Medical Staff
Fair Hearing Policy

McCullough-Hyde Memorial Hospital

A Medical Staff Document

TABLE OF CONTENTS

Page

ARTICLE I
HEARING PROCEDURE

1.1 APPLICABILITY & DEFINITIONS

1.1-1 The purpose of this Medical Staff Fair Hearing Policy (Policy) is to provide a mechanism for resolution of matters Adverse to Members who hold, or applicants who have requested, Medical Staff appointment and/or Privileges at the Hospital.

1.1-2 The definitions set forth in the Medical Staff Bylaws shall apply to this Medical Staff Fair Hearing Policy unless otherwise specified herein.

1.1-3 Wherever a position or title is used in the Medical Staff Bylaws or Policies, the authorized designee (*i.e.,* substitute) of the person holding that position or title is included in the term.

1.2 EFFECT OF ADVERSE RECOMMENDATIONS AND ACTIONS

1.2-1 By the MEC. Unless otherwise provided in the Medical Staff Bylaws or Policies, when a Practitioner receives Special Notice of an Adverse recommendation of the MEC the Practitioner shall be entitled to a hearing and appellate review, if applicable, in accordance with the procedures set forth in this Policy.

1.2-2 By the Board. Unless otherwise provided in the Medical Staff Bylaws or Policies, when a Practitioner receives Special Notice of an Adverse recommendation or action of the Board, and such decision is not based upon a prior Adverse recommendation of the MEC with respect to which the Practitioner was entitled to a hearing, the Practitioner shall be entitled to a hearing and appellate review, if applicable, in accordance with the procedures set forth in this Policy.

1.3 ADVERSE RECOMMENDATION OR ACTIONS

1.3-1 Unless otherwise provided in the Medical Staff Bylaws or Policies, the following recommendations or actions shall, if deemed Adverse, entitle the Practitioner affected thereby to a hearing:

(a) Denial of initial Medical Staff appointment and/or Privileges or reappointment and/or regrant of Privileges.

(b) Suspension, restriction, or reduction of a Practitioner's Medical Staff appointment and/or Privileges in excess of fourteen (14) days as part of a formal corrective action process.

(c) Imposition of a focused professional practice evaluation resulting in a limitation on previously exercised Privileges in excess of fourteen (14) days as part of a formal corrective action process.

(d) Termination of Medical Staff appointment and/or Privileges.

1.3-2 WHEN DEEMED ADVERSE

(a) A recommendation or action listed in Section 1.3-1 shall be deemed Adverse, as such term is defined in the Medical Staff Bylaws, only when it has been:

(1) Recommended by the MEC; or,

(2) Taken by the Board under circumstances where no prior right to a hearing existed.

(b) Recommendations or actions pertaining to a Practitioner's Medical Staff appointment and/or Clinical Privileges that are based on any matter which does not relate to the clinical competence or professional conduct of a Practitioner shall not give rise to any hearing or appellate review rights unless otherwise specified in the Medical Staff Bylaws or Policies.

1.4 ACTIONS THAT DO NOT GIVE RIGHT TO HEARING

1.4-1 The following actions are not deemed to be Adverse and shall not constitute grounds for, or entitle the Practitioner to request, a hearing.

(a) Any action recommended/taken by the MEC or the Board against a Practitioner where the action was recommended/taken solely for administrative or technical failings of the Practitioner (*e.g.*, failure of a Practitioner to satisfy baseline qualifications for Medical Staff appointment and/or Privileges, or to provide requested information, *etc.*).

(b) The denial, termination, modification, or suspension of temporary, emergency, disaster, telemedicine, or moonlighting Privileges.

(c) Ineligibility for Medical Staff appointment, reappointment, and/or the Privileges requested, because a Department has been closed or the Hospital is presently a party to an exclusive contract for such services.

(d) Ineligibility for Medical Staff appointment and/or requested Privileges because of the Hospital's lack of facilities, equipment, or support services; because the Hospital has elected not to perform or does not provide the service or the procedure for which Privileges are sought; or, inconsistency with the Hospital's strategic plan.

(e) An automatic suspension or automatic termination of appointment and/or Privileges pursuant to the grounds set forth in the Medical Staff Bylaws.

