion, disability unrelated to the patient care or required medical staff responsibilities, or any other basis prohibited by applicable law, to the extent the applicant is otherwise qualified.

#### **SECTION 5. CONDITIONS AND DURATION OF APPOINTMENT**

The Board of Trustees shall make initial appointment and reappointment to the medical staff. The Board of Trustees shall act on appointment and reappointment only after there has been a recommendation from the Medical Executive Committee (MEC). Each period of appointment and reappointment to the medical staff shall be for no more than twenty-four (24) calendar months.

#### **SECTION 6. CLINICAL PRIVILEGES**

Requests for clinical privileges will be processed only when the potential applicant meets the current minimum threshold criteria recommended by the MEC and approved by the Board of Trustees. In the event there is a request for which there are no approved criteria the Board of Trustees, with input from the MEC and administration, will first determine if it will allow the privilege and, if so, direct the MEC to promptly develop privileging criteria by considering required licensure, relevant training or experience, current competence, and ability to perform the privileges requested.

#### **SECTION 7. RESPONSIBILITIES OF EACH MEMBER**

- 7.1 Each staff member must provide appropriate, timely, and continuous care of his/her patients. He or she is not responsible for the actions of other practitioners, allied health professionals (unless under his/her supervision), or hospital

employees, unless such responsibility is imposed upon a member of the medical staff by contract or by these Bylaws;

- 7.2 Each staff member must participate, if assigned, in quality/performance improvement activities and in discharging other staff functions as may be required from time to time;
- 7.3 Each staff member must participate in the on call coverage of the emergency service and other coverage programs including consultations for inpatients as determined by his/her Service pursuant to the authority of the MEC and/or the Board of Trustees to see that patient care needs are provided for, and;
- 7.4 Each staff member must submit to any type of health evaluation as requested by the officers of the medical staff, Chief Executive Officer (CEO), and/or service chair when it appears necessary to protect the well-being of patients and/or staff, or when requested by the MEC or credentials committee as part of an evaluation of the member's ability to exercise privileges safely and competently, or as part of a post-treatment monitoring plan consistent with the provisions of any medical staff and hospital policies addressing physician health or impairment.
- 7.5 Each staff member must abide by the medical staff bylaws and any other rules, regulations, policies, procedures, and standards of the medical staff and hospital.
- 7.6 Each staff member must provide evidence of professional liability coverage of a type and in an amount sufficient to cover the clinical privileges granted or an amount established by the Board. In addition, staff members shall comply with any financial responsibility requirements that apply under state law to the practice of their profession. Each staff member shall notify the CEO or designee immediately of any and all malpractice claims threatened in writing or filed against the medical staff member.
- 7.7 Each staff member agrees to release from any liability, to the fullest extent permitted by law, all persons for their conduct in connection with investigating and/or evaluating the quality of care provided by the medical staff member and his/ her credentials.
- 7.8 Each staff member shall prepare and complete in a timely fashion, according to medical staff and hospital policies, the medical and other required records for all patients to whom the practitioner provides care in the hospital, or within its facilities, clinical services, or departments.
- 7.9 Each staff member will use confidential information only as necessary for treatment, payment or healthcare operations in accordance with HIPAA laws and regulations, to conduct authorized research activities, or to perform medical staff responsibilities. For purposes of these bylaws, confidential information means patient information, peer review information, and the hospital's business information designated as confidential by the hospital or its representatives prior to disclosure.

- 7.10 Each staff member must participate in any type of competency evaluation when determined necessary by the MEC and/or Board in order to properly delineate that member's clinical privileges.
- 7.11 Each staff member shall disclose to the medical staff any ownership or financial interest that may conflict with, or have the appearance of conflicting with, the interests of the medical staff or hospital.
- 7.12 Each staff member must abide by the Bylaws, Rules and Regulations, and other policies, procedures, and plans of the hospital and the medical staff.

#### **SECTION 8. MEDICAL STAFF MEMBER RIGHTS**

- 8.1 Each active staff practitioner on the medical staff has the right to an audience with the MEC. In the event such practitioner is unable to resolve a difficulty working with his/her respective Service Chief, that practitioner may, upon presentation of a written notice to the President two (2) weeks in advance of a regular meeting, meet with the MEC to discuss the issue.
- 8.2 Any active staff practitioner has the right to initiate a recall election of a Medical Staff Officer or Service Chief by following the procedure outlined in Article III, Section 7.1 of these Bylaws.
- 8.3 Any active staff practitioner may request that a special meeting of the medical staff be called in accordance with the provisions of Article VI, Section 2 of these Bylaws.
- 8.4 Any Officer of the Medical Staff can request and be granted a meeting with the Officers of the Board, Administration, or the MEC to discuss any important issue at an agreed upon date, place and time.
- 8.5 Any active staff practitioner may raise a challenge to any rule or policy established by the MEC. In the event that a rule, regulation, or policy is thought to be inappropriate, any practitioner may submit a petition signed by twenty percent (20%) of the active staff members. When the MEC has received such a petition, it will either (1) provide the petitioners with information clarifying the intent of such rule, regulation or policy, and/or (2) schedule a meeting with the petitioners to discuss the issues.
- 8.6 Any section/sub-specialists group may request a Service meeting when majorities of the members/sub specialists believe that the Service has not acted in an appropriate manner.
- 8.7 The above sections 8.1-8.6 do not pertain to issues involving professional review action, denial of requests for appointment or clinical privileges, or any other matter relating to individual membership or privileging sections. Section 8.8 and the Hearing and Appeal Plan provide recourse in these matters.



- 8.8 Any member has a right to a hearing/appeal pursuant to the institution's hearing and appeal plan in the event that any of the following actions are taken or recommended:
- 8.8.1 Denial of medical staff appointment or reappointment;
  - 8.8.2 Revocation of medical staff appointment;
  - 8.8.3 Denial or restriction of requested clinical privileges;
  - 8.8.4 Reduction in clinical privileges;
  - 8.8.5 Involuntary reduction/revocation of clinical privileges;
  - 8.8.6 Application of a mandatory concurring consultation requirement, or an increase in the stringency of a pre-existing mandatory concurring consultation requirement, when such requirement only applies to an individual medical staff member and;
  - 8.8.7 Suspension of staff appointment or clinical privileges, but only if such suspension is for more than thirty (30) days and is not caused by the member's failure to complete medical records

#### **SECTION 9. STAFF DUES**

- 9.1 Annual medical staff dues shall be determined by the MEC. Failure of a medical staff member to pay dues within sixty (60) days shall be considered a voluntary resignation from the medical staff. The MEC may pass policies from time to time which exempt from dues payment certain categories of membership or members holding specified leadership positions.

