

**APPENDIX A**  
**TO THE BYLAWS OF THE MEDICAL STAFF**  
**OF**  
**MINISTRY SAINT MICHAEL'S HOSPITAL**  
**STEVENS POINT, WISCONSIN**  
**CORRECTIVE ACTION PROCEDURES AND**  
**FAIR HEARING PLAN**  
**ADDENDUM**  
**FOR PRACTITIONERS**  
**IN IMPLEMENTATION OF**  
**MINISTRY SAINT MICHAEL'S HOSPITAL CORPORATE**  
**BYLAWS SECTION NINE AND**  
**MEDICAL STAFF BYLAWS SECTION EIGHT**

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All activities under this Plan are a major component in the Hospital's program organized and operated to help improve the quality of health care in the Hospital and such activities will be conducted in a manner consistent with the provisions of Sections 146.37 and 146.38 of the Wisconsin Statutes. The peer review protection of these statutes, including the protection of the confidentiality of records and proceedings are intended to apply to all activities relating to improving the quality of health care and include activities of the individuals participating and carrying out the duties and responsibilities described herein, including but not limited to Medical Staff members, Hospital administration and the Governing Body.

The bodies conducting these activities are "professional review bodies" as defined in HCQIA.

## **ARTICLE I - CORRECTIVE ACTION PROCEDURES**

### **1.1 Procedure**

- (a) Whenever the activities or professional conduct of any Medical Staff member is considered to be lower than the standards or aims of the Medical Staff or to be disruptive to the operations of the Hospital, or where a member's current physical, mental or emotional condition may pose a threat to patient care, corrective action against such Medical Staff member may be requested by any officer of the Medical Staff, by the Chair of any department, by the chair of the Credentials Committee or the Practitioner's Advisory Committee, by the Designated Administrative Officer, or by the Governing Body. Except when a suspension is imposed pursuant to Article 1.2, 1.3, or 1.4 a request for corrective action must first be made in writing, to the President of the Medical Staff, and shall be supported by reference to the specific activities or conduct which constitutes the grounds for the request. Requests for action against the President of the Medical Staff should be made in writing, to the Designated Administrative Officer. Bases for corrective action may include, but not be limited to:
- (1) Conduct involving moral turpitude.
  - (2) Criminal charges or conviction of a crime according to state law.
  - (3) Unethical practice.
  - (4) Incompetence and/or substandard quality of care.
  - (5) Failure to keep adequate records.
  - (6) Revocation, suspension or limitation of Practitioner's license by the appropriate licensing board or voluntarily by the Practitioner.
  - (7) Loss or limitation of Practitioner's narcotics (DEA) license.

- (8) Exercising privileges while Practitioner's professional ability is impaired, whether through illness, accident, addiction, or from any other source.
  - (9) Significant misstatement in or omission from any application for membership or privileges or any misrepresentation in presenting the Practitioner's credentials.
  - (10) Violation of the Bylaws, Rules and Regulations, policies or procedures of the Medical Staff or the Hospital, the applicable Code of Ethics, federal or State of Wisconsin laws or rules, or the Ethical and Religious Directives for Catholic Health Care Services as promulgated by the National Conference of Catholic Bishops, and the Hospital's mission statement.
  - (11) Harassment, mistreatment or otherwise degrading any patient, volunteer, visitor, or employee of the Hospital, member of the Medical Staff, Allied Health Professionals, or member of the Governing Body.
  - (12) Commission of an offense that would bar the Practitioner from providing services in the Hospital under Chapter DHS 12 of the Wisconsin Administrative Code if verified by a governmental unit.
- (b) The Medical Staff will strive to use progressive steps, beginning with collegial and education efforts, to address issues relating to a member's clinical practice and/or professional conduct. The goal of these progressive steps is to help the member voluntarily respond and resolve questions that have been raised.

Collegial intervention efforts are encouraged, but are not mandatory, and shall be within the discretion of the President of the Medical Staff or the Designated Administrative Officer, as the case may be. Collegial intervention efforts may include but are not limited to the following:

- (1) Educating and advising members of applicable bylaws, policies, procedures, rules and/or regulations including those related to appropriate behavior;
- (2) Following up on any questions or concerns raised about the clinical practice and/or conduct and recommending voluntary participation with efforts such as proctoring, monitoring, consultation, or letters of guidance; and
- (3) Sharing summary comparative quality, utilization, and other relevant information to assist members to conform their practices to appropriate norms.

Following collegial intervention efforts, if it appears that the member's performance does not improve, or in cases where it appears that collegial intervention is inappropriate, the President of the Medical Staff/Designated Administrative Officer will request that the Executive Committee commence investigation as set forth below.

- (c) The date on which the Executive Committee receives the request from the President of the Medical Staff/Designated Administrative Officer, shall be considered the investigation commencement date.
- (d) Except when a suspension under Article 1.2, 1.3, or 1.4 has already occurred, the Executive Committee or the President of the Medical Staff, if time or circumstances permit, shall forward a request for investigation to the Chair of the department(s) in which the Medical Staff member has such privileges. Upon receipt of the request, the Chair of the department(s) involved will appoint a committee from within the department(s) to investigate the matter. The matter need not be referred to the clinical department(s) if the Executive Committee or the President of the Medical Staff determines that time or other circumstances require a prompt or alternate review. While review of requests for corrective action shall principally be conducted within departments, the Executive Committee may conduct the investigation or appoint a special committee to investigate and supply a recommendation to the Executive Committee.
- (e) When a suspension under Article 1.2, 1.3, or 1.4 has already occurred, the President of the Medical Staff or Executive Committee may conduct an investigation or appoint a Special Committee to do so and provide a recommendation regarding corrective action to the Executive Committee. No written request for corrective action is required to initiate an investigation in these circumstances.
- (f) The investigation body will conduct a thorough and timely investigation and may utilize the resources of an external consultant if it deems a consultant is necessary and such action is approved by the Designated Administrative Officer and President of the Medical Staff.

An external consultant may be considered when:

- (1) Litigation seems likely;
- (2) The Hospital is faced with ambiguous or conflicting recommendations from Medical Staff or Hospital leaders, or where there does not appear to be a strong consensus for a particular recommendation; or
- (3) There is no one on the Medical Staff with expertise in the subject under review, or when the only physicians on the Medical Staff with

appropriate expertise are direct competitors, partners, or associates of the physician under review.

The member under review cannot compel the Medical Staff to engage external consultation.