(f) An oral or written reprimand or warning.

(g) Imposition of focused or ongoing professional practice evaluation as part of the routine peer review process.

(h) Termination of the Practitioner's employment or other contract for services unless the employment/services contract or Medical Staff Bylaws provides otherwise.

(i) Resignation of Medical Staff appointment and/or Privileges when such resignation is not in return for the Medical Staff or Board refraining from conducting an investigation based upon the Practitioner's professional conduct or clinical competence.

(j) Any other recommendation/action taken by the MEC or Board that does not relate to the clinical competence or professional conduct of a Practitioner unless the Medical Staff Bylaws or Policies specifically state such action to be Adverse.

1.5 NOTICE OF ADVERSE RECOMMENDATION OR ACTION

1.5-1 A Practitioner against whom an Adverse recommendation or action has been made/taken shall promptly be given Special Notice thereof by the Chief of Staff or the System CEO or Hospital President. The notice shall include:

(a) Notice of the Adverse recommendation or action and the nature of the same stating in concise terms the basis for the denial of Medical Staff appointment/Privileges; or, in the case of a corrective action, the acts or omissions with which the Practitioner is being charged (including a list of specific or representative patient charts in question, where applicable), and any other information forming the basis for the Adverse recommendation or action which is the subject of the hearing.

(b) A statement that the Practitioner must file a written request for hearing, if so desired, with the System CEO and Hospital President within thirty (30) days after receipt of the *Notice of Adverse Recommendation or Action* and the manner in which to do so.

(c) A statement that if the Practitioner fails to file a written request for hearing with the System CEO and Hospital President within thirty (30) days after receipt of the *Notice of Adverse Recommendation or Action*, such failure shall constitute a waiver of his/her right to a hearing and to an appellate review on the issue that is the subject of the *Notice of Adverse Recommendation or Action*.

(d) A summary of hearing rights.

1.5-2 REQUEST FOR HEARING

(a) The Practitioner shall have thirty (30) days following receipt of the *Notice of Adverse Recommendation or Action* to request a hearing. The request shall be in writing, addressed to the System CEO and Hospital President, and delivered by Special Notice.

(b) A Practitioner who fails to request a hearing, within the time frame and in the manner specified, waives any right to such hearing and to any appellate review to which he/she might otherwise have been entitled. The Adverse recommendation or action shall thereafter be presented to the Board for final decision. The Practitioner shall be informed of the Board's final decision by Special Notice.

1.6 NOTICE OF HEARING

1.6-1 Upon receipt from a Practitioner of a timely and proper request for hearing, the System CEO or Hospital President shall deliver the request to the Chief of Staff, if the request for a hearing was prompted by an Adverse recommendation of the MEC; or, to the Board chair, if the request for hearing was prompted by an Adverse recommendation of the Board. The Chief of Staff or Board chair, as applicable, will promptly schedule and arrange for a hearing.

1.6-2 At least thirty (30) days prior to the hearing, the System CEO or Hospital President shall send the Practitioner a *Notice of Hearing* by Special Notice. The *Notice of Hearing* will set forth the date, time, and place of the hearing, which date shall be not less than thirty (30) days after the date of the *Notice of Hearing* unless otherwise mutually agreed to by the parties.

1.6-3 A hearing for a Practitioner who is under summary suspension shall, at the request of the Practitioner, be held as soon as the arrangements may be reasonably made and provided that the Practitioner agrees to a waiver of the thirty (30) day advance notice time requirement.

1.6-4 The *Notice of Hearing* shall also include a list of witnesses, if any, expected to testify at the hearing in support of the Adverse recommendation/action on behalf of the MEC or Board as well as a time frame within which the Practitioner must provide the MEC or Board, as applicable, his/her list of witnesses.

1.6-5 The *Notice of Hearing* shall also outline a schedule for exchange of documents upon which each party expects to rely at the hearing.

1.6-6 Each party remains under a continuing obligation to provide to the other party any documents or witnesses identified after the initial exchange which such party intends to introduce at the hearing. The introduction of any documents not provided prior to the hearing, or the admissibility of testimony to be presented by a witness not so listed, shall be at the discretion of the presiding officer.

