

**CRAIG HOSPITAL**

**ENGLEWOOD, COLORADO**

**AMENDED AND RESTATED BYLAWS  
OF THE MEDICAL STAFF**

**ADOPTED AS AMENDED: DECEMBER 5, 2019**

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**AMENDED AND RESTATED BYLAWS OF THE MEDICAL STAFF**

**CRAIG HOSPITAL**

**ENGLEWOOD, COLORADO**

**PREAMBLE**

WHEREAS, Craig Hospital is a nonprofit corporation under the laws of the State of Colorado; and

WHEREAS, its purpose is to serve as a hospital providing patient care, education and research; and

WHEREAS, it is recognized that the Medical Staff is responsible for the quality of medical care in the hospital and must accept and discharge this responsibility, subject to the ultimate authority of the hospital Governing Body, and that the cooperative efforts of the Medical Staff, the Medical Staff President, the president and chief executive officer, and the Governing Body are necessary to fulfill the hospital's obligations to its patients;

THEREFORE, the physicians, dentists and podiatrists practicing in this hospital hereby organize themselves into a Medical Staff in conformity with these Amended and Restated Medical Staff Bylaws.

**DEFINITIONS**

1. The term "Allied Health Professionals" or "AHPs" means non-physician health care providers who are not Practitioners, are not eligible or qualified to be members of the Medical Staff, but are licensed, certified or otherwise qualified to practice in their respective health care disciplines.

2. The term "Executive Committee" means the Executive Committee of the Medical Staff (MEC).

3. The term "Medical Staff" means all medical physicians and osteopathic physicians holding unlimited licenses, and duly licensed dentists and podiatrists, who are privileged to attend patients in the hospital.

4. The term "Good Standing" means the individual is not the subject of a current corrective action investigation, is not the subject of a pending recommendation for adverse action by the MEC, and does not have his/her Privileges, automatically suspended, or voluntarily resigned or limited while under investigation, or involuntarily limited, restricted, suspended or otherwise encumbered for disciplinary cause or reason.

5. The term "Governing Body" means the Board of Directors of Craig Hospital.

6. The term "Medical Care Committee" means the Medical Care and Administrative (MCAC) Subcommittee of the Governing Body.

7. The term “President/CEO” means the President and Chief Executive Officer of Craig Hospital who is appointed by the Governing Body to act in its behalf in the overall management of the hospital.

8. The term “Practitioner” means an appropriately licensed medical physician, osteopathic physician, dentist or podiatrist.

9. The term “Medical Staff President” means the elected leader of the Medical Staff. Under the Medical Staff rules, regulations and policies, the term “Medical Director” shall refer to the elected Medical Staff President.

## **ARTICLE I. NAME**

The name of this organization shall be the Medical Staff of Craig Hospital.

## **ARTICLE II. PURPOSES AND RESPONSIBILITIES**

### **Section 1 Purposes**

The purposes of this organization are:

- A. To insure that all patients admitted to or treated in the hospital shall receive a uniform standard of quality patient care, treatment and services.
- B. To provide oversight of care, treatment and services provided by Practitioners and AHPs with privileges.
- C. To provide an appropriate educational setting that will maintain scientific standards and that will lead to continuous advancement of professional knowledge and skill.
- D. To provide self-governance of the Medical Staff including:
  1. Initiating, developing and approving Medical Staff Bylaws and rules and regulations.
  2. Approving or disapproving amendments to the Medical Staff Bylaws and rules and regulations.
  3. Electing and removing medial staff officers.
  4. Determining the mechanism for establishing and enforcing criteria and standards for Medical Staff membership and privileges.
  5. Determining the mechanism for establishing and enforcing criteria for delegating oversight and responsibilities to Practitioners with independent privileges.
  6. Determining the mechanism for establishing and maintaining patient care standards and credentialing and delineation of clinical privileges.

7. Engaging in performance improvement activities.
- E. To provide a means whereby issues concerning the Medical Staff and the hospital may be discussed by the Medical Staff with the Governing Body.
  - F. The organized Medical Staff is accountable to the Governing Body for the quality of care, treatment and services provided to patients by Practitioners with privileges.
  - G. Enforcing the Medical Staff Bylaws, rules and regulations, including by recommending action to the Governing Body as appropriate.