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### **ARTICLE II. CATEGORIES OF THE MEDICAL STAFF**

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#### **SECTION 1. THE ACTIVE CATEGORY**

- 1.1 Qualifications: The active category is for those practitioners who are actively practicing at Davis Memorial Hospital. Appointees should be involved in fifty (50) patient contacts (i.e., a patient contact is defined as an inpatient admission, consultation, outpatient surgical procedure and/or an outpatient treatment or procedure) at Davis Memorial Hospital per two-year period, except as expressly waived for practitioners with at least two (2) years of services in the active category or for those physicians who document his/her efforts to support the hospital's patient care mission to the satisfaction of the MEC and Board of Trustees.

In the event that an appointee to the active category does not meet the qualifications for reappointment to the active category, and if the appointee is otherwise abiding by all Bylaws, Rules and Regulations, and policies of the staff, the appointee may be appointed to the referral category.

- 1.2 Prerogatives: Appointees to this category may:
  - 1.2.1 Exercise such clinical privileges as are granted by the Board of Trustees.
  - 1.2.2 Vote on all matters presented by the medical staff and by the appropriate Service and committee of which he or she is a member.
  - 1.2.3 Hold office and sit on or be the chairperson of any committee, unless otherwise specified elsewhere in these Bylaws.
- 1.3 Responsibilities: Appointees to this category must:
  - 1.3.1 Contribute to the organizational and administrative affairs of the medical staff.
  - 1.3.2 Actively participate in recognized functions of the staff appointment including quality/performance improvement, risk management and monitoring activities, including monitoring of new appointees during the provisional period and in discharging other staff functions as may be required from time to time.
  - 1.3.3 Fulfill any meeting attendance requirements as established by the medical staff.
  - 1.3.4 Assist Davis Memorial Hospital in the fulfillment of its mission, including ER Call responsibility.

## **SECTION 2. REFERRAL CATEGORY**

- 2.1 Qualifications: The Referral Category is reserved for those practitioners who are interested in the clinical affairs of the hospital; those who desire to refer patients to the hospital or to other physicians on the staff of the hospital; and those who desire to order diagnostic or therapeutic services at the hospital.
- 2.2 Prerogatives: Appointees to this category may:
  - 2.2.1 Vote at all meetings where the member is in attendance with the exception of general medical staff meetings and the MEC committee.
  - 2.2.2 See and follow patients referred to other active staff members for clinical care.
  - 2.2.3 Attend meetings of the staff and any staff or hospital education programs.
- 2.3 Responsibilities: Appointees to this category are expected to support the Davis Memorial Hospital in the fulfillment of its mission.

## **SECTION 3. THE HONORARY CATEGORY**

The honorary category is restricted to those individuals recommended by the MEC and approved by the Board of Trustees. Appointment to this category is entirely discretionary

and may be rescinded at any time. Reappointment to this category is not necessary, as appointees are not eligible for clinical privileges. They may attend Medical Staff Service Meetings, and continuing medical education activities. They shall not hold office or be eligible to vote.

#### **Section 4      Affiliate Category (Allied Health)**

4.1 Allied Health Professionals (AHP) are individuals who possess a license, certificate, or other legal credentials required by West Virginia law to provide direct patient care in a hospital setting. Subject to WV Code 30-2-16 (b), Davis Medical Center will consider providing privileges as Physician Assistants, Nurse Practitioners, Certified Nurse Midwives, and Psychologists and Certified Registered Nurse Anesthetist who hold a current, valid West Virginia license.

4.2 These members shall be recognized as Active, Referral, or Honorary Affiliate members of the medical staff, provided they are under the supervision of a physician (s) who is currently a member in good standing of the Medical Staff of Davis Medical Center and who agree to abide by the Bylaws, Rules and Regulations of the Hospital.

4.3 Qualifications: To be eligible to provide clinical services, the Allied Health Professional must:

4.3.1 These AHP shall be afforded the same prerogatives as other Active, Referral, or Honorary staff members as described in Article II sections 1-3 above.

4.3.3. May participate in services consistent with the collaborating physician dependent upon proper physician collaboration, as required by state law and/or medical staff Bylaws.

4.3.4 The AHP may also be involved in all areas within the hospital.

4.3.5 The AHP scope of privileges shall be based on those approved, and so outlined by the WV Board of Medicine of the WV Board of Osteopathic Medicine.

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### **ARTICLE III. OFFICERS**

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#### **SECTION I. OFFICERS OF THE MEDICAL STAFF**

The officers of the medical staff shall be:

1.1 President

1.2 President-Elect

#### **SECTION 2. QUALIFICATIONS OF OFFICERS**

Officers must be members in good standing of the active category, have previously served in a significant capacity, indicate a willingness and ability to serve and provide the

time required, have no pending adverse recommendations concerning medical staff appointment or clinical privileges, attend continuing education relating to medical staff leadership and/or credentialing functions prior to or during the term of office, have demonstrated an ability to work well with others, and have excellent administrative and communication skills, and hold the degree of MD or DO. Officers may not simultaneously hold or must disclose in advance leadership positions on another hospital medical staff or in a facility that is directly competing with the hospital.

### **SECTION 3. ELECTION OF OFFICERS**

- 3.1 Every other year the MEC shall appoint a Nominating Committee chaired by the president with three other past presidents. This committee shall offer a nominee for each office. Nominations must be announced, and the names of the nominees distributed to all members of the active medical staff at least thirty (30) days prior to the election.
- 3.2 A petition signed by at least twenty percent (20%) of the appointees of the active staff may also make nominations. Such petition must be submitted to the president at least fourteen (14) days prior to the election for placement on the ballot.
- 3.3 Officers shall be elected every other year at the annual meeting according to the process for amending Medical Staff Bylaws. Only members of the active category shall be eligible to vote. The Board of Trustees shall be given an opportunity to confirm all officers.

### **SECTION 4. TERM OF OFFICE**

All officers serve a term of two (2) years. Officers shall take office on the first day of the calendar year. An officer may be reelected to a position.

### **SECTION 5. VACANCIES OF OFFICE**

The MEC shall fill vacancies of office during the medical staff year, except the office of the President. If there is a vacancy in the office of the President, the President-Elect shall serve the remainder of the term and the term for which elected.

### **SECTION 6. DUTIES OF OFFICERS**

- 6.1 President – The President shall serve as the Chair of the MEC and will fulfill duties specified in the Organization and Functions Manual.
- 6.2 President – Elect: In the absence of the President, the President-Elect shall assume all the duties and have the authority of the President. The President-Elect shall also assume the traditional roles of the Secretary/Treasurer, including sending and collecting on accounts for dues or fees, and disbursement of any funds. He or she shall perform such further duties to assist the President as the President may from time to time request. The President-Elect after serving his/her term of office shall automatically advance to serve as President.