1.7 HEARING OFFICER OR HEARING PANEL

1.7-1 The hearing shall be conducted by either (i) a hearing officer, or (ii) a hearing panel, as determined by whichever body (the MEC or Board) made the Adverse recommendation or took the Adverse action that is the basis for the hearing.

(a) A hearing officer may be a Practitioner, an individual from outside the Hospital, such as an attorney, or other individual qualified to conduct the hearing. The hearing officer is not required to be a Medical Staff Member.

(b) A hearing panel shall consist of not less than three (3) individuals and shall be chosen by the MEC or the Board, whichever body made the Adverse recommendation or took the Adverse action that is the basis for the hearing. The panel members may either be Practitioners, individuals from outside of the Hospital, or a combination thereof, as determined by the MEC or the Board, as appropriate.

(1) The MEC or Board, as appropriate, may appoint one (1) of the panel members as the chair of the panel. The chair of the panel shall preside over the proceeding.

(2) If the MEC or Board, as appropriate, elects not to designate the panel's chair, one (1) of the panel members shall be appointed as chair pursuant to a majority vote of the panel members.

(3) In the alternative, the MEC or Board, as appropriate, may appoint an active or retired attorney at law in addition to the hearing panel members to act as presiding officer; provided, however, that such individual shall not be entitled to vote on the hearing panel's recommendation.

1.7-2 Any person shall be disqualified from serving as a hearing officer, on a hearing panel, or as a presiding officer if the person directly participated in initiating the Adverse recommendation or action, or in investigating the underlying matter at issue; if the person has taken an active part in the matter contested; or, if the person is a direct economic competitor or otherwise has a conflict of interest with the Practitioner involved in the hearing. In the event that an attorney serves as the hearing officer, on the hearing panel, or as a presiding officer, he/she must not represent clients in direct economic competition with the Practitioner who is the subject of the hearing.

1.8 CONDUCT OF HEARING

1.8-1 VOTING BY HEARING PANEL MEMBERS

If a hearing panel is selected, a majority of the hearing panel members must be present at the hearing; no hearing panel member may vote by proxy.

1.8-2 PRACTITIONER ABSENCE OR OTHER DELAY

(a) The Practitioner must physically appear at and proceed with the hearing. A Practitioner who fails, without good cause, to appear and proceed at the hearing shall be deemed to have waived his or her rights to such hearing

and to any appellate review to which he/she might otherwise have been entitled.

(b) Prior to the beginning of the hearing, the System CEO or Hospital President in discussion with the hearing officer or hearing panel, as applicable, shall determine whether requests for postponement or rescheduling of a hearing should be granted. The presumption shall be that the hearing will go forward on its scheduled date in the absence of a showing of good cause.

(c) The Practitioner must notify the System CEO and Hospital President of the reasons for his or her absence at least twenty-four (24) hours before the scheduled hearing. If good cause is shown, the System CEO or Hospital President may postpone or reschedule the hearing as soon as practical. The System CEO or Hospital President has sole discretion to define "good cause."

(d) Once the hearing has begun, the hearing officer or hearing panel shall determine whether there is "good cause" for delay in the event of a request for postponement or rescheduling of hearing dates. The hearing officer or hearing panel has sole discretion to define "good cause."

1.8-3 RIGHT TO ACCOMPANIMENT/REPRESENTATION

(a) The Practitioner may be accompanied by either legal counsel or a person of the Practitioner's choice.

(b) The Chief of Staff or the chair of the Board, depending upon whose Adverse recommendation or action prompted the hearing, may appoint an attorney or one of its members to represent the MEC or Board at the hearing, to present the facts in support of its Adverse recommendation or action, and to examine witnesses. If an attorney is chosen to represent the MEC or Board, then either of those bodies, whichever the case may be, may also appoint one of its members to present the facts in support of its Adverse recommendation or action.

(c) If either party will be accompanied by legal counsel, notice must be given to the other party at such time as counsel is obtained.