- (g) Within thirty (30) days after the investigating body's receipt of the request for corrective action, the investigating body shall make a report of its investigation to the Executive Committee. Prior to making this report, the Medical Staff member against whom corrective action has been requested shall have an opportunity, at the Medical Staff member's written request, for an interview with the investigating body. At the interview, the Practitioner shall be informed of the general nature of the concern, and shall be invited to discuss, explain or refute it. This interview shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in the Bylaws or this Plan with respect to hearings shall apply. The investigating body shall make a record of this interview.
- (h) The investigation, if performed by any body other than the Executive Committee, shall not be considered concluded until a report of the investigation is received by the Executive Committee.
- (i) Within thirty (30) days following the receipt of the report from the investigating body, the Executive Committee shall make a preliminary determination of the action, if any, to be taken. If the corrective action could involve a reduction or suspension of clinical privileges or a suspension or expulsion from the Medical Staff, the affected Medical Staff member shall be permitted, at the Medical Staff member's written request, to make an appearance before the Executive Committee prior to its taking action if the Practitioner did not already participate in an interview with the investigating body. This appearance shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in the Bylaws or this Plan with respect to hearings shall apply. The Executive Committee shall make a record of this appearance.
- (j) The action of the Executive Committee on a request for corrective action may include to reject, modify or dismiss the request for corrective action; to issue a warning, a letter of admonition, or a letter of reprimand; to require a physical or mental examination and report by a physician or psychologist chosen by or acceptable to the Executive Committee and compliance with any recommendations issued as a result of such examination; to impose terms of probation or a requirement for consultation; to recommend reduction, suspension or revocation of clinical privileges; to recommend that an already imposed suspension of clinical privileges be terminated, modified or sustained; to recommend that the Practitioner's Medical Staff membership be suspended or revoked; to

issue a fine; to require additional or remedial education; or to take other appropriate action, including but not limited to any combination of the above. Subject to Article 1.1(n) below, the Executive Committee shall notify the affected Practitioner, in writing, of the action taken by the Executive Committee as soon as practicable following the determination. When such notice involves a professional review action, the notice will meet the requirements of Article 2.3 below.

- (k) Except as otherwise provided in this Plan, any recommendation by the Executive Committee for reduction, suspension or revocation of clinical privileges, or for suspension or revocation of Medical Staff membership, shall entitle the affected Medical Staff member to the procedural rights provided in the Bylaws and this Plan. A requirement of consultation, monitoring or similar action shall not be a professional review action generating a right of hearing or appeal hereunder unless it also includes an actual limitation or reduction of the Practitioner's clinical privileges.
- (l) Neither the issuance of a warning, a letter of admonition, nor a letter of reprimand, nor the denial, termination or reduction of temporary privileges, nor any other actions except those specified in this Plan as a professional review action shall be a professional review action which would give rise to any right to a hearing or an appellate review hereunder.
- (m) The President of the Medical Staff shall promptly notify the Designated Administrative Officer in writing of all requests for corrective action and shall continue to keep the Designated Administrative Officer fully informed of all action taken in connection therewith.
- (n) When the Executive Committee rejects a request for corrective action it must report the rejection to the Designated Administrative Officer. The Designated Administrative Officer may accept this determination and notify the Practitioner or appoint another investigating committee to investigate the activities or conduct and submit a written report of the investigation to the Designated Administrative Officer. This report shall then be submitted by the Designated Administrative Officer to the Executive Committee for action in accordance with Article 1.1(j) above. If the Executive Committee, after review of this report of investigation, again determines not to take any corrective action, the Designated Administrative Officer shall report this determination to the Governing Body. The Governing Body, in its discretion, may appoint a committee to conduct an investigation of the conduct that served as the basis for the request for corrective action or may accept the report of the investigation conducted at the direction of the Designated Administrative Officer. After receipt of the report of the investigation, either from the Designated Administrative Officer or the committee appointed by the Governing Body, the Governing Body may impose any corrective action it deems

appropriate, including any action set forth in Article 1.1(j) above and will notify the Practitioner of such consistent with these Bylaws and the Plan.

- (o) Documentation created and obtained during collegial intervention, review, investigation or evaluation of Practitioners is confidential and shall not be disclosed or released except as permitted by law and Hospital policy.

## **1.2 Summary Suspension of Privileges**

- (a) Whenever there are reasonable grounds to believe the conduct or activity of a Practitioner poses a threat to the life, health or safety of any patient, employee or other person at the Hospital and that failure to take prompt action may result in imminent danger to the life, health or safety of any such person, the Executive Committee, the President of the Medical Staff, the Medical Staff officers, the Chair of any department, the Designated Administrative Officer, the Executive Committee of the Governing Body or the Governing Body shall each have the authority, whenever this action must be taken in the best interest 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. If the suspension is for a period of more than fourteen (14) calendar days, the Medical Staff member shall be entitled to the hearing and appellate review described in this Plan.
- (b) Except for suspensions of fourteen (14) days or less imposed by the Executive Committee of the Governing Body or the Governing Body, the Executive Committee shall, upon the affected member's written request, afford the Medical Staff member an opportunity to meet with it in special session to informally discuss the suspension. The Executive Committee shall be authorized to lift, maintain or modify the suspension of fourteen (14) days or less. This meeting shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in the Bylaws or this Plan with respect to hearing shall apply. The committee shall make a record of the meeting.
- (c) For suspensions of fourteen (14) calendar days or less imposed by the Governing Body or its Executive Committee, the Executive Committee of the Governing Body shall, upon the affected member's written request, afford the Medical Staff member an opportunity to meet with it in special session to informally discuss the suspension. The Governing Body Executive Committee shall be authorized to lift, maintain or modify the suspension of fourteen (14) days or less. This meeting shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in the Bylaws or this Plan with respect to hearing shall apply. The committee shall make a record of the meeting.