## **Section 2 Responsibilities**

The ongoing responsibilities of each member of the Medical Staff will include:

- A. Providing patients with quality care in a reasonably efficient manner that meets generally recognized professional standards.
- B. Abiding by the Medical Staff Bylaws, Medical Staff Rules and Regulations, Medical Staff Policies and the Hospital Bylaws and Policies.
- C. Adhering to the ethical standards applicable to his or her licensure.
- D. Completing and documenting medical histories and physical examinations in accordance with the Medicare Conditions of Participation, The Joint Commission, and State Law. Without limiting the foregoing:
  1. The medical history and physical examination must be completed and documented for each patient no more than 30 days before or 24 hours after admission or registration, but prior to surgery or a procedure requiring anesthesia services. The medical history and physical examination must be completed and documented by a physician or by a dentist who is an oromaxillofacial surgeon, an AHP who is an advanced practice nurse or a physician assistant, subject to appropriate physician supervision or collaboration, and co-signature as required in accordance with their limited scope of practice and as set forth in the rules and regulations.
  2. An updated examination of the patient, including any changes in the patient's condition, must be completed and documented within 24 hours after admission or registration, but prior to surgery or a procedure requiring anesthesia services, when the medical history and physical examination are completed within 30 days before admission or registration. The updated examination must be completed and documented by a physician or by a dentist who is an oromaxillofacial surgeon, an advanced practice nurse or a physician assistant, in accordance with their limited scope of practice as set forth in the rules and regulations.
  3. Dentists and podiatrists may perform that portion of the history and physical relating to dental and podiatric care, respectively, in accordance with privileges granted.

A physician member of the Medical Staff must complete the medical components of the history and physical.

- E. Practicing within the scope of privileges granted by the Governing Body.
- F. Participate in continuing education activities for his or her practice specialty.

### **ARTICLE III. APPOINTMENT**

#### **Section 1 Nature of Medical Staff Membership**

Membership on the Medical Staff of Craig Hospital is a privilege which shall be extended only to professionally competent physicians, dentists, and podiatrists who continuously meet the qualifications, standards and requirements set forth in these Medical Staff Bylaws.

#### **Section 2 Qualifications**

A. Only physicians, dentists and podiatrists licensed to practice in the State of Colorado, who can document their background, experience, training and demonstrated competence, their adherence to the ethics of their profession, their good reputation, and their ability to work with others, with sufficient adequacy to assure the Medical Staff and the Governing Body that any patient treated by them in the hospital will be given a high quality of medical care, shall be qualified for membership on the Medical Staff. No physician, dentist or podiatrist shall be entitled to membership on the Medical Staff or to exercise particular clinical privileges in the hospital merely by virtue of the fact that the Practitioner is duly licensed to practice medicine, dentistry or podiatry in this or any other state, or is a member of any professional organization, or had in the past, or presently has, such privileges at another hospital. Membership shall not be denied on the basis of race, creed, color, sex or national origin.

#### **B. Professional Liability Insurance**

1. All applicants and members shall have and maintain a minimum of \$1 million (\$1,000,000) for single occurrences and \$3 million, (\$3,000,000) annual aggregate professional liability insurance for which evidence of such coverage must be demonstrated by Certificate of Insurance or similar proof. Any member whose professional liability insurance is canceled or failed to be renewed shall immediately notify the Medical Staff President after receiving said notification. The statement must include the circumstances resulting in cancellation or failure of renewal. Any member who does not have professional liability insurance at the time of reappointment must report this fact in the requested reappointment information.

2. Upon recommendation of the MEC, such minimum amount of required professional liability insurance may be waived by the Governing Body for faculty physicians of the University of Colorado Health Sciences Center to the extent that such required minimum amount exceeds the University's limited liability pursuant to C.R.S. Section 24-10-114. Section 24-10-114 limits the University's liability to \$350,000 for any one person per occurrence and \$900,000 for injury to two or more persons in any single occurrence and \$900,000 for injury to two or more persons in any single occurrence, with

each person limited to \$350,000, subject to inflationary adjustments. A Practitioner who is a public employee but is acting outside the scope of his/her employment (“moonlighting”) must obtain and maintain professional liability insurance as provided in Section 2.B(1) above.