## **SECTION 7. REMOVAL AND RESIGNATION FROM OFFICE**

- 7.1 The medical staff may remove from office any officer by petition of twenty percent (20%) of the active staff members and a subsequent two-thirds (2/3) affirmative vote by ballot of the active staff and approval by the MEC and Board of Trustees.
- 7.2 Automatic removal shall be for failure to conduct those responsibilities assigned within these bylaws, or other policies and procedures of the medical staff, or for conduct or statements damaging to the hospital, its goals, or programs, or an automatic or summary suspension of clinical privileges.
- 7.2 Resignation: Any elected officer of the medical staff may resign at any time by giving written notice to the MEC. Such resignation, which may or may not be made contingent upon acceptance by the MEC, takes effect on the date of receipt, when his/her successor is elected, or any later time specified therein.

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## **ARTICLE IV. MEDICAL STAFF ORGANIZATION**

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### **SECTION 1. ORGANIZATION OF THE MEDICAL STAFF**

- 1.1 The medical staff of Davis Memorial Hospital shall be organized into two Services: the Services of Medicine and Surgery.
- 1.2 The MEC may recognize any group of practitioners who wish to organize themselves into a Clinical Section. Any Clinical Section, if organized, shall not be required to hold regularly scheduled meetings, nor shall attendance be required. Clinical Sections are completely optional and shall exist to perform any of the following activities:
  - 1.2.1 Continuing education/discussion of patient care;
  - 1.2.2 Grand rounds;
  - 1.2.3 Discussion of policies and procedures;
  - 1.2.4 Discussion of equipment needs;
  - 1.2.5 Development of recommendations for Service Chiefs or MEC;
  - 1.2.6 Participation in the development of criteria for clinical privileges (when requested by Section Chief or MEC); and
  - 1.2.7 Discussion of a specific issue at the request of a Service Chief or the MEC.
- 1.3 Except in extraordinary circumstances, no minutes or reports shall be required reflecting the activities of the Clinical Sections. Only when a Clinical Section is making formal recommendations shall a report be required documenting the

Clinical Section's specific position. The current Clinical Sections that shall be organized by the medical staff and formally recognized by the MEC shall be listed in the Organization and Functions Manual.

## **SECTION 2. QUALIFICATIONS, SELECTION, TERM, AND REMOVAL OF SERVICE CHIEFS**

- 2.1 Each Service Chief shall serve a term of two (2) years commencing on January 1 and shall be eligible to serve successive terms. All chiefs must be members of the active staff with relevant clinical privileges and certified by an appropriate specialty board or have affirmatively established comparable competence through the privilege delineation process.
- 2.2 Service Chiefs and Vice-Chiefs will be elected by majority vote of the active members of the Service, subject to ratification by the MEC.
- 2.3 Service Chiefs will be removed from office by the MEC upon receipt of a recommendation of the Service, or, in the absence of such recommendation, the MEC may act on its own if any of the following occurs:
  - 2.3.1 The chief ceases to be a member in good standing of the medical staff
  - 2.3.2 The chief suffers a loss or significant limitation of practice privileges, or if any other good cause exists, or,
  - 2.3.3 The chief fails, in the opinion of the Service or MEC, to demonstrate to the satisfaction of the Service, MEC or Board of Trustees that s/he is effectively carrying out the responsibilities of the position.

If removal is required, the President shall appoint a Service Chief until such time as the Service shall elect a replacement.

## **SECTION 3. FUNCTIONS OF SERVICE CHIEFS**

Service Chiefs shall carry out the responsibilities assigned to them within the Organization and Functions Manual.

## **SECTION 4. ASSIGNMENT TO SERVICE**

The MEC will, after consideration of the recommendations of the Chief of the appropriate Service, recommend Service assignments for all members in accordance with his/her qualifications. Each member will be assigned to one primary Service. Clinical privileges are independent of Service assignment.

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## **ARTICLE V. COMMITTEES**

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### **SECTION 1. DESIGNATION AND SUBSTITUTION**

There shall be a MEC and such other standing and special committees as established by the MEC and enumerated in Part III, the Organization and Functions Manual. Those functions requiring participation of, rather than direct oversight by, the staff may be

discharged by medical staff representation on such hospital committees as are established to perform such functions.

## **SECTION 2. MEDICAL EXECUTIVE COMMITTEE**

- 2.1 **COMPOSITION:** The MEC shall be a standing committee consisting of the Officers of the Medical Staff, the Chiefs of Clinical Services, the Chair of the Credentials Committee, the Chair of the Quality Medical Management Committee, the Emergency Department Director, and the Vice President of Medical Affairs. The chairperson will be the President of the Medical staff. The CEO or designee shall be an ex-officio member, without vote. The MEC may include other practitioners and any other licensed independent practitioners as determined by the organized medical staff.
- 2.2 **DUTIES:** The duties of the MEC shall be to:
- 2.2.1 Receive or act upon reports and recommendations concerning patient care quality and appropriateness reviews, evaluation and monitoring functions, and the discharge of his/her delegated administrative responsibilities; and recommend to the Board of Trustees specific programs and systems to implement these functions;
  - 2.2.2 Coordinate the implementation of policies adopted by the Board of Trustees;
  - 2.2.3 Submit recommendations to the Board of Trustees concerning all matters relating to appointment, reappointment, staff category, Section assignments, clinical privileges, and corrective action;
  - 2.2.4 Account to the Board of Trustees and to the staff for the overall quality and efficiency of professional patient care services provided in the hospital by individuals with clinical privileges and coordinate the participation of the medical staff in organizational performance improvement activities;
  - 2.2.5 Take reasonable steps to encourage professionally ethical conduct and competent clinical performance on the part of staff appointees including collegial and educational efforts and investigations, when warranted;
  - 2.2.6 Make recommendations to the Board of Trustees on medico-administrative and hospital management matters;
  - 2.2.7 Keep the medical staff up-to-date concerning the licensure and accreditation status of the hospital;
  - 2.2.8 Consistent with the mission and philosophy, the MEC will participate in identifying community health needs and in setting hospital goals and implementing programs to meet those needs;
  - 2.2.9 Represent and act on behalf of the staff between meetings of the organized medical staff, within the scope of its responsibilities as defined by the

organized medical staff, subject to such limitations as may be imposed by these bylaws;

- 2.2.10 Formulate and recommend to the Board of Trustees medical staff rules, policies, and procedures after communication with the organized medical staff;

2.2.10-1 If the organized medical staff approves of the purposed rule or regulation, the MEC will forward the proposed rule or regulation to the Board noting approval by both them MEC and the organized medical staff.

2.2.10-2 If the organized medical staff does not approve of the proposed rule or regulation, the MEC will forward the proposed rule or regulation to the Board noting the approval by the MEC and the disapproval by the organized medical staff.

The MEC will review all rules and regulations proposed by the organized medical staff.

If the MEC approves of the proposed rule or regulation, the MEC will forward the proposed rule or regulation to the Board nothing approval by both the organized medical staff and the MEC.

If the MEC does not approve of the proposed rule or regulation, the MEC will forward the proposed rule or regulation to the Board nothing the approval by the organized medical staff and the disapproval by the MEC.