- (d) Except for suspensions by the Executive Committee, of the Governing Body or the Governing Body, a Medical Staff member whose clinical privileges have been suspended pursuant to this section for more than fourteen (14) days shall be entitled to request a hearing under Article IV of this Plan on the matter of the suspension or he may request that the Executive Committee hold an expedited hearing on the matter of the suspension. Expedited hearings under this section shall be held within such reasonable time period thereafter as the Executive Committee may be convened in accordance with the Bylaws, not to exceed ten (10) days after receipt by the Designated Administrative Officer of a written request for this expedited review unless the Practitioner authorizes a longer period in the request. Such expedited hearing shall be held in accordance with the procedures set forth in this Plan, except for the shortening of the times for action and except for the rules on the composition of the hearing committee. Alternatively, the Practitioner may require that the expedited hearing be held by a committee composed pursuant to Article 3.4(a) of this Plan instead of by the Executive Committee, by setting forth such requirement in the written request for expedited hearing. If the Practitioner chooses a hearing under this Article 1.2(d), it shall be in lieu of and not in addition to the hearing otherwise available under Article IV of this Plan. The Practitioner has the option to choose between this expedited review and the hearing available under Article IV of this Plan.
- (e) For suspensions by the Executive Committee of the Governing Body or the Governing Body, a Medical Staff member whose clinical privileges have been suspended for more than fourteen (14) days shall be entitled to request a hearing under Article IV of this Plan on the matter of the suspension or he may request that the Executive Committee of the Governing Body hold an expedited hearing on the matter of the suspension. Expedited hearings under this section shall be held within such reasonable time period thereafter as the Executive Committee of the Governing Body may be convened in accordance with the Bylaws, not to exceed fourteen (14) days after receipt by the Designated Administrative Officer of a written request for this expedited review unless the practitioner authorizes a longer period in the request. Such expedited hearing shall be held in accordance with the procedures set forth in this Plan, except for the shortening of the times for action and except for the rules on the composition of the hearing committee. Alternatively, the Practitioner may require that the expedited hearing be held by a committee composed pursuant to Article 3.4(b) of this Plan instead of by the Executive Committee of the Governing Body by setting forth such requirement in the written request for expedited hearing. If the Practitioner chooses a hearing under this Article 1.2(e), it shall be in lieu of and not in addition to the hearing otherwise available under Article IV of this Plan. The Practitioner has the option to choose between this expedited review and the hearing available under Article IV of this Plan.

- (f) Following an expedited hearing held pursuant to Article 1.2(d) or 1.2(e) of this Plan, the applicable Executive Committee may recommend modification, continuance or termination of the terms of the suspension. If, as a result of this expedited review, the applicable Executive Committee does not recommend immediate termination of the suspension, the affected Medical Staff member 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 applicable Executive Committee shall remain in effect pending a final decision thereon by the Governing Body.
- (g) If the suspended Medical Staff member is eligible for and elects a standard hearing (under Article IV) under this Plan instead of an expedited hearing, and also requests removal of the suspension in the interim, the Executive Committee of the Governing Body shall be convened within four (4) days of receipt of the request for hearing. The written position of the Medical Staff member and the Medical Staff Executive Committee on the sole issue of maintenance of the suspension pending hearing and appellate review shall be considered by the Executive Committee of the Governing Body, as well as the recommendation of the Designated Administrative Officer, the President of the Medical Staff and the Chair of the Practitioner's department(s). The Executive Committee of the Governing Body shall be authorized to maintain, modify or lift the suspension and shall reduce its determination to a written finding.
- (h) Suspensions under this section will be reported to the state examining board as required by law. Suspensions still in effect after thirty (30) days will be reported to the National Practitioner Data Bank ("NPDB") whenever reporting is so required.

### **1.3 Automatic Suspension**

In the following circumstances, a Practitioner's privileges and/or membership will be considered suspended or limited as described, and the action shall be final, generally without a right to hearing or appeal.

Privileges/membership may be deemed automatically relinquished by the President of the Medical Staff and Designated Administrative Officer. Where a bona fide dispute exists as to whether the circumstances have occurred, the suspension or limitation will stand until the Executive Committee determines it is not applicable. The Executive Committee will make such a determination as soon as practicable.

The Designated Administrative Officer and President of the Medical Staff may reinstate the Practitioner's privileges or membership after determining that the triggering circumstances have been rectified or are no longer present. If the triggering circumstances have not been resolved within sixty (60) days, the

Practitioner will have to reapply for membership and privileges. In addition, further action may be recommended in accordance with these Bylaws.

- (a) Action by the applicable licensing board or by a court of competent jurisdiction revoking or suspending a Practitioner's license shall automatically suspend all of the Practitioner's clinical privileges. Suspension shall occur whether the action of the 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, who is placed upon probation, or whose practice is limited by a licensing authority shall, within fifteen (15) days of the action, have his or her privileges reviewed by the Executive Committee, which shall immediately submit a report and recommendation to the Governing Body regarding the continued Medical Staff status and clinical privileges of the Practitioner.
- (b) An automatic limited suspension may be imposed after a warning of delinquency upon a Medical Staff member for failure to complete medical records. Generally, medical records must be completed within seven (7) days of discharge or death, consistent with the procedures and timelines set forth in the Medical Staff Rules and Regulations. The limited suspension shall take the form of withdrawal of the Practitioner's Hospital privileges, shall be effective at 5:00 p.m. on the date of suspension and shall be in effect until the medical records are completed. No such suspension of privileges shall affect the status or privileges of the Medical Staff member as regards patients who are, at the time of the automatic suspension, in the Hospital under the care of the Medical Staff member.
- (c) An automatic suspension of all privileges shall be imposed upon a Practitioner's failure to renew his license to practice.
- (d) A Medical Staff member whose DEA number is revoked or restricted or voluntarily surrendered shall automatically be divested of the right to prescribe medications controlled by the number. Further, this shall constitute a resignation of any clinical privileges which require the ability to prescribe these medications.
- (e) Subject to state law, an automatic suspension of all privileges of a Practitioner may be imposed upon notification received by the Designated Administrative Officer of a criminal conviction or charge of a Medical Staff member by any law enforcement agency or health care regulatory agency of the United States, State of Wisconsin, or any other state or political subdivision. The Executive Committee may, upon request of the affected Practitioner, convene to review the matter and shall submit a

recommendation to the Governing Body regarding the continuation of the membership and privileges of the Practitioner.