- C. Each applicant and member must satisfy the following additional qualifications:
1. Applicants shall meet one of the following requirements:
    - a. Board certification, in the specialty or subspecialty for which privileges are requested, as demonstrated by proof of maintenance.
    - b. Have successfully completed an approved residency or fellowship program in the specialty or subspecialty for which privileges are requested, and agree to obtain board certification within the time period permitted by the applicable certifying board for the applicant to complete the certifying examination, or, if there is no time limit specified by the board, the applicant must successfully complete the certifying exam within three (3) years of appointment to the Medical Staff.
    - c. Demonstration to the satisfaction of the Medical Staff and the Governing Body, competency and training equivalent to that required for board certification.
  2. Hold an unrestricted license to practice medicine, dentistry, or podiatry Colorado or under Colorado law. For purposes of this provision, “unrestricted license” means the Practitioner is not under probation, his or her license is not suspended or limited, and the Practitioner is authorized to perform all professional services that he/she is trained to perform within the broadest scope of licensure.
  3. If practicing medicine, dentistry, or podiatry and the requested clinical privileges contemplate prescribing controlled substances at the Hospital have a federal Drug Enforcement Agency (DEA) number with a Colorado address. A DEA number is not required if no scheduled drugs are required for the Practitioner to exercise the full scope of requested clinical Privileges and no controlled substances will be prescribed by or on behalf of the Practitioner (for example, a diagnostic radiologist).
  4. Currently participate in Medicare and Medicaid, and not be currently excluded or suspended from participation in any federal health care program, including the Medicare and Medicaid programs.
  5. Participate in any immunizations (measles, mumps, rubella, varicella, pertussis, flu) or screening requirements in accordance with Craig Hospital policies, including TB testing within 18 months prior to estimated appointment date.
  6. Not have been involuntarily dismissed, terminated or summarily suspended from any medical staff or had Privileges involuntarily terminated, restricted or summarily suspended by any health facility for reasons of clinical competence or professional conduct, which action was upheld following waiver or exhaustion of any procedural remedies.

7. Not have been convicted of, or entered a plea of guilty or no contest to (1) any felony, or (2) any misdemeanor relating to controlled substances, illegal drugs, insurance or health care fraud or abuse, or violence or abuse.

8. The name of one or more Practitioners who will provide call for the applicant, should he or she become unavailable.

D. If the Hospital operates a category, service line or section of the Medical Staff under the terms of an exclusive arrangement or closed staff arrangement with a Practitioner or group of Practitioners, which is approved by the Governing Body, the applicant must be employed by or under contract with the Practitioner or group of Practitioners who hold the exclusive arrangement or qualify for the closed staff arrangement approved by the Governing Body, and maintain that status during the Practitioner's appointment.

E. Acceptance of membership on the Medical Staff constitutes the staff member's pledge to provide for the continuous care of his or her patients and his or her agreement that he or she will conduct himself or herself in accordance with the ethics of the profession at large, and shall be further guided by any additional principles and ethics generally recognized and accepted by the members of the staff.

F. Applicants (other than applicants for Honorary Staff) who do not satisfy the basic qualifications under Article III, Section 2, subsections B, C and D above are ineligible to apply for Medical Staff membership, and the application shall not be accepted for review. If it is determined that an applicant does not meet all of the basic qualifications during the processing, the review of the application shall be discontinued. An applicant who does not meet the basic qualifications is not entitled to the procedural rights set forth in these Medical Staff Bylaws.

### **Section 3      Conditions and Duration of Appointment**

A. Initial appointments and reappointments to the Medical Staff shall be made by the Governing Body. The Governing Body shall act on appointments, reappointments, or revocations of appointments only after there has been a recommendation from the MEC as provided in these bylaws.