The MEC will enact policies and procedures and forward them, as information only, to the Board.

If the organized medical staff disagrees with a policy or procedure enacted by the MEC, it can utilize the conflict resolution mechanism.

- 2.2.11 Make recommendations concerning the structure of the medical staff, the mechanism by which medical staff membership or privileges may be terminated, and the mechanisms for fair hearing procedures;
- 2.2.12 Consult with administration on the quality, timeliness and appropriateness, aspects of contracts for patient care services provided by entities outside the hospital; and
- 2.2.13 Oversee that portion of the corporate compliance plan that pertains to the medical staff members through receipt of an annual report.
- 2.2.14 Request evaluations of practitioners privileged through the medical staff process in instances in which there is question about an applicant or member's ability to perform privileges requested or currently granted;



- 2.2.15 Hold medical staff leaders, committees, and services accountable for fulfillment of their duties and responsibilities;
- 2.2.16 Make recommendations to the medical staff for changes or amendments to the medical staff bylaws.
- 2.3 MEETINGS: The MEC shall meet at least ten (10) times per year and more often as needed to perform his/her assigned functions. Permanent records of its proceedings and actions shall be maintained.

#### 2.4 RESIGNATION AND REMOVAL FROM MEC

2.4.1 Resignation: Any elected officer of the Staff may resign at any time by giving written notice to the Medical Staff Executive Committee. Such resignation, which may or may not be made contingent on formal acceptance, takes effect on the date of receipt or at any later time specified in such notice.

2.4.2 Grounds for Removal: Grounds for removal of an elected Staff officer shall include:

- Failure to perform the duties of the position held in a timely and appropriate manner.
- Failure to continuously satisfy the qualifications for the position.
- Having a conflict of interest with the Hospital.
- Conduct or statements inimical or damaging to the best interests of the Medical Staff or the Hospital or to their goals, programs or public image.
- Physical or mental infirmity that renders the officer incapable of fulfilling the duties of his office.

2.4.3 Authority and Mechanism To Remove: Removal of an elected Staff officer may be affected either:

- by the Board of Trustees; or
- by petition signed by one-third (1/3) of the Active Staff members in good standing which is endorsed by a two-thirds (2/3) majority vote of those present by secret ballot of said members, such vote being taken at a special meeting called for that purpose, and if such vote is ratified by the Board.

2.4.4 When the Board is contemplating action to remove an officer, it will refer the matter to the Medical Staff Executive Committee. Within fifteen (15) working days of the referral the Medical Staff Executive Committee will submit its written report. Board action after receiving the report shall be final.

### SECTION 3. STAFF FUNCTIONS

The MEC has the responsibility of performing those functions specified in the Organization and Functions Manual.

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## **ARTICLE VI. MEDICAL STAFF MEETINGS**

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### **SECTION 1. ANNUAL MEDICAL STAFF MEETINGS**

- 1.1 The annual meeting of the medical staff and Quarterly Meetings of the Medical Staff shall be held at a time determined by the MEC. Notice of the meeting shall be given to all medical staff members via appropriate media and posted conspicuously.
- 1.2 Except as otherwise specified, the actions of a majority of the members present and voting at a meeting at which a quorum is present is the action of the group. Action may be taken without a meeting by the staff, a Service, or committee by presentation of the question to each member eligible to vote, in person, or by mail or Internet, and his/her vote recorded. Such vote shall be binding so long as the question that is voted on receives a majority of the votes cast. Action on Bylaw adoption and amendments and election of officers will be pursuant to written ballot distributed to all members of the active staff as defined in Article VII, Section 2 of these Bylaws.

### **SECTION 2. SPECIAL MEETINGS OF THE MEDICAL STAFF**

- 2.1 The President may call a special meeting of the medical staff at any time. Such request or resolution shall state the purpose of the meeting. The president of the medical staff shall designate the time and place of any special meeting.
- 2.2 Any active staff practitioner may request that a special meeting of the medical staff be called in accordance with the provisions set forth in Article I, Section 8.3.
- 2.3 Written or printed notice stating the time, place, and purposes of any special meeting of the medical staff shall be conspicuously posted and shall be sent to each member of the medical staff at least seven (7) days before the date of such meeting. No business shall be transacted at any special meeting, except that stated in the notice of such meeting.

### **SECTION 3. REGULAR MEETINGS OF COMMITTEES AND SERVICES**

Committees may, by resolution, provide the time for holding regular meetings without notice other than such resolution. Service and Service Chiefs shall hold meetings as needed to carry out Service business as specified in the Organization and Functions Manual.

### **SECTION 4. SPECIAL MEETINGS OF COMMITTEES AND SERVICES**

A special meeting of any committee or Service may be called by or at the request of the chairperson or director thereof or by the President.

### **SECTION 5. NOTICE OF MEETINGS**

Written notice stating the place, day, and hour of any special meeting or of any regular meeting not held pursuant to resolution shall be delivered or sent to each member of the Service or committee not less than three days before the time of such meeting by the

person or persons calling the meeting. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting.

## **SECTION 6. QUORUM**

### **6.1 Medical Staff Meeting: Those Present**

6.2 Medical Executive Committee: The MEC may act upon Medical Staff Bylaws recommendations only when a quorum of fifty percent (50%) of the members are present and voting. The MEC may act on requests for routine appointment, clinical privileges and reappointment only when a quorum of at least three (3) members is present and voting.

6.3 Credentials Committee and Quality Medical Management Committee/Patient Safety Committees: fifty percent (50%) of the voting members of the committee.

6.4 Committee/Service meetings: Those present.

## **SECTION 7: ATTENDANCE REQUIREMENTS**

7.1 Members of the medical staff are encouraged to attend meetings of the medical staff. Meeting attendance will not be used in evaluating members at the time of reappointment.

7.1.1 Medical Executive Committee, Credentials Committee, and Quality Medical Management Committee Meetings: members of the MEC, Credentials Committee, and Quality Medical Management Committee are expected to attend at least seventy-five (75%) of the meetings held.

7.1.2 Special meeting attendance requirements: Whenever suspected deviation from standard clinical or professional practice is identified, the President or the applicable Service Chief or Committee Chair may require the practitioner to confer with him/her or with a standing or ad hoc committee that is considering the matter. The practitioner will be given special notice of the conference at least five days prior to the conference, including the date, time, place, a statement of the issue involved, and that the practitioner's appearance is mandatory. Failure of the practitioner to appear at any such conference after two notices, unless excused by the MEC upon showing good cause, will result in an automatic termination of membership. Such termination will not give rise to a fair hearing, but will automatically be rescinded upon the practitioner's participation in the previously referenced conference.

7.1.3 Nothing in the foregoing paragraph shall preclude the initiation of precautionary restriction or suspension of clinical privileges as outlined in the Credentials Procedure Manual.