- (f) An automatic suspension of all privileges may be imposed upon a Practitioner's failure to notify the Designated Administrative Officer within five (5) days of receipt by the Practitioner of an initial sanction notice of a gross and flagrant violation, or of the commencement of a formal investigation or the filing of charges, by a Medicare quality improvement organization, the Department of Health and Human Services, or any law enforcement agency or health regulatory agency of the United States or the State of Wisconsin. The Executive Committee shall promptly review the matter and submit a recommendation to the Governing Body regarding the continued Medical Staff status and clinical privileges of the Practitioner. The Executive Committee shall, if the Designated Administrative Officer concurs, be authorized to lift or modify any such automatic suspension pending final determination by the Governing Body.
- (g) An automatic suspension may be imposed upon a Practitioner's failure without good cause to supply information or documentation or appear for a meeting requested by any of the following: the Designated Administrative Officer; the Credentials Committee; the Executive Committee; or the Governing Body. Such suspension shall be imposed only if: (1) the request for information or documentation was in writing; (2) the request was related to evaluation of the Practitioner's current qualifications for membership or clinical privileges; (3) the Practitioner failed to either comply with such request or to satisfactorily explain his inability to comply; and (4) the Practitioner was notified in writing that failure to supply the requested information or documentation within fifteen (15) days from receipt of such notice would result in automatic suspension. Any automatic suspension imposed pursuant to this section may be a suspension of any portion or all of the Practitioner's privileges and shall remain in effect until the Practitioner appears as requested and/or supplies the information or documentation sought or satisfactorily explains his failure to appear/supply.
- (h) Caregiver Background Check Suspension
  - (1) Subject to proof of rehabilitation review approval, an automatic suspension of all privileges of a Practitioner shall be imposed upon notification received by the Designated Administrative Officer that the Practitioner:
    - (i) 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 DHS 12 of the Wisconsin Administrative Code.

- (ii) Has been found by a unit of government to have abused or neglected a client or misappropriated a client's property.
  - (iii) Has been determined under the Children's Code to have abused or neglected a child.
- (2) As soon as possible after an automatic suspension under subsection (1) above, the Executive Committee shall convene to review and consider the facts under which the individual was barred from providing services under Chapter DHS 12 of the Wisconsin Administrative Code. If the Practitioner demonstrates that rehabilitation review approval covering his Medical Staff appointment and clinical privileges has been received, the Executive Committee may reinstate the Practitioner after determining whether it will retain the Practitioner on the Medical Staff and whether it can reasonably accommodate any restrictions imposed as a condition of rehabilitation review approval. The Executive Committee may then take such further action as is appropriate under the circumstances.
- (3) A suspension of all privileges of a Practitioner may be imposed by the Designated Administrative Officer upon notification that a Practitioner:
  - (i) Is under investigation for a serious crime, act or offense as defined in Chapter DHS 12 of the Wisconsin Administrative Code.
  - (ii) Is being investigated by a unit of government or an entity subject to DHS 12 for abuse or neglect of a client or misappropriation of a client's property.
  - (iii) Is being investigated under the Children's Code or an entity under DHS 12 for abuse or neglect of a child.
- (4) As soon as possible after suspension under subsection (3) above, the Executive Committee shall convene to review and consider the facts under which the individual was suspended and to 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 action as is appropriate under the circumstances.

(i) Suspension for Exclusion from Federally Funded Health Care Program

(1) An automatic suspension of all privileges of a Practitioner shall be imposed if the Practitioner is excluded from a federally funded health care program. If the Practitioner immediately notifies the Designated Administrative 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 Designated Administrative 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 (5) business days from the date of the written request. The Designated Administrative Officer and the President of the Medical Staff or their designees shall determine within ten (10) 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 Designated Administrative 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 special notice of the termination decision.

(2) A member who does not immediately notify the Designated Administrative Officer of any proposed or actual exclusion from any federally funded health care program as required by the Medical Staff Bylaws will have his staff membership and privileges terminated, effective immediately, at such time as the Designated Administrative Officer or his designee receives reliable information of the member's exclusion. The member shall be given special notice of the termination as soon as practicable.

(j) A Practitioner, whose appointment or reappointment is conditioned upon subsequent receipt of a National Practitioner Data Bank report that does not contradict information known at the time of appointment or reappointment, shall be automatically suspended upon receipt of a Data Bank report that contradicts that information. The suspended Practitioner shall, within fifteen (15) days of suspension, have his or her privileges reviewed by the Executive Committee, which shall immediately submit a report and recommendation to the Governing Body regarding the continued Medical Staff status and clinical privileges of the Practitioner. The Executive Committee shall, if concurred with by the Designated Administrative Officer, be authorized to lift or modify this automatic suspension pending final determination by the Governing Body.

- (k) If at any time a Practitioner fails to maintain acceptable malpractice insurance coverage or provide other evidence of financial responsibility in the minimum amounts determined by Wisconsin Statutes covering all clinical privileges granted, the Practitioner's privileges that are no longer covered shall be automatically suspended until acceptable coverage or evidence of financial responsibility is secured. The Practitioner must provide satisfactory proof of coverage or of financial responsibility before the suspension can be lifted.
- (l) All Practitioners providing services under an exclusive contract for professional services with the Hospital may automatically lose clinical privileges at the Hospital upon termination or expiration of said contract. A Practitioner who has been terminated by or voluntarily leaves the employ of another Practitioner or entity that has executed an exclusive contract with the Hospital, may automatically lose clinical privileges at the Hospital upon such termination. In addition, a Practitioner shall have no right to continued clinical privileges if the Hospital enters into an exclusive contract with another Practitioner or entity, and the Practitioner is not employed by or affiliated with that Practitioner or entity.
- (m) A Practitioner whose individual contract to provide services at the Hospital expires or otherwise terminates may automatically lose clinical privileges at the Hospital upon such expiration or termination.
- (n) Automatic suspension activated pursuant to this Article shall generally 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 action), except as otherwise expressly set forth in this Article 1.3(n).
- (o) Suspensions under this Article will be reported to the state examining board and/or NPDB as required by law.

#### **1.4 Precautionary Restriction or Suspension**

A precautionary restriction or suspension may be imposed when the Designated Administrative Officer and President of the Medical Staff believe in good faith that they need to take immediate action to carefully consider any event, concern, or issue that, if confirmed, has the potential to significantly affect patient or employee safety, the effective operation or the reputation of the Medical Staff and/or the Hospital. For example, a suspension of all or any portion of a member's clinical privileges at another hospital may be grounds for a precautionary suspension of all or any of the member's clinical privileges at this Hospital. An investigation is considered commenced at the onset of a precautionary suspension.

Unless otherwise stated, such precautionary restriction or suspension shall become effective immediately upon imposition and prompt written notice shall be given to the member. The restriction or suspension shall be limited in duration and shall remain in effect for the period stated or, if none, until resolved.