1.8-4 HOSPITAL EMPLOYEES

Neither the Practitioner, nor his/her attorney, or any other person on behalf of the Practitioner shall contact a Hospital employee while the employee is working at the Hospital. The Practitioner (or his/her attorney or other agent) may contact the System CEO or Hospital President (or legal counsel to the MEC or Board, as applicable, if representation has been obtained) to request assistance in talking with Hospital employees. Although Hospital employees will be encouraged to participate in the hearing process, all such participation shall be voluntary and the Hospital shall not have the authority to demand participation unless such

participation is a part of the employee's job description. At his/her request, a Hospital employee may be accompanied by legal counsel (who may be the counsel who represents the MEC or Board, as applicable) when meeting with the Practitioner or his/her attorney or other agent.

1.8-5 ORDER OF PROCEEDINGS

The hearing officer, the hearing panel chair, or other designated individual, as applicable, shall serve as the presiding officer and shall act to maintain decorum and to assure that all participants in the hearing process have a reasonable opportunity to present relevant oral and documentary evidence. The presiding officer shall make all rulings on matters of law, procedure, and the admissibility of evidence.

1.8-6 RIGHTS OF THE PARTIES AT HEARING

(a) Both parties shall have the following rights:

(1) To be represented by an attorney or a person of the party's choice.

(2) To be provided with a list of witnesses and copies of documents that will be relied upon by the other party at the hearing.

(3) To call and examine witnesses.

(4) To introduce exhibits.

(5) To cross examine any witness on any matter relevant to the hearing.

(6) To impeach (challenge the credibility of) witnesses.

(7) To present and/or rebut evidence determined to be relevant by the hearing officer or panel regardless of its admissibility in a court of law.

(8) To have a record made of the proceedings, copies of which may be obtained by the Practitioner upon payment of any reasonable charges associated with the preparation thereof.

(9) To submit a written statement at the conclusion of the hearing.

(10) Upon completion of the hearing, to receive a copy of the written recommendation of the hearing officer or hearing panel (including a statement of the basis for the hearing officer's or hearing panel's recommendation(s)) and to receive a copy of the written decision of the Board (including a statement of the basis for the Board's decision).

1.8-7 ORDER OF PROCEEDINGS AND BURDEN OF PROOF

(a) At the hearing, the MEC or the Board, as applicable, and the Practitioner may make opening statements.

(b) Following the opening statements, the body whose Adverse recommendation or action gave rise to the hearing shall present its evidence first establishing the basis for its recommendation or action. The MEC or Board, as applicable, shall also have the right to rebuttal following the presentation of the Practitioner's case.

(c) The Practitioner has the burden of proving, by clear and convincing evidence, that the Adverse recommendation or action lacks any factual basis or that such basis, or the conclusions drawn therefrom, is/are arbitrary, capricious, or not supported by substantial credible evidence.

(d) Each party shall, prior to or during the hearing, be entitled to submit memoranda concerning any issue of fact or procedure and such memoranda shall become a part of the hearing record.

(e) The parties may make closing statements following the introduction of all of the evidence and submit post-hearing written statements.

1.8-8 PRACTITIONER TESTIMONY

If the Practitioner who requested the hearing does not testify on his/her own behalf, he/she may be called to testify and examined as if under cross examination.

1.8-9 EVIDENTIARY MATTERS

(a) The hearing will not be governed by the rules of evidence applicable to a court of law.

(b) At the hearing, the rules of law relating to examination of witnesses or presentation of evidence need not be strictly enforced except that oral evidence shall be taken only on oath or affirmation administered by any person designated by the presiding officer and entitled to notarize documents in the State of Ohio.

(c) Any relevant matter that responsible persons would ordinarily rely upon in the conduct of serious affairs may be considered regardless of its admissibility in a court of law.

(d) In reaching a decision, the hearing panel or hearing officer, as applicable, may take official note at any time for evidentiary purposes of any generally accepted technical or scientific principles relating to the matter at hand and of any facts that may be judicially noticed by Ohio courts. The parties to the hearing shall be informed of the principles or facts to be officially

noticed and the same shall be noted in the hearing record. Either party shall be given the opportunity to request that a principle or fact be officially noticed or to refute any officially noticed principle or fact by evidence or by written or oral presentation of authority in such manner as determined by the hearing officer or panel.