B. Recommendations for appointment, reappointment and for privileges shall be made the responsibility of the MEC, following a favorable evaluation of the member's professional competence, utilization of hospital facilities, participation in Medical Staff and continuing education activities, and the member's ability to perform the specific privileges requested.

C. Initial appointments and reappointments shall be for a period of not more than two (2) years.

D. Appointment to the Medical Staff shall confer on the appointee only such clinical privileges as have been granted by the Governing Body in accordance with these bylaws.

## **Section 4      Application for Appointment**

A. All applications for appointment to the Medical Staff shall be submitted on the Colorado Health Professional Application Form and any supplemental form prescribed by the Governing Body. The application shall require detailed information concerning the applicant's professional qualifications, relevant training, current competence and clinical practice including:

1. the names of two (2) persons who have extensive experience in observing and working with the applicant and who can provide adequate reference pertaining to the applicant's professional competence and ethical character;
2. information regarding any investigations, voluntary or involuntary termination of Medical Staff membership or voluntary or involuntary limitation, reduction, or loss of clinical privileges at another hospital;
3. information as to whether his/her membership in local, state or national professional societies, his/her license to practice any profession in any state, his/her registration certificate to prescribe controlled substances or his/her eligibility to participate in any private, federal or state health insurance programs have ever been suspended, modified, or terminated. The submitted application shall include the license number of the applicant's current Colorado license to practice with any modifications and, if his/her clinical practice includes prescription of controlled substances, a current copy of his/her Drug Enforcement Administration registration certificate.
4. information verifying that the applicant currently has in force professional liability insurance at the required minimum level and as to whether there have been any claims, suits or judgments filed against him or her or any settlements made in his/her behalf relating to professional liability cases against the Practitioner;
5. a copy of a current government issued photo identification and an additional current photograph to ensure that the individual requesting approval is the same individual identified in the application documents.

B. The applicant shall have the burden of producing adequate information for a proper evaluation of his/her competence, character, ethics, physical and mental well-being and other qualifications. Two (2) letters of recommendation shall be requested from peers, as appropriate.

C. By applying for appointment to the Medical Staff, each applicant hereby signifies his or her willingness to appear for interviews in regard to the application, authorizes the hospital to consult with members of Medical Staffs of other hospitals with which the applicant has been associated and with others who may have information bearing on the applicant's competence, character, and ethical qualifications, and ability to perform the specific privileges requested. The applicant may be evaluated in accordance with the Impaired Practitioner/Disruptive Behavior Policy, as such is amended from time to time. The applicant further consents to the hospital's inspection of all records and documents that may be material to an evaluation of the applicant's professional qualifications, competence and ability to carry out the clinical privileges requested as well as the moral and ethical qualifications for staff membership.

D. By applying for appointment to the Medical Staff, each applicant hereby releases from any liability and grants immunity to all representatives of the hospital and its Medical Staff for their acts performed connection with evaluating the applicant and his or her credentials, and releases from all liability all individuals and organizations who provide information to the hospital concerning the applicant's competence, ethics, character, ability to perform the specific privileges requested, and other qualifications for staff appointment and clinical privileges, including otherwise privileged or confidential information. This provision supplements and does not limit the immunities under Article XIV and available under applicable state and federal laws.

E. Every application for staff appointment shall be signed by the applicant and shall contain the applicant's specific acknowledgment to abide by the Medical Staff Bylaws and rules and regulations as well as those provisions of the bylaws of the Governing Body which apply to the Medical Staff.

F. The applicant agrees to immediately provide and update the information requested on the original application and subsequent applications for reappointment and privilege request forms. The applicant further agrees to provide all related information requested by the Hospital or its Medical Staff.

For purposes of this Section "immediately" means within three (3) days of the change in information unless otherwise provided in the Bylaws, Rules and Regulations, policies, procedures or requirements of the Hospital or its Medical Staff. Copies of renewed or updated medical Licenses, DEA registration certificate, proof of professional liability insurance coverage or other documents requested by the Health Information Management Director or designee (the "Responsible Employee") must be provided within thirty (30) days of receipt of the requests.