The precautionary suspension or restriction is an interim step in professional review activity. It is not punitive, but is a temporary, administrative remedy that implies no finding of incompetent medical practice or improper conduct. It is not a complete professional review action in and of itself. A precautionary suspension or restriction does not imply any finding of responsibility for the situation(s) that triggered the suspension or restriction.

As soon as practicable and within five (5) business days after such precautionary suspension has been imposed, the Executive Committee or special committee appointed by the Executive Committee or President of the Medical Staff shall meet to review and consider the situation. Upon written request, the member will be given the opportunity to address the committee concerning the suspension, on such terms and conditions as the committee may impose, although in no event shall any meeting of the committee, with or without the member, shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in the Bylaws or this plan with respect to hearing and shall apply. The committee may modify, continue, or terminate the precautionary restriction or suspension, and/or request corrective action pursuant to Article 1.1, but in any event, it shall furnish the member with written notice of its decision.

The member shall be entitled to the hearing and appeal rights afforded by this Plan (including a right to an expedited hearing as set forth in Article 1.2(d)) if the precautionary restriction or suspension of clinical privileges extends for more than fourteen (14) days.

### **1.5 Patient Care Applicable to all Suspensions**

Immediately upon the imposition of any suspension, the President of the Medical Staff shall provide for alternative medical coverage for the patients of the affected member still in the Hospital at the time of such suspension. The wishes of the patients shall be considered in the selection of such alternative provider. The suspended staff member shall confer with the alternative provider to the extent necessary to safeguard the patient. All Medical Staff members have a duty to cooperate with the President of the Medical Staff in these circumstances.

### **1.6 Loss of Voting and Office**

Any suspension of membership and/or privileges also suspends voting on Medical Staff matters and right to serve as an officer of the Medical Staff until such suspension is lifted.

## **1.7 Simultaneous Corrective Action**

Notwithstanding any other provision in this Article 1, an investigation of a request for corrective action may proceed during the period of a suspension and/or interviews, hearings and/or appeal on the matter of the suspension. Should an issue evolve such that a hearing on the matter of the suspension and a hearing on another professional overview action (*i.e.*, revocation of privileges) coincide, the affected member and the President of the Medical Staff will work cooperatively to combine the hearing proceedings.

## **ARTICLE II - INITIATION OF HEARING**

### **2.1 Recommendations or Actions**

The following recommendations or actions shall, if deemed a professional review action pursuant to Article 2.2, entitle the affected Practitioner to a hearing:

- (a) Denial of initial staff appointment, except an administrative denial as provided in Section 5.2 of the Medical Staff Bylaws.
- (b) Denial of staff reappointment except an administrative denial.
- (c) Except as provided in Article 1.3 of this Plan, suspension of staff membership for more than fourteen (14) days.
- (d) Revocation of staff membership, except revocation under Article 1.3 of this Plan.
- (e) Limitation of admitting prerogatives, except for medical record delinquency, for more than fourteen (14) days.
- (f) Denial of requested department and service affiliation.
- (g) Denial of additional or requested clinical privileges, except an administrative denial as provided in Section 5.2 of the Medical Staff Bylaws.
- (h) Except as provided in Article 1.3 of this Plan, reduction or suspension of clinical privileges for more than fourteen (14) days.
- (i) Revocation of clinical privileges and/or Medical Staff membership except as a result of an exclusive, employment or other agreement or understanding to provide certain services as provided in Section 8.3 of the Medical Staff Bylaws or as a result of Article 1.3 of this Plan.
- (j) Terms of probation which limit clinical privileges for more than fourteen (14) days.

- (k) Requirement of consultation which limits clinical privileges for more than fourteen (14) days.

## **2.2 When Deemed a Professional Review Action**

- (a) A recommendation or action listed in Article 2.1 shall be deemed a professional review action only when it is taken on the basis of the Practitioner's professional competence or conduct and:
  - (1) has been recommended by the Executive Committee; or
  - (2) is a suspension of more than fourteen (14) days; or
  - (3) has been taken by the Governing Body contrary to a favorable recommendation by the Executive Committee under circumstances where no right to hearing existed; or
  - (4) has been taken by the Governing Body on its own initiative without benefit of a prior recommendation by the Executive Committee.
- (b) Only the actions identified in Article 2.2(a) shall constitute professional review action for the purpose of this Plan. Except as otherwise expressly provided in the Medical Staff Bylaws, only professional review action shall entitle a Medical Staff member to the hearing and appellate review set forth in this Plan.
- (c) In formulating such action or recommendation, the acting body should conclude that:
  - (1) there is a reasonable belief that the action is in furtherance of quality health care; and
  - (2) reasonable efforts were taken to obtain the pertinent facts; and
  - (3) a reasonable belief exists that the action is warranted by the facts.

## **2.3 Notice of Professional Review Action**

A Practitioner against whom professional review action has been taken pursuant to Article 2.2 shall within ten (10) days be given special notice of such action by the Designated Administrative 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 or proposed action;

- (c) that the Practitioner has a right of hearing pursuant to this Plan and must request such hearing within forty-five (45) days from the date of furnishing the notice or any hearing right shall be waived;
- (d) a summary of the hearing procedures and rights of the Practitioner, which summary can be accomplished by furnishing the Practitioner a copy of this Plan with the notice;
- (e) that the Practitioner will be notified of the date, time and place of the hearing after making a timely and proper request for such hearing;
- (f) that the Practitioner has the right to review the hearing record and report, if any, and to submit a written statement on his own behalf as part of the hearing; and
- (g) that the Practitioner has the right to be represented at the hearing by an attorney or any other individual chosen by the Practitioner. The Practitioner shall be advised that if he fails to notify the Designated Administrative Officer that he wants to be represented at the hearing, the Practitioner shall have waived the right to be so represented.

#### **2.4 Request for Hearing**

A Practitioner shall have forty-five (45) days following the receipt of a notice pursuant to Article 2.3 of this Plan to file a written request for a hearing. Such request must be delivered to the Designated Administrative Officer either in person or by certified or registered mail so that he receives it within the forty-five (45)-day time limit. Any time limits set forth in this Plan may be extended or accelerated by mutual agreement of the Practitioner and Hospital representatives.