1.8-10 RECORD OF PROCEEDINGS

A record of the hearing shall be kept of sufficient accuracy 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 panel or hearing officer, as applicable, shall arrange for a court reporter to transcribe the hearing. Upon request, the Practitioner shall be entitled to obtain a copy of the record at his/her own expense.

1.8-11 CONFIDENTIALITY

All aspects of the proceedings shall be considered privileged, confidential, and protected by Ohio law, and shall not be open to the public.

1.8-12 RECESSES AND DELIBERATIONS

(a) The hearing panel or hearing officer, as applicable, may recess the hearing and reconvene it without additional notice for the convenience of the participants, to obtain new or additional evidence, or if consultation is required for resolution of the matter.

(b) When presentation of oral and written evidence is complete, the hearing shall be closed.

(c) The hearing shall be adjourned upon receipt of the transcript of the proceedings and any closing written statements, whichever occurs later.

(d) The hearing panel or officer shall deliberate outside the presence of the parties at such time and in such location as is convenient.

1.9 HEARING RECOMMENDATION

1.9-1 Within thirty (30) days after adjournment of the hearing, the hearing officer or hearing panel shall report, in writing, its findings and recommendation (including a statement of the basis for such recommendation) with specific references to the hearing record and shall forward the report, along with the record and other documentation introduced at the hearing and considered by the hearing officer/panel, to the body whose Adverse recommendation or action gave rise to the hearing. The hearing recommendation shall be based exclusively upon the written and oral evidence presented at the hearing and any memoranda submitted by the parties.

1.9-2 Within fourteen (14) days after receipt of the report of the hearing panel or hearing officer, the body whose Adverse recommendation or action gave rise to the hearing shall consider the same and affirm, modify, or reverse its original Adverse recommendation or action in the matter.

(a) Favorable Recommendation or Action

(1) When the MEC's recommendation is favorable to the Practitioner, the Board may adopt or reject any portion of the MEC's recommendation that was favorable to the Practitioner or refer the matter back to the MEC for additional consideration. Any such referral shall state the reason(s) for the requested reconsideration, set a time limit within which a subsequent recommendation must be made to the Board, and may include a directive that an additional hearing be conducted to clarify issues that are in doubt. After receipt of such subsequent recommendation, and any new evidence in the matter, the Board shall take action.

(2) A favorable determination by the Board (whether as the initiating body or in affirmance of a favorable recommendation by the MEC) shall be effective as the Board's final decision and the matter shall be considered closed.

(b) Adverse Recommendation/Action. If the recommendation of the MEC or action of the Board continues to be Adverse to the affected Practitioner after exhaustion of his/her hearing rights, the Practitioner shall be entitled, upon timely and proper request, to an appellate review before a final decision is rendered on the matter by the Board.

1.9-3 Such recommendation or action of the MEC and/or Board shall be transmitted, together with the hearing record, the report of the hearing panel or hearing officer, and all other documentation introduced at the hearing and considered by the hearing officer/panel, to the System CEO and Hospital President.

(a) The System CEO or Hospital President shall promptly send a copy of the hearing panel's or hearing officer's report, together with a copy of the subsequent determination of the body whose Adverse recommendation or action gave rise to the hearing, to the affected Practitioner by Special Notice.

(b) In the event of an Adverse result, the notice shall inform the Practitioner of his/her right to request an appellate review by the Board before a final decision regarding the matter is rendered.

ARTICLE II
APPELLATE REVIEW

2.1 REQUEST FOR APPELLATE REVIEW

2.1-1 A Practitioner shall have fourteen (14) days after receiving notice of his/her right to request an appellate review to submit a written request for such review. Such request shall be directed to the Board in care of the System CEO and Hospital President by Special Notice.

2.1-2 If the Practitioner wishes an attorney to represent him/her at any appellate review appearance permitted, his/her request for appellate review shall so state. The request shall also state whether the Practitioner wishes to present oral arguments to the appellate review body.

2.2 WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW

A Practitioner who fails to request an appellate review in accordance with §2.1 waives any right to such review.

2.3 NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW

2.3-1 Upon receipt of a timely request for appellate review, the System CEO or Hospital President shall deliver such request to the Board. As soon as practicable, the Board chair shall schedule and arrange for the appellate review.