## **SECTION 8. PARTICIPATION BY CHIEF EXECUTIVE OFFICER**

The CEO or any representative assigned by the CEO may attend any Committee and Service Meetings of the medical staff.

## **SECTION 9. ROBERT'S RULES OF ORDER**

Medical staff and committee meetings shall be run in a manner determined by the individual who is the chair of the meeting. When parliamentary procedure is needed, as determined by the chair or evidenced by a majority vote of those attending the meeting, the latest edition of Robert's Rules of Order shall determine procedure.

## **SECTION 10. ACTION OF COMMITTEE/SERVICE**

The recommendation of a majority of its members present at a meeting at which a quorum is present shall be the action of a Service or committee. Such recommendation will then be forwarded to the MEC for final action.

## **SECTION 11. RIGHTS OF EX OFFICIO MEMBERS**

Except as otherwise provided in these Bylaws, persons serving as ex officio members of a committee shall have all rights and privileges of regular members thereof, except that they shall not vote or be counted in determining the existence of a quorum.

## **SECTION 12. MINUTES**

Minutes of each regular and special meeting of a Service or committee shall be prepared and shall include a record of the attendance of members and the vote taken on each matter. The presiding officer shall sign the minutes and copies thereof shall be submitted to the MEC or other designated committee. A permanent file of the minutes of each meeting shall be maintained.

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# **ARTICLE VII. HISTORY & PHYSICAL EXAMINATION**

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## **SECTION 1. COMPLETION OF HISTORY AND PHYSICAL EXAMINATIONS**

A medical history and physical examination must be completed no more than thirty (30) days before and twenty-four (24) hours after admission or registration, but prior to surgery or a procedure requiring anesthesia services. The medical history and physical examination must be completed and documented by a physician, an oral and maxillofacial surgeon, or other qualified licensed individual in accordance with State law and hospital policy.

An updated examination of the patient, including any changes in the patient's condition, must be completed and documented within twenty-four (24) hours after admission or registration, but prior to surgery or a procedure requiring anesthesia services, when the medical history and physical examination are completed thirty (30) days before admission or registration. The updated examination of the patient, including any changes in the patient's condition, must be completed and documented by a physician, an oral and maxillofacial surgeon, or other qualified licensed individual in accordance with State law and hospital policy.

The content of the completed and focused history and physical examination is delineated in the rules and regulations\*\*

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**ARTICLE VIII. INVESTIGATION, CORRECTIVE ACTION, HEARING & APPEAL PLAN**

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SECTION 1: INITIATION AND NOTICE OF HEARING

1.1 Initiation of Hearing: A physician is entitled to request a hearing triggered only by the following actions:

- 1.1.1 Denial of medical staff appointment or reappointment;
- 1.1.2 Revocation of medical staff appointment;
- 1.1.3 Denial or restriction of requested clinical privileges;
- 1.1.4 Reduction in clinical privileges;
- 1.1.5 Involuntary reduction/revocation of clinical privileges;
- 1.1.6 Application of a mandatory concurring consultation requirement, or an increase in the stringency of a pre-existing mandatory concurring consultation requirement, when such requirement only applies to an individual medical staff member and;
- 1.1.7 Suspension of staff appointment or clinical privileges, and is not caused by the member's failure to complete medical records.

1.2 Hearings are not triggered by the following actions:

- 1.2.1 Issuance of a letter of guidance, warning, or reprimand;
- 1.2.2 Imposition of conditions, monitoring, or general consultation requirement (i.e., the individual must obtain a consult but need not get prior approval for the treatment);
- 1.2.3 Deferral of a request for privileges not central or directly related to the applicant's prior training and practice;
- 1.2.4 Termination of temporary privileges;
- 1.2.5 Automatic relinquishment of appointment or privileges;
- 1.2.6 Precautionary suspension;
- 1.2.7 Denial of a request for leave of absence, or for an extension of a leave;
- 1.2.8 Determination that an application is incomplete; or

- 1.2.9 Determination that an application will not be processed due to a misstatement or omission.
- 1.3 Notice of Recommendation: When a recommendation is made which, according to this plan entitles an individual to request a hearing prior to a final decision of the Board of Trustees, the affected individual shall promptly be given notice by the CEO, in writing, certified mail, return receipt requested. This notice shall contain:
- 1.3.1 A statement of the recommendation made and the general reasons for it;
  - 1.3.2 Notice that the individual has the right to request a hearing on the recommendation within thirty (30) days of receipt of this notice; and
  - 1.3.3 A copy of Section 3.5 of this manual outlining the rights in the hearing.
- 1.4 Request for Hearing: Such individual shall have thirty (30) days following the date of the receipt of such notice within which to request the hearing. The request shall be made in writing to the CEO. In the event the affected individual does not request a hearing within the time and in the manner required by this policy, the individual shall be deemed to have waived the right to such hearing and to have accepted the recommendation made, and such recommended action shall thereupon become effective immediately upon final Board of Trustees action.
- 1.5 Notice of Hearing and Statement of Reasons: The CEO shall schedule the hearing and shall give written notice, certified mail return receipt requested, to the person who requested the hearing. The notice shall include:
- 1.5.1 The time, place and date of the hearing;
  - 1.5.2 A proposed list of witnesses (as known at that time, but which may be modified) who will give testimony or evidence in support of the MEC, (or the Board of Trustees), at the hearing;
  - 1.5.3 The names of the hearing panel members and presiding officer or hearing officer, if known; and
  - 1.5.4 A statement of the specific reasons for the recommendation as well as the list of patient records and/or information supporting the recommendation. This statement, and the list of supporting patient record numbers and other information, may be amended or added to at any time, even during the hearing so long as the additional material is relevant to the continued appointment or clinical privileges of the individual requesting the hearing, and that individual and the individual's counsel have sufficient time to study this additional information and rebut it.

The hearing shall begin as soon as practicable, but no sooner than thirty (30) days after the notice of the hearing unless an earlier hearing date has been specifically agreed to in writing by the parties.

- 1.6 Witness List: At least fifteen (15) days before the hearing, the individual requesting the hearing shall provide a written list of the names and addresses of the individuals expected to offer testimony or evidence on the affected individual's behalf. The list of witnesses who will testify in support of the MEC recommendation (or the Board of Trustees action) will include a brief summary of the nature of the anticipated testimony. The witness list of either party may, in the discretion of the presiding officer, be supplemented or amended at any time during the course of the hearing, provided that notice of the change is given to the other party. The presiding officer shall have the authority to limit the number of witnesses.