#### **2.5 Waiver by Failure to Request a Hearing**

A Practitioner who fails to request a hearing within the time and manner specified in Article 2.4 of this Plan waives any right to hearing and to any appellate review to which he might otherwise have been entitled. Waiver to right of hearing shall result in the following:

- (a) A professional review action taken by the Governing Body shall become effective as the final decision of the Governing Body and be considered a final professional review action.
- (b) An adverse action or recommendation of the Executive Committee shall remain in effect pending the final decision of the Governing Body.
  - (1) The Governing Body shall consider the Executive Committee's recommendation at its next regular meeting following waiver. In its deliberations, the Governing Body shall review all the information

and material considered by the Executive Committee and may consider all other relevant information received from any source.

- (2) If the Governing Body's action on the matter is in accord with the Executive Committee's recommendation, its action shall constitute the final action of the Governing Body and be considered a final professional review action. If the Governing Body's action has the effect of changing the Executive Committee's recommendation, the matter shall be submitted to a joint conference as provided in this Plan. The Governing Body's action on the matter following receipt of the joint conference recommendation shall constitute its final decision and the final professional review action.

## **2.6 Notification of Waiver of Right to a Hearing**

The Designated Administrative Officer shall promptly send the Practitioner special notice informing him of each action taken pursuant to Article 2.5 of this Plan and shall notify the President of the Medical Staff of each such action.

## **2.7 Reporting**

Within fifteen (15) days of the date of the final professional review action, or otherwise as required by law, the Designated Administrative Officer shall file a report with the appropriate licensing body and the National Practitioner Data Bank whenever reporting is required by law.

# **ARTICLE III - HEARING PREREQUISITES**

## **3.1 Notice of Time and Place for Hearing**

- (a) Upon timely receipt of a written request for hearing, the Designated Administrative Officer shall deliver such request to the President of the Medical Staff or the chairman of the Governing Body, depending upon whose recommendation or action prompted the request for hearing.
- (b) The President of the Medical Staff or the chairman of the Governing Body, as appropriate, shall schedule and arrange for a hearing. The Designated Administrative Officer shall send the Practitioner special notice of the time, place, and date of the hearing. Unless otherwise agreed to in writing by the Practitioner, the hearing date shall be not less than thirty (30) days from the date the Practitioner receives the hearing notice.
- (c) For a Practitioner who is under suspension which has been continued in effect for more than fourteen (14) days, at the Practitioner's specific written request for an expedited hearing, a hearing shall be held as soon as the arrangements for it may reasonably be made, but not later than ten (10) days from the date of receipt by the Designated Administrative Officer of the request for expedited hearing, unless the Practitioner authorizes a

longer period in the request. In such event, the thirty (30)-days notice requirement is deemed waived. The Designated Administrative Officer shall instead send the Practitioner special notice of the time, place and date of hearing as soon as practicable after it is scheduled. The expedited hearing will proceed consistent with Articles 1.21.2(d) and 1.2(e), herein.

### **3.2 Failure to Appear for Hearing**

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

### **3.3 Statement of Charges and Witnesses**

The notice of hearing required by Article 3.1 of this Plan 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 any, a preliminary list of witnesses, if any, expected to testify on behalf of the body whose action prompted the request for hearing, the other reasons or subject matter 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 (10) 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 (2) business days in advance of the hearing except in rebuttal.

### **3.4 Appointment of a Hearing Committee**

(a) By Medical Staff. A hearing occasioned by an Executive Committee recommendation or action pursuant to Article 2.2(a)(1) or 2.2(a)(2) of this Plan shall be conducted by a Hearing Committee appointed by the President of the Medical Staff and composed of at least three (3) but not more than five (5) members of the Medical Staff. The President of the Medical Staff shall designate one of the appointees as the chair unless a Hearing Officer is appointed and acts as chair in accord with Article 9.1. Voting members of the Hearing Committee shall not be Practitioners in direct economic competition with the affected 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 Hospital, and who practice in the same medical specialty or subspecialty as the affected Practitioner. The Hearing Committee may use, on a non-voting consulting basis, members of the same medical specialty or subspecialty.

- (b) By Governing Body. A hearing occasioned by a professional review action of the Governing Body pursuant to Article 2.2(a)(2), 2.2(a)(3) or 2.2(a)(4) of this Plan shall be conducted by a Hearing Committee appointed by the chair of the Governing Body and composed of five (5) persons. At least two (2) Medical Staff members shall be included on this committee, and these Medical Staff appointees shall not be in direct economic competition with the Practitioner. The chair of the Governing Body shall designate one of the appointees to the Hearing Committee as the chair, unless a Hearing Officer is appointed pursuant to Article 9.1. The Hearing Committee may use, on a non-voting consultative basis, members of the same medical specialty or subspecialty.
- (c) Service on the Hearing Committee. Members of the Medical Staff or the Governing Body shall not be disqualified from serving on a Hearing Committee because they have heard of the case or have knowledge of the facts involved or what they suppose the facts to be. No member of the Medical Staff or Governing Body who requests corrective action pursuant to Article 1.1(a) of this Plan or serves on a committee investigating or reviewing such request shall serve as a voting member of the Hearing Committee. However, any member of the Medical Staff or Governing Body 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 and must recuse themselves if a conflict of interest is present.
- (d) Hearing Conducted by Independent Consultant. The Governing Body, or the Executive Committee with the Governing Body's approval, at their sole discretion but with the written consent of the affected Practitioner, may elect to contract with an independent consultant to perform the functions of the Hearing Committee as set forth in this Plan. In such event, the composition of the Hearing Committee shall be as 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.

## **ARTICLE IV - HEARING PROCEDURE**

### **4.1 Presiding Officer**

The chair of the Hearing Committee shall be the presiding officer at the hearing. The chair 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 chair shall be entitled to determine the order of procedure during the hearing and shall make all rulings on matters of law, procedure, and the admissibility of evidence. Unless the chairman is a Hearing Officer appointed pursuant to Article 9.1, the chair shall also vote on any final recommendations as well as on any other matters giving rise to a vote of the Hearing Committee.

## **4.2 Representation**

The Practitioner for whom the hearing has been scheduled shall be entitled to be accompanied by and represented at the hearing by a member in good standing of the Active Medical Staff. The Executive Committee when its recommendation has prompted the hearing shall appoint at least one of its members, some other Medical Staff member and/or a person of its choosing to represent it at the hearing to present the facts in support of its professional review action and to examine witnesses. When a recommendation or action of the Governing Body has prompted the hearing, the Governing Body shall appoint at least one of its members and/or another person of its choosing to represent it at the hearing. Representation or assistance of either party at the hearing by an attorney shall be governed by the provisions in Article 9.2 of this Plan. Both the Practitioner and the Executive Committee or Governing Body shall designate their Medical Staff representative at least ten (10) days prior to the hearing and shall provide written notice to each of such.