## **Section 5 Appointment Process**

A. The completed application form shall be transmitted to the Responsible Employee. After performing primary source verification and collecting all required other materials, the Responsible Employee shall transmit the application and all supporting materials to the Medical Staff President.

B. The Responsible Employee will notify an applicant of any missing information or information that cannot be confirmed from a primary source, and the applicant will be permitted thirty (30) days to provide any missing information. If the applicant fails to furnish the missing information or if any information cannot be verified, the application is incomplete and will be rejected administratively and not processed.

C. The Medical Staff President shall examine the evidence of the character, professional competence, qualifications and ethical standing of the Practitioner as directly related to the quality of health care, treatment and services, and shall determine, through information contained in references given by the Practitioner and from other sources available, whether the Practitioner has established and meets all of the necessary qualifications for the category of staff membership and the clinical privileges requested.

D. The Medical Staff President will make a preliminary recommendation regarding Medical Staff membership, category and clinical privileges (under Article V) to the MEC. The Responsible Employee will transmit the completed application, the NPDB report, the Medical Staff President's

recommendation, any negative information regarding the Practitioner's character, professional competence, qualifications and ethical standing, and the Medical Staff President's recommendation to the MEC. Negative information includes, for example, any adverse peer references, health concerns, malpractice claims and actions, actions reported to the NPDB, disciplinary actions by the Colorado Medical Board, and criminal record. The MEC may request to review any additional information, including the applicant's complete application file.

E. Within sixty (60) days after receipt of the completed application for membership, completion of the Responsible Employee's primary source verification process, and receipt of the Medical Staff President's preliminary recommendation, the MEC shall evaluate the applicant and make a recommendation that the Practitioner be provisionally appointed to the Medical Staff, that the Practitioner be rejected for Medical Staff membership, or that the application be deferred for further consideration. All recommendations to appoint must also specifically recommend the designated staff category and the clinical privileges to be granted.

F. When the recommendation of the MEC is favorable to the Practitioner, the Medical Staff President shall forward the recommendation, together with all supporting documentation, to the MCAC of the Governing Body. At its next regular meeting after receipt of the MEC's recommendation, the MCAC shall review, evaluate and make recommendations to the Governing Body relative to the applicant's provisional appointment to the Medical Staff.

G. When the recommendation of the MEC is to defer the application for further consideration, it must be followed up within sixty (60) days with a subsequent recommendation for appointment with specific clinical privileges, or for rejection for staff membership or some or all requested privileges.

H. When the recommendation of the MEC is adverse to the Practitioner either in respect to appointment or clinical privileges, the Medical Staff President shall promptly so notify the Practitioner by certified mail, return receipt requested, of his/her procedural rights as provided in Article XIII of these bylaws. An adverse recommendation should not be forwarded to the MCAC or Governing Body for action until after the Practitioner has exercised or has been deemed to have waived his or her right to a hearing and appellate review as provided in these bylaws.

I. At its next regular meeting after receipt of a favorable recommendation from the MEC and the MCAC, the Governing Body shall act on the matter, and the requesting Practitioner is promptly notified by letter regarding an approval of appointment.

1. If the Governing Body's decision is adverse to the Practitioner in respect to either appointment or clinical privileges (notwithstanding a prior favorable recommendation), the Medical Staff President shall promptly notify the Practitioner of such adverse decision and the Practitioner's procedural rights as provided in Article XIII of these bylaws, by certified mail, return receipt requested. The Governing Body's adverse decision shall be held in abeyance until the Practitioner has exercised or has been deemed to have waived his or her right to a hearing and an appellate review as provided in these bylaws.

2. The fact that the adverse decision is held in abeyance shall not be deemed to confer privileges where none existed before.

J. At its next regular meeting after all of the Practitioner's procedural rights have been exhausted or waived as provided in these bylaws, the Governing Body shall act on the matter. The Governing Body may defer final determination by referring the matter back to the MEC for further reconsideration. Any such referral back shall state the reasons therefor, shall set a time limit within which a subsequent recommendation to the Governing Body shall be made, and may include a directive that an additional hearing be conducted to clarify issues which are in doubt. At its next regular meeting after receipt of such subsequent recommendation and new evidence in the matter, if any, the Governing Body shall make a decision either to appoint the Practitioner to the staff or to reject staff membership, and to award some or all of the privileges requested. All decisions to appoint shall include a delineation of the clinical privileges that the Practitioner may exercise.