## SECTION 2: HEARING PANEL AND PRESIDING OFFICER OR HEARING OFFICER

### 2.1 Hearing Panel:

- 2.1.1 When a hearing is requested, the CEO, acting for the Board of Trustees and after considering the recommendations of the President of the Medical Staff (and that of the chairperson of the Board of Trustees, if the hearing is occasioned by a Board of Trustees determination) shall appoint a hearing panel that shall be composed of not less than three (3) members. No individual appointed to the hearing panel shall have actively participated in the consideration of the matter involved at any previous level or be a physician or layperson not connected with the hospital. Knowledge of the matter involved shall not preclude any individual from serving as a member of the hearing panel.
- 2.1.2 Any objection to any member of the hearing panel or to the hearing officer or presiding officer shall be made in writing within ten (10) days of receipt of notice to the CEO who shall resolve the objection.
- 2.1.3 The hearing panel shall not include any individual who is in direct economic competition with the affected person or any such individual who is professionally associated with or related to the affected individual. Such appointment shall include designation of the chairperson or the presiding officer.

### 2.2 Presiding Officer:

- 2.2.1 In lieu of a hearing panel chairperson, the CEO may appoint an attorney at law as presiding officer. Such presiding officer will not act as a prosecuting officer, or as an advocate for either side at the hearing. The presiding officer may participate in the private deliberations of the hearing panel and be a legal advisor to it, but shall not be entitled to vote on its recommendations.
- 2.2.2 If no presiding officer has been appointed, a chairperson of the hearing panel shall be appointed by the CEO, to serve as the presiding officer, and shall be entitled to one (1) vote.

2.2.3 The Presiding Officer (or Hearing Panel Chairperson) shall:

- 2.2.3.1 Act to insure 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;
- 2.2.3.2 Prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant, abusive or that causes undue delay;
- 2.2.3.3 Maintain decorum throughout the hearing;
- 2.2.3.4 Determine the order of procedure throughout the hearing;
- 2.2.3.5 Have the authority and discretion, in accordance with this policy, to make rulings on all questions which pertain to matters of procedure and to the admissibility of evidence;
- 2.2.3.6 Act in such a way that all information reasonably relevant to the continued appointment or clinical privileges of the individual requesting the hearing is considered by the hearing panel in formulating its recommendations; and
- 2.2.3.7 Conduct argument by counsel on procedural points outside the presence of the hearing panel unless the panel wishes to be present.
- 2.2.3.8 Legal counsel to the hospital may advise the presiding officer.

2.3. Hearing Officer:

- 2.3.1 As an alternative to the hearing panel described in Section 2.1 of this manual, the CEO, after consulting with the President of the Medical Staff (and chairperson of the Board of Trustees if the hearing was occasioned by a Board of Trustees determination) may instead appoint a hearing officer **and may instead appoint a hearing officer acceptable to the individual requesting the hearing to perform the functions that would otherwise be carried out by the hearing panel** to perform the functions that would otherwise be carried out by the hearing panel. The hearing officer may be an attorney.
- 2.3.2 The hearing officer may not be any individual who is in direct economic competition with the individual requesting the hearing, and shall not act as a prosecuting officer or as an advocate to either side at the hearing. In the event a hearing officer is appointed instead of a hearing panel, all references in this Article to the “hearing panel” or “presiding officer” shall



be deemed to refer instead to the hearing officer, unless the context would clearly otherwise require.

### SECTION 3: PRE-HEARING AND HEARING PROCEDURE

#### 3.1 Provision of Relevant Information:

- 3.1.1 There is no right to formal “discovery” in connection with the hearing. However, the individual requesting the hearing shall be entitled, upon specific request, to the following, subject to a stipulation signed by both parties that such documents shall be maintained as confidential consistent with all applicable state and federal peer review and privacy statutes and shall not be disclosed or used for any purpose outside of the hearing:
  - 3.1.1.1 Copies of, or reasonable access to, all patient medical records referred to in the Statement of Reasons, at his or her expense;
  - 3.1.1.2 Reports of experts relied upon by the MEC;
  - 3.1.1.3 Copies of redacted relevant committee or department minutes; and
  - 3.1.1.4 Copies of any other documents relied upon by the MEC or the Board of Trustees.
- 3.1.2 Prior to the hearing, on dates set by the presiding officer or the chairperson, each party shall provide the other party and the hearing panel, and presiding officer with all proposed exhibits. All objections to documents or witnesses to the extent then reasonably known shall be submitted in writing in advance of the hearing to the chairperson or presiding officer. The presiding officer or chairperson shall not entertain subsequent objections unless the party offering the objection demonstrates good cause.
- 3.1.3 Prior to the hearing, on dates set by the presiding officer or chairperson, the individual requesting the hearing shall, upon specific request, provide the Credentials Committee or MEC (or the Board of Trustees) and the presiding officer or chairperson copies of any expert reports or other documents upon which the individual will rely at the hearing.
- 3.1.4 There shall be no contact by the physician with hospital employees appearing on the hospital’s witness list concerning the subject matter of the hearing. Also, there shall be no contact by the hospital with individuals appearing on the physician’s witness list who are not employees of the hospital concerning the subject matter of the hearing, unless specifically agreed upon by counsel.
- 3.1.5 No information regarding other practitioners shall be requested, provided or considered.

3.1.6 Evidence unrelated to the reasons for the recommendation or to the individual's qualifications for appointment or the relevant clinical privileges shall be excluded.

3.2 Pre-Hearing Conference: The presiding officer or chairperson shall require a representative for the individual and for the hospital's MEC (or the Board of Trustees) to participate in a pre-hearing conference. At the pre-hearing conference, the presiding officer or chairperson shall resolve all procedural questions, including any objections to exhibits or witnesses, and determine the time to be allotted to each witness's testimony and cross-examination.

3.3 Failure to Appear: Failure, without good cause, of the individual requesting the hearing to appear and proceed at such a hearing shall be deemed to constitute voluntary acceptance of the recommendations or actions pending, which shall then be forwarded to the Board of Trustees for final action.

3.4 Record of Hearing: The hearing panel shall maintain a record of the hearing by a reporter present to make a record of the hearing or a recording of the proceedings. The cost of such reporter shall be borne by the hospital, but copies of the transcript shall be provided to the individual requesting the hearing at that individual's expense. The hearing panel may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated by such body and entitled to notarize documents in the State of West Virginia.

3.5 Rights of Both Sides:

3.5.1. At a hearing both sides shall have the following rights, subject to reasonable limits determined by the presiding officer or chairperson:

3.5.1.1 To call and examine witnesses to the extent available;

3.5.1.2 To introduce exhibits;

3.5.1.3 To cross-examine any witness on any matter relevant to the issues and to rebut any evidence;

3.5.1.4 Representations by counsel who may call, examine, and cross examine witnesses and present the case. Both sides shall notify the other of the name of that counsel at least ten (10) days prior to the date of the hearing; and

3.5.1.5 To submit a written statement at the close of the hearing.

3.5.2 Any individuals requesting a hearing who do not testify in their own behalf may be called and examined as if under cross-examination by the opposite side.