2.3-2 At least ten (10) days prior to the date of the appellate review, the System CEO or Hospital President shall advise the Practitioner, by Special Notice, of the date, time, and place of the review, and whether oral arguments will be permitted.

2.3-3 The appellate review body may extend the time for the appellate review for good cause if such request is made as soon as is reasonably practicable.

2.3-4 The date of the appellate review shall not be less than ten (10) days, nor more than thirty (30) days, from the date of the *Notice of Appellate Review* except that when the Practitioner requesting the review is under a suspension which is then in effect such review shall be scheduled as soon as arrangements for it may reasonably be made provided that the Practitioner agrees to waive the time requirements set forth in this section.

2.4 APPELLATE REVIEW BODY

The Board shall determine whether the appellate review will be conducted by the Board as a whole or by an *ad hoc* or standing Board committee. If a committee is appointed, one (1) of its members shall be designated as chair by the Board chair.

2.5 APPELLATE REVIEW PROCEDURE

2.5-1 NATURE OF PROCEEDINGS

The proceedings by the review body shall be in the nature of an appellate review based upon the record of the hearing before the hearing panel/officer, the hearing panel's/officer's report, and all subsequent results and actions thereon for the purpose of determining whether the Practitioner was denied a fair hearing and/or whether the Adverse recommendation or action against the affected Practitioner was justified, as supported by substantial, credible evidence presented at the hearing, and not arbitrary or capricious. The appellate review body shall also consider any written statements submitted pursuant to §2.5-2. The affected Practitioner shall have access to the report and record of the hearing panel/officer and the MEC and/or the Board, as applicable, and all other material, favorable or unfavorable, that was introduced at the hearing and considered in making the Adverse recommendation or taking the Adverse action against the Practitioner.

2.5-2 WRITTEN STATEMENTS

The appellate review body shall set a date by which written statements must be submitted to it, through the System CEO and Hospital President, and to the opposing party. The Practitioner's statement should describe the facts, conclusions, and procedural matters with which he/she disagrees and the reasons for such disagreement. The body whose Adverse recommendation/action occasioned the review should discuss the basis upon which it believes its recommendation/action should be upheld and may submit a written statement in support thereof.

2.5-3 ORAL ARGUMENTS

The appellate review body may, at its discretion, allow the parties or their representatives to appear and make oral statements. The decision to permit oral arguments shall be at the sole discretion of the appellate review body. The appellate review body shall further decide what time limits, if any, should be placed upon the arguments and whether the arguments will be presented separately or with representatives of both parties in the room. Parties or their representatives appearing before the appellate review body must answer questions posed to them by the review body.

2.5-4 PRESIDING OFFICER

The chair of the appellate review body shall preside over the appellate review including determining the order of procedure, making all required rulings, and maintaining decorum during the proceeding.

2.5-5 CONSIDERATION OF NEW/ADDITIONAL EVIDENCE

(a) If a party wishes to introduce new/additional evidence not raised or presented during the original hearing and not otherwise reflected in the

record, the party must make such request in writing at the time he/she submits a request for appellate review pursuant to §2.1.

(b) The party may introduce such evidence at the appellate review only if expressly permitted by the appellate review body, in its sole discretion, and only upon a clear showing by the party requesting consideration of the evidence that it is new, relevant evidence not previously available at the time of the hearing or that a request to admit relevant evidence was previously erroneously denied.

(c) In the exceptional circumstance where the appellate review body determines to hear such evidence, the appellate review body shall further have the ability to recess appellate review and remand the matter back to the hearing officer/panel.

2.5-6 In such event, the hearing shall be reopened as to this evidence only and the evidence shall be subject to submission and cross-examination and/or counter-evidence.

(a) The hearing officer/panel shall prepare a supplemental report and submit it to the body whose Adverse recommendation or action initially gave rise to the hearing. The initiating body will then notify the appellate review body, in writing through the System CEO and Hospital President, as to whether the initiating body will or will not be amending its Adverse recommendation or action and the nature of the amendment or reason for non-amendment.

(b) The System CEO or Hospital President shall then provide a copy of the hearing officer's/panel's supplemental report and the initiating body's recommendation/action to the Practitioner and the appellate review process shall recommence.