## **4.3 Rights of Parties**

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

## **4.4 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 chair, it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The parties shall be entitled to submit,

prior to or during the hearing, memoranda concerning any issue of law or fact. These memoranda shall become part of the hearing record.

- (b) The chair may but shall not be required to order that oral evidence be taken only on oath or affirmation.
- (c) The Hearing 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 review all documents and previous findings it considers relevant, to consider appropriate clinical literature and practice guidelines, 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.
- (d) The Hearing Committee may meet outside the presence of the parties to deliberate and/or establish procedures. The Hearing Committee may require that the parties submit written, detailed statements of the case to the Hearing Committee and to each other. Such statements of the case may be in a form which constitutes all the facts of the case. If so done, the hearing can consist of clarification and explanation of the written statements of the case. If a party is ordered by the Hearing Committee to supply a detailed statement of the case and fails to do so, the Hearing Committee can conclude that such failure constitutes a waiver of the party's case.
- (e) 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 fifteen (15) days prior to the hearing date. The written statements of the case shall be supplied both to the Hearing Committee and to the other party at least five (5) business days prior to the commencement of the hearing.
- (f) Statements from Practitioners, Medical Staff members, nursing or other Hospital staff, Allied Health Professionals, patients and/or others may be distributed to the Hearing Committee and the parties in advance of or at the hearing. They shall be made a part of the record of the hearing and given such credence as may be appropriate. These statements must be available to all parties. When time and distance allow, the authors of the statements should be available at the hearing, in person or by telephone, for questioning by either party if so requested.

#### **4.5 Burden of Proof**

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

#### **4.6 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 court reporter, electronic recording unit, detailed transcription, or minutes of the proceedings. A Practitioner electing an alternate method under Article 4.3(a)(5) of this Plan shall bear the cost thereof.

#### **4.7 Postponement**

Requests for postponement of a hearing shall be granted by the Hearing Committee only upon a showing of good cause. A hearing shall be postponed no more than two (2) times at the request of the Practitioner even if for good cause.

#### **4.8 Recesses and Adjournment**

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

#### **4.9 Continued Presence Required**

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

#### **4.10 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 of the matters to be noticed and those matters shall be noted in the hearing record. Any party may request on a timely basis 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 refutation to be determined by the Hearing Committee.

### **ARTICLE V - HEARING COMMITTEE REPORT & FURTHER ACTION**

#### **5.1 Hearing Committee Report**

Within forty-five (45) days after the final adjournment of the hearing, the Hearing Committee shall make a written report of its findings and recommendations in the matter and shall forward the same, together with the hearing record and all other documentation considered by it, to the body (either the Executive Committee or the Governing Body) whose professional review action occasioned the hearing. The written report should include an explanation for the Hearing Committee's findings and recommendations that makes a rational connection between the issues to be decided, the evidence presented or considered and the conclusion reached.

#### **5.2 Action on Hearing Committee Report**

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

#### **5.3 Notice and Effect of Result**

(a) Effect of Favorable Result.

(1) When the Governing Body's professional review action occasioned the hearing:

If the Governing Body's result pursuant to Article 5.2 of this Plan is favorable to the Practitioner, the result shall become the final decision of the Governing Body and the matter shall be considered finally closed. The Designated Administrative Officer shall notify the Practitioner of the result by special notice, with a copy to the President of the Medical Staff and to the chair of the Governing

Body. The Practitioner shall be furnished a copy of the Hearing Committee report with such notice, as well as the result of the body furnishing the final recommendation.

- (2) When the Executive Committee's professional review action occasioned the hearing:

If the Executive Committee's result pursuant to Article 5.2 of this Plan is favorable to the Practitioner, the Designated Administrative Officer shall promptly forward it, together with all supporting documentation, to the Governing Body for action. The Governing Body shall adopt or reject the Executive Committee's result in whole or in part, or refer the matter back to the Executive Committee for further consideration. Any such referral 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 the issues that are in doubt. After receipt of such subsequent recommendation and any new evidence in the matter, the Governing Body shall take final action. The Designated Administrative Officer shall promptly send the Practitioner special notice informing him of the final action. Favorable action shall become the final decision of the Governing Body, and the matter shall be considered finally closed. If the Governing Body's action remains adverse in any of the respects listed in Article 2.1 of this Plan, the special notice shall inform the Practitioner of his right to request an appellate review by the Governing Body as provided in Article 6.1 of this Plan.

- (b) Effect of Adverse Result. If the result of the Executive Committee or of the Governing Body pursuant to Article 5.2 continues to be adverse to the Practitioner in any of the respects listed in Article 2.1, the special notice required by this Article 5.3 shall inform the Practitioner of the right to request an appellate review by the Governing Body as provided in Article 6.1 of this Plan. If it is the result of the Executive Committee, the result will not be forwarded to the Governing Body for final action until the Practitioner has either exercised or waived the right to appellate review.

## **ARTICLE VI - INITIATION AND PREREQUISITES OF APPELLATE REVIEW**

### **6.1 Request for Appellate Review**

A Practitioner shall have fifteen (15) days following receipt of a notice pursuant to Article 5.3 of this Plan to file a written request for appellate review. Such request shall be delivered to the Designated Administrative Officer either in person or by certified or registered mail and may include a request for a copy of the hearing

record and all other material, favorable or unfavorable, that was considered in making the adverse action or result.

## **6.2 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 Article 6.1 of this Plan waives any right to such review. A Practitioner who fails to submit the written statement required by Article 7.2 of this Plan shall also be deemed to have waived the right to appellate review. Such waiver shall have the same force and effect as that provided in Article 2.5 of this Plan.

## **6.3 Notice of Appellate Review**

Upon receipt of a timely request for appellate review, the Designated Administrative Officer shall deliver such request to the chair of the Governing Body. Within fifteen (15) days after receipt of such request, the chair of the Governing Body shall schedule and arrange for an appellate review which shall be conducted not more than sixty (60) days from the date of receipt of the appellate review request. However, an appellate review for a Practitioner who is under a suspension then in effect shall be held as soon as the arrangements for it may reasonably be made, but not later than fourteen (14) days from the date of receipt of the request for review. The Designated Administrative Officer shall send the Practitioner special notice of the date of the review. The time for the appellate review may be extended by the appellate review body for good cause. The appellate review can occur at a regular meeting of the Governing Body.