K. Whenever the Governing Body's decision will be contrary to the recommendation of the MEC, the Governing Body shall submit the matter to a jointly convened Conference Committee for review and recommendation and shall consider such recommendation before making its final decision.

L. When the Governing Body' decision is final, it shall send notice of such decision through the Medical Staff President, to the Chair of the MEC and to the Practitioner.

## **Section 6 Reappointment Process**

A. An applicant for reappointment must submit a completed application at least thirty (30) days prior to expiration of his or her current appointment.

B. The applicant must meet the basic qualifications under Article III, Section 2, subsections B, C and D. Applicants for reappointment (other than applicants for Honorary Staff) who do not satisfy the basic qualifications under Article III, Section 2, subsections B, C and D above are ineligible to apply for reappointment, and the application shall not be accepted for review. If it is determined that an applicant does not meet all of the basic qualifications during the processing, the review of the application shall be discontinued. An applicant who does not meet the basic qualifications is not entitled to the procedural rights set forth in these Medical Staff Bylaws.

C. Every two (2) years, prior to the first scheduled regular meeting of the Governing Body in the year in which a new reappointment cycle begins, the Medical Staff President shall review all pertinent information available on each Practitioner scheduled for periodic appraisal who submitted a timely, complete application, for the purpose of determining his or her recommendations for reappointment to the Medical Staff and for the granting of clinical privileges for the ensuing period of up to two (2) years. This shall include the results of any Focused Professional Practice Evaluation (FPPE) and the Ongoing Professional Practice Evaluations (OPPE), any patient complaints or incident reports, an update of the detailed information required at the time of initial appointment or any previous reappointments. The Medical Staff President will make a preliminary recommendation to the MEC.

D. The MEC shall review the reappointment application, the results of OPPE and any FPPE, and any negative information. The MEC may request review of any additional information. The MEC will transmit any favorable recommendations, in writing, to the MCAC of the Governing Body for review and transmission to the full Governing Body.

E. If the MEC recommends non-reappointment or non-renewal or all or some privileges, the MEC may request an interview with the Practitioner before finalizing its recommendation. Where non-reappointment is recommended, the reason for such recommendation shall be stated and documented.

F. When the recommendation of the MEC is adverse to the Practitioner either in respect to reappointment or clinical privileges, the Medical Staff President shall promptly so notify the Practitioner by certified mail, return receipt requested, of his/her procedural rights as provided in Article XIII of these bylaws. No such adverse recommendation need be forwarded to the MCAC of the Governing Body for review and transmission to the full Governing Body for action until after the Practitioner has exercised or has been deemed to have waived his or her right to a hearing as provided in these bylaws. The Practitioner's Medical Staff membership and privileges may be tentatively renewed for a period of less than two (2) years (such as one or two months), to allow time for the Practitioner's exhaustion or waiver of the right to a hearing and appeal.

G. Each recommendation concerning the reappointment of a Medical Staff member and the clinical privileges to be granted upon reappointment shall be based upon such member's ethics and conduct, professional competence and clinical judgment in the treatment of patients, attendance at Medical Staff meetings, where appropriate, participation in Medical Staff affairs and continuing education activities, compliance with the hospital bylaws, where applicable, and the Medical Staff Bylaws and rules and regulations, cooperation with hospital personnel, use of the hospital's facilities for patients, relations with other Practitioners, and the general attitude toward patients, the hospital and the public, an appraisal of the member's ability to perform the specific privileges requested.

H. Thereafter, the procedure provided in Section 4 of this Article III relating to recommendations on applications for initial appointment shall be followed.

### **Section 7 Modification of Membership Status or Privileges**

A. A staff member may, either in connection with reappointment or at any other time, request modification of his/her staff category or clinical privileges by submitting a written application to the Medical Staff President. Such request shall be processed in substantially the same manner as provided in Section 6 for reappointment.