2.5-7 RECESS & ADJOURNMENT

(a) The appellate review body may recess the review proceeding and reconvene the same without additional notice if it deems such recess necessary for the convenience of the participants, to obtain new or additional evidence, or if consultation is required for resolution of the matter.

(b) Upon conclusion of oral statements, if allowed, the appellate review shall be closed. The review body shall then deliberate outside the presence of the parties at such time and in such location as is convenient to the review body. The appellate review shall be adjourned at the conclusion of the review body's deliberations.

2.6 ACTION FOLLOWING CONCLUSION OF APPELLATE REVIEW

2.6-1 If the appellate review is conducted by the Board as a whole, it may affirm, modify, or reverse its prior decision; accept or reject the recommendation of the MEC; or refer the matter back to the MEC for further review and recommendation. Such referral may include a request that the MEC arrange for a further hearing to resolve disputed issues and a specified time period in which to do so and report back to the Board.

2.6-2 If the appellate review is conducted by a Board committee, such committee shall, within fifteen (15) days after adjournment of the appellate review, issue a written report recommending that the Board affirm, modify, or reverse its prior decision; accept or reject the recommendation of the MEC; or, refer the matter back to the MEC for further review and recommendation. Such referral may include a request that the MEC arrange for a further hearing to resolve disputed issues and a specified time period in which to do so and report back to the Board.

2.7 FINAL DECISION OF BOARD

2.7-1 Within thirty (30) days after adjournment of the appellate review the Board shall reach a decision.

(a) If this decision is in accordance with the MEC's last recommendation, or the Board's last action in the matter, it shall be immediately effective and final and shall not be subject to further hearing or appellate review.

(b) If this decision is contrary to the MEC's last recommendation, or the Board's last action in the matter, the Board shall refer the matter to the Joint Conference Committee prior to issuing notice of its final decision. This committee shall make its written recommendation to the Board within fifteen (15) days after receipt of the Board’s request. The Board shall then make its final decision. The Board's final decision shall be immediately effective and the matter shall not be subject to any further referral or review.

(c) The System CEO or Hospital President will promptly send a copy of the Board’s written decision, with a statement of the basis for the decision, to the affected Practitioner, by Special Notice, and to the Chief of Staff.

2.8 REPORTING

The System CEO or Hospital President shall report any final action taken by the Board pursuant to the Medical Staff Bylaws and this Policy to the appropriate authorities as required by law and in accordance with applicable Hospital procedures regarding the same.

2.9 GENERAL PROVISIONS

2.9-1 WAIVER

If at any time after receipt of notice of an Adverse recommendation, action, or result, the affected Practitioner fails to satisfy a request, make a required appearance, or otherwise comply with this Policy, he/she shall be deemed to have voluntarily waived all rights to which he/she might otherwise have been entitled with respect to the matter involved.

2.9-2 EXHAUSTION OF REMEDIES

A Practitioner must exhaust the remedies afforded by this Policy before resorting to any form of legal action.

2.9-3 RELEASE

By requesting a hearing or appellate review, the Practitioner agrees to be bound by the provisions set forth in the Medical Staff Bylaws regarding confidentiality, reporting immunity, and release of liability.

2.9-4 REPRESENTATION BY COUNSEL

At such time as the Practitioner, MEC, or Board is represented by legal counsel, then all notices required to be sent herein may be served upon legal counsel and the requirement that such notices be sent by Special Notice is hereby waived. Rather, such notices may be sent by regular first class U.S. mail, telefax, e-mail, or in such other manner as is mutually agreeable to the parties.

2.9-5 RIGHT TO ONE HEARING AND APPELLATE REVIEW

Notwithstanding any other provision of this Policy to the contrary, no Practitioner shall be entitled as a matter of right to more than one (1) hearing and one (1) appellate review on any matter for which there is a hearing right. Adverse recommendations or actions on more than one (1) matter may be consolidated and considered together or separately as the Board shall designate in its sole discretion.

2.9-6 ADOPTION & AMENDMENT

This Policy shall be adopted and amended as set forth in the applicable section of the Medical Staff Bylaws.

CERTIFICATION OF ADOPTION AND APPROVAL

Adopted by the Medical Executive Committee on _____, 2023

Approved by the Board on _____, 2023