## **6.4 Appellate Review Body**

The chair of the Governing Body shall determine whether the appellate review shall be conducted by the Governing Body as a whole or by an Appellate Review Committee composed of three (3) to five (5) members of the Governing Body appointed by the chair. If a Committee is appointed, one of its members shall be designated as chair.

# **ARTICLE VII - APPELLATE REVIEW PROCEDURE**

## **7.1 Nature of Proceedings**

The proceedings by the review body shall not be a de novo hearing, but shall be in the nature of an appellate review based upon the record of the hearing before the Hearing Committee, that committee's report, and all subsequent results and actions. The appellate review body shall also consider the written statements submitted pursuant to Article 7.2 of this Plan and such other materials as may be presented and accepted under Articles 7.4 and 7.5 of this Plan.

## **7.2 Written Statements**

The Practitioner seeking the 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 body through the Designated Administrative Officer no more than ten (10) days after the filing of the request for appellate review. A written statement in reply may be submitted by the Executive Committee or by the Governing Body, as appropriate, and if submitted, the Designated Administrative Officer shall provide a copy to the Practitioner at least five (5) days prior to the scheduled date of the appellate review. These advance filing deadlines will not apply to an expedited review for a Practitioner who is under suspension. In that case, the written statement shall be submitted with the request for appellate review. In any event, failure to submit the written statement by the applicable deadline shall constitute a waiver of the right to appellate review and the appellate review shall be cancelled.

## **7.3 Presiding Officer**

The chair of the appellate review body shall be the presiding officer. The chair shall determine the order of procedure during the review, make all required rulings, and maintain decorum.

## **7.4 Oral Statement**

The appellate review body may in its sole discretion allow the parties to personally appear and make oral statements in favor of their positions. Any party so appearing shall be required to answer questions put to him by any member of the appellate review body. If a personal appearance is allowed, the Designated Administrative Officer shall notify the Practitioner by special notice of the time and place scheduled for oral statements at least five (5) days in advance, with a copy to the body whose decision resulted in the appellate review.

## **7.5 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 body, in its sole discretion, shall determine whether such matters or evidence shall be considered or accepted.

## **7.6 Powers**

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

### **7.7 Presence Required for Participation**

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

### **7.8 Recesses and Adjournment**

The appellate review body may recess the review proceedings 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 the conclusion of oral statements, if allowed, the appellate review shall be closed. The appellate review body 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.

### **7.9 Action Taken**

The appellate review body 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 Article 5.2 or 5.3(b) of this Plan. If appellate review is conducted by the entire Governing Body, its conclusions shall be the final action unless otherwise provided in this Plan. In its discretion, the appellate review body may refer the matter back to the Hearing Committee for further review and require a recommendation to be returned to it within thirty (30) days and in accordance with its instructions. Any written report following referral shall be shared with the Practitioner. Within ten (10) days after receipt of such recommendation after referral, the appellate review body shall make its recommendation to the Governing Body.

### **7.10 Conclusion**

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

## **ARTICLE VIII - FINAL DECISION OF THE GOVERNING BODY**

### **8.1 Board Action**

Within thirty (30) days after the adjournment of the appellate review if conducted by an appellate review committee or at the adjournment if conducted by the Governing Body itself, the Governing Body shall render its final decision in the matter in writing and shall send notice thereof to the Practitioner by special notice and by regular notice to the President of the Medical Staff, and to the Executive Committee. If this decision is in accord with the Executive Committee's last recommendation in the matter, if any, it shall be immediately effective and final. If the Governing Body's action has the effect of changing the Executive

Committee's last recommendation, if any, the Governing Body shall refer the matter to a joint conference as provided in Article 8.2 of this Plan and shall notify the Practitioner of same in the special notice referenced above. The Governing Body's action on the matter following receipt of the joint conference recommendation shall be immediately effective and final.

## **8.2 Joint Conference Review**

Within ten (10) business days of its receipt of a matter referred to it by the Governing Body pursuant to the provisions of this Plan, a joint conference of equal numbers of members of the Executive Committee and Governing Body shall convene to consider the matter and shall submit its recommendation to the Governing Body within thirty (30) calendar days of its first meeting. The joint conference shall be composed of a total of six members selected in the following manner: three members from the Executive Committee appointed by the President of the Medical Staff, and three members from the Governing Body appointed by the chair of the Governing Body.

## **ARTICLE IX - GENERAL PROVISIONS**

### **9.1 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 chair of the body whose decision is being contested, after consultation with the Designated Administrative Officer. A Hearing Officer may or may not be an attorney but must be experienced in conducting hearings. Such Hearing Officer shall act in an impartial manner as the Chair and presiding officer of the hearing. If requested by the Hearing Committee, the Hearing Officer may participate in its deliberations and act as its advisor, but shall not be entitled to vote.

### **9.2 Attorneys**

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

### **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, the Practitioner shall be deemed to have consented to 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 Number of 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 a professional review action.

### **9.5 Agreement to be Bound by Bylaws**

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

### **9.6 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 Designated Administrative Officer or the Executive Committee. The time periods specified 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, appeal, or corrective action procedures are not completed within the time periods specified.

### **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.

### **9.8 Governing Body Determinations**

In formulating a final professional review action, the Governing Body should conclude that the action is being taken:

- (a) In the reasonable belief that the action was in furtherance of quality health care;
- (b) After a reasonable effort to obtain the facts of the matter;

- (c) After adequate notice and hearing procedures are afforded to the Practitioner under the circumstances; and
- (d) In the reasonable belief that the action was warranted by the facts known after the exercise of such reasonable effort to obtain the facts and after meeting the requirements of paragraph (c), above.

## **ARTICLE X - ADOPTION AND 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 in accord with the procedures for amending the Medical Staff Bylaws, subject always to being consistent with the Medical Staff Bylaws and Corporate Bylaws.

### **10.2 Medical Staff Responsibility and Governing Body Initiative**

The principles stated in the Medical Staff and Governing Body Bylaws regarding Medical Staff responsibility, authority, and procedures to formulate, adopt and recommend Medical Staff Bylaws and amendments shall apply as well to the formulation, adoption and amendment of this Plan.

### **10.3 Medical Staff**

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

Date: March 25, 2011

Andrew J. Braun, MD  
President of the Medical Staff

### **10.4 Governing Body**

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

Date: March 29, 2011

Mr. James Schuh  
Secretary of the Governing Body