- 3.5.3 The hearing panel or presiding officer may question the witnesses; call additional witnesses or request additional documentary evidence.
- 3.6 Admissibility of Evidence: The hearing shall not be conducted according to rules of evidence. Hearsay evidence shall not be excluded merely because it may constitute hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law
- 3.7 Post-Hearing Memoranda: Each party shall have the right to submit a post-hearing memorandum, and the hearing panel may request such a memorandum to be filed, following the close of the hearing.
- 3.8 Official Notice: The presiding officer or chairperson shall have the discretion to take official notice of any matters, either technical or scientific, relating to the issues under consideration. Participants in the hearing shall be informed of the matters to be officially noticed and such matters shall be noted in the record of the hearing. Either party shall have the opportunity to request that a matter be officially noticed or to refute the noticed matter by evidence or by written or oral presentation of authority. Reasonable additional time shall be granted, if requested by either party, to present written rebuttal of any evidence admitted on official notice.
- 3.9 Postponements and Extensions: Postponements and extensions of time beyond any time limit set forth in this policy may be requested by anyone but shall be permitted only by the presiding officer, chairperson or the CEO on a showing of good cause.
- 3.10 Persons to be Present: The hearing shall be restricted to those individuals involved in the proceeding. Administrative personnel may be present as requested by the CEO or the president of the medical staff.
- 3.11 Order of Presentation: The Board of Trustees or the MEC, depending on whose recommendation prompted the hearing initially, shall first present evidence in support of its recommendation. Thereafter, the burden shall shift to the individual who requested the hearing to present evidence.
- 3.12 Basis of Recommendation: Consistent with the burden on the individual to demonstrate that he or she satisfies, on a continuing basis, all criteria for initial appointment, reappointment, and clinical privileges, the hearing panel shall recommend in favor of the MEC unless it finds that the individual who requested the hearing has proved, by clear and convincing evidence, that the recommendation that prompted the hearing was arbitrary, capricious, or not supported by credible evidence.
- 3.13 Adjournment and Conclusion: The presiding officer may adjourn the hearing and reconvene the same at the convenience and with the agreement of the participants. Upon conclusion of the presentation of evidence by the parties and questions by the hearing panel, the hearing shall be closed.

- 3.14 Deliberations and Recommendation of the Hearing Panel: Within twenty (20) days after final adjournment of the hearing, the hearing panel shall conduct its deliberations outside the presence of any other person (except the presiding officer, if one is appointed) and shall render a recommendation, accompanied by a report, which shall contain a concise statement of the reasons for the recommendation.
- 3.15 Disposition of Hearing Panel Report: The hearing panel shall deliver its report and recommendation to the CEO who shall forward it, along with all supporting documentation, to the Board of Trustees for further action. The CEO shall also send a copy of the report and recommendation, certified mail, return receipt requested, to the individual who requested the hearing, and to the MEC for information and comment. In the absence of an appeal, the final decision of the Board will be communicated as identified in 4.2.

#### SECTION 4: APPEAL TO THE BOARD OF TRUSTEES

- 4.1 Time for Appeal: Within ten (10) days after notice of the hearing panel's recommendation, either the member or the MEC may appeal the recommendation. The request for appellate review shall be in writing, and shall be delivered to the CEO either in person or by certified mail, and shall include a brief statement of the reasons for appeal and the specific facts or circumstances which justify further review. If such appellate review is not requested within ten (10) days as provided herein, both parties shall be deemed to have accepted the recommendation involved, and the hearing panel's report and recommendation shall be forwarded to the Board of Trustees for final action.

- 4.2 Grounds for Appeal: The grounds for appeal shall be limited to the following:

- 4.2.1 There was substantial failure to comply with Fair Hearing Panel and/or the hospital Medical Staff Bylaws prior to the hearing so as to deny a fair hearing;
- 4.2.2 The recommendation of the hearing panel was made arbitrarily, capriciously or with prejudice; or
- 4.2.3 The recommendation of the hearing panel was not supported by substantial evidence based upon the hearing record.
- 4.3 Time, Place and Notice: Whenever an appeal is requested as set forth in the preceding sections, the chairperson of the Board of Trustees shall schedule and arrange for an appellate review as soon as arrangements can be reasonably made, taking into account the schedules of all individuals involved. The affected individual shall be given notice of the time, place and date of the appellate review. The chairperson of the Board of Trustees for good cause may extend the time for appellate review.

- 4.4 Nature of Appellate Review:

- 4.4.1 Such review may be conducted, at the discretion of the Chairperson of the Board of Trustees, by the Board as a whole at a scheduled meeting, or by a committee thereof appointed by the Chairperson to report to the full Board at a subsequent meeting.
- 4.4.2 Absent a compelling reason, additional evidence will not be received by the hearing panel or Board, which shall make an independent judgment based upon the facts contained in the record of the hearing.
- 4.4.3 Each party shall have the right to present a written statement in support of its position on appeal. In its sole discretion, the review panel may allow each party or its representative to appear personally and make a time-limited, thirty- minute oral argument. The review panel shall recommend final action to the Board of Trustees.
- 4.4.4 The Board of Trustees may affirm, modify or reverse the recommendation of the review panel or, in its discretion, refer the matter for further review and recommendation, or make its own decision based upon the Board of Trustees's ultimate legal responsibility to grant appointment and clinical privileges.
- 4.5 Final Decision of the Board: Within thirty (30) days after receipt of the review panel's recommendation, the Board of Trustees shall render a final decision in writing, including specific reasons for its action, and shall deliver copies thereof to the affected individual and to the chairpersons of the Credentials Committee and MEC, in person or by certified mail, return receipt requested.
- 4.6 Further Review: Except where the matter is referred for further action and recommendation, the final decision of the Board of Trustees following the appeal shall be effective immediately and shall not be subject to further review. Provided, however, if the matter is referred for further action and recommendation, such recommendation shall be promptly made to the Board of Trustees in accordance with the instructions given by the Board of Trustees. This further review process and the report back to the Board of Trustees shall in no event exceed thirty (30) days in duration except as the parties may otherwise stipulate.
- 4.7 Right to One Appeal Only: No applicant or medical staff appointee shall be entitled as a matter of right to more than one (1) hearing or appellate review on any single matter which may be the subject of an appeal. In the event that the Board of Trustees ultimately determines to deny initial medical staff appointment or reappointment to an applicant, or to revoke or terminate the medical staff appointment and/or clinical privileges of a current appointee, that individual may not apply within one (1) year for medical staff appointment or for those clinical privileges at this hospital unless the Board of Trustees provides otherwise.