B. All advancements in staff category and new clinical privileges are granted on a provisional basis for two (2) years and are subject to the procedures outlined in Article IV., Section 2, for initial appointment.

### **Section 8 Leave of Absence**

If a Medical Staff member will be absent from patient care responsibilities for more than six (6) months, he or she must request a leave of absence from the Medical Staff.

### **Section 9 Leave Of Absence, Reinstatement and Monitoring**

A. For a Medical Staff Members who self-reports or is otherwise determined to have a health concern that may affect his or her practice at the Hospital, information shall be forwarded to the

MEC (or Impaired Practitioner Committee) for purposes of considering requests for reinstatement following a leave of absence, or initial appointment if membership and Privileges have expired during a leave of absence, and monitoring, and reasonable accommodation if required by law. Such information shall include the following: a copy or a summary of the original complaint or self-report, a copy of the any report(s) of the Impaired Practitioner Committee, and a description of the actions taken by the Medical Staff President, the Medical Staff President or their designees, any reports from Colorado Physician Health Program (“CPHP”) or other program or provider, and information concerning the Practitioner’s activities, including whether the Medical Staff Members took a voluntary leave of absence or agreed to refrain from exercising certain Privileges.

B. Upon sufficient proof that a Medical Staff Member has been evaluated by and/or participated in a rehabilitation or treatment program or other provider acceptable to the MEC or its designee, a Medical Staff Member who was granted a medical leave of absence may be eligible for reinstatement or appointment if his/her membership or Privileges expired, subject to evaluation of his or her fitness to return to practice. A request for reinstatement following a leave of absence shall be submitted in accordance with this Section 8.B. The Impaired Practitioner Committee reviews all relevant information and shall make a recommendation to the MEC. Appointments shall be addressed in accordance with the processes under Article III. The MEC shall consider the recommendations of the Impaired Practitioner Committee concerning reinstatement or appointment, monitoring and reasonable accommodation if required by law.

C. Prior to recommending reinstatement or appointment of a Medical Staff Member who took a medical leave of absence, determining appropriate monitoring, or considering any request for reasonable accommodation if required by law, the MEC must obtain a letter from CPHP or other program or provider acceptable to the MEC or its designee addressing the relevant health concerns, which should include the Medical Staff Member’s condition, compliance, the need for monitoring, continued treatment needs and whether the Medical Staff Member can safely and competently exercise Privileges. The Practitioner may be required to consent in writing to the release of this information initially and as part of an ongoing monitoring process. The MEC may consult with the Hospital’s human resources department on a confidential basis concerning the standards for reasonable accommodation.

D. The MEC shall determine what, if any, monitoring should be required when the Medical Staff Member returns to practice or exercises full Privileges. The Medical Staff Member may be required to provide periodic reports from his or her treatment program or provider that address relevant concerns, including that his or her ability to practice safely and competently is not impaired. The Medical Staff Member’s exercise of Privileges in the Hospital may be monitored by the MEC or its designee. If the Medical Staff Member has a health concern relating to substance abuse, the Medical Staff Member must, as a condition of reinstatement or appointment, agree to submit to random alcohol or drug screening tests at the request of the Medical Staff President, Medical Staff President or their respective designees.

## **Section 10 Reporting**

If a Practitioner takes a leave of absence while under investigation or a FPPE, the MEC will consult with administration to determine whether the leave of absence must be reported to the National Practitioner Data Bank.

## **Section 11     Corrective Action and Suspension**

The Medical Staff desires to encourage self-reporting and voluntary cooperation through a process that promotes rehabilitation and confidentiality and is separate from the corrective action process. If at any stage, the Practitioner does not voluntarily and fully cooperate in the processes set forth in this Section 8 in a timely manner and the Medical Staff Member health concern presents a risk to patient safety, quality care, or safe and effective Hospital operations, the matter may be referred to the MEC in accordance with the Bylaws. If the failure to take action may result in imminent danger to the health and/or safety of any patient or other person under the Bylaws may be invoked. The Medical Staff Member's rights, if any, to a