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## ARTICLE IX. CONFLICT RESOLUTION

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### SECTION 1: PROCESS TO MANAGE CONFLICT RESOLUTION BETWEEN THE ORGANIZED MEDICAL STAFF AND THE MEDICAL EXECUTIVE COMMITTEE

Any conflict between the OMS and the MEC will be resolved using the mechanisms noted below:

Each staff member in the active category may challenge any rule or policy established by the MEC through the following process:

1. Submission of written notification to the Chief of Staff of the challenge and the basis for the challenge, including any recommended changes to the rule or policy.
2. At the meeting of the MEC that follows such notification, the MEC shall discuss the challenge and determine if any changes will be made to the rule or policy.
3. If changes are adopted, they will be communicated to the medical staff, at such time each medical staff member in the active category may submit written notification of any further challenge(s) to the rule or policy to the Chief of Staff.
4. In response to a written challenge to a rule or policy, the MEC may, but is not required to, appoint a task force to review the challenge and recommend potential changes to address concerns raised by the challenge.
5. If a task force is appointed, following the recommendations of such task force, the MEC will take final action on the rule or policy.
6. Once the MEC has taken final action in response to the challenge, with or without recommendations from a task force, any medical staff member may submit a petition signed by twenty percent (20%) of the members of the active category requesting review and possible change of a rule, regulation, policy or procedure. Upon presentation of such a petition, the adoption procedure outlined in Section 2.1 will be followed.

If the medical staff votes to recommend directly to the Board an amendment to the bylaws or rules or regulations or a policy that is different from what has been recommended by the MEC, the following conflict resolution process shall be followed:

1. The MEC shall have the option of appointing a task force to review the differing recommendations of the MEC and the medical staff, and recommend language to the bylaws, rules and regulations, or policy that is agreeable to both the medical staff and the MEC.
2. Whether or not the MEC adopts modified language, the medical staff shall still have the opportunity to recommend directly to the Board alternative language. If the board receives differing recommendations for bylaws, rules and regulations, or a policy from the MEC and the medical staff, the board shall also have the option of appointing a task force of the Board to study the basis of the differing recommendations and to recommend appropriate Board action. Whether or not the Board appoints such a task force, the Board shall

have final authority to resolve the differences between the medical staff and the MEC.

At any point in the process of addressing a disagreement between the medical staff and MEC regarding the bylaws, rules and regulations, or policies, the OMS, MEC or governing board shall each have the right to recommend utilization of an outside resource to assist in addressing the disagreement. The final decision regarding whether or not to utilize an outside resource, and the process that will be followed in so doing, is the responsibility of the board.

Each staff member in the active category has the right to initiate a recall election of a medical staff officer by following the procedure outlined in Article 3 of these bylaws, regarding removal and resignation from office.

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## **ARTICLE X: REVIEW, REVISION, ADOPTION, AND AMENDMENT OF BYLAWS**

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### **SECTION 1. MEDICAL STAFF RESPONSIBILITY**

The medical staff shall have the responsibility to formulate, review annually and recommend to the Board of Trustees, Medical Staff Bylaws, procedures, plans, policies, and amendments thereto as contained in this manual, which shall be effective when approved by the Board of Trustees. Such responsibility shall be exercised in good faith and in a reasonable, responsible and timely manner. This applies as well to the review, adoption, and amendment of the related rules, policies, and protocols developed to implement the various sections of Bylaws contained in Part I of this manual. Neither the Board of Trustees nor the medical staff may unilaterally change the contents of any part of this manual, unless it is a situation of compliance with law or regulation. Subject to the authority and approval of the Board, the medical staff will exercise such power as is reasonably necessary to discharge its responsibilities under these bylaws, and associated rules and regulations and policies, and under the corporate by laws of the Hospital in compliance with law and regulation.

### **SECTION 2. REVIEW, REVISION, ADOPTION, AND AMENDMENT OF MEDICAL STAFF BYLAW**

#### **2.1 Methods of Adoption and Amendment to these bylaws**

- 2.1.1 Proposed amendments to these bylaws may be originated by the MEC or by a petition signed by twenty percent (20 %) of the members of the active category. When proposed by the MEC, there will be communication of the proposed amendment(s) to the organized medical staff before a vote is taken by the MEC. When proposed by the organized medical staff, there will be communication of the proposed amendment to the MEC before a vote is taken by the organized medical staff.

Each active member of the medical staff will be eligible to vote on the proposed amendment to these bylaws via printed or secure electronic ballot in a manner determined by the MEC. All active members of the

medical staff shall receive at least thirty (30) days advance notice of the proposed changes. To be adopted, such changes must receive an affirmative vote by a simple majority of those members eligible to vote. An affirmative vote will be counted by returning the ballot marked “yes” or by not returning the ballot.

Amendments so adopted shall be effective when approved by the Board.

- 2.2 Methods of Adoption and Amendment to any medical staff rules, regulations and policies.
- 2.2.1 The medical staff may adopt additional rules, regulations and policies as necessary to carry out its functions and meet its responsibilities under these bylaws. A Rules and Regulations and Policies Manual may be utilized to organize these additional documents.
- 2.2.2 Proposed amendments to the rules, regulations and policy manual may be originated by the MEC. When proposed by the MEC, there will be communication of the proposed amendment to the organized medical staff before a vote is taken by MEC.
- 2.2.3 The MEC shall vote on the proposed language changes at a regular meeting, or at a special meeting called for such purpose. Following an affirmative vote by the MEC, any of these documents may be adopted, amended or repealed, in whole or in part and such changes shall be effective when approved by the Board.
- 2.2.4 The medical staff itself may recommend directly to the Board an amendment(s) to any rule, regulation, or policy by submitting a petition signed by twenty percent (20%) of the members of the active category. When proposed by the organized medical staff, there will be communication of the proposed amendment to the MEC. Upon presentation of such petition, the adoption process outlined in 2.1.1 above will be followed.
- 2.2.5 When the MEC adopts a policy or amendment thereto, there will be communication of the policy or amendment to the organized medical staff.
- 2.2.6 In cases of a documented need for an urgent amendment to rules and regulations necessary to comply with law or regulation, the MEC and Board may adopt such provisional amendments to these rules and regulations that are in the MEC’s and Board’s judgments necessary for legal and regulatory compliance. After adoption, these provisional amendments to the rules and regulations will be communicated to the organized medical staff for their review.
- If the organized medical staff approves of the provision amendment, the amendment will stand.



- If the organized medical staff does not approve of the provisional amendment, this will be resolved using the conflict resolution mechanism. If a substitute amendment is then proposed, it will follow the usual approval process.

2.3 The MEC may adopt such amendments to these bylaws, rules, regulations, and policies that are, in the committee's judgment, technical or legal modifications or clarifications, reorganization or renumbering or those needed due to punctuation, spelling, or other errors of grammar or expression. Such amendments need not be approved by the entire Board but must be approved by the CEO.

### SECTION 3. ADOPTION AND APPROVAL

Adopted by:

\_\_\_\_\_  
President, Medical Staff

\_\_\_\_\_  
Date:

\_\_\_\_\_  
CEO/Administrator, Hospital

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Chairman, Board of Trustees

\_\_\_\_\_  
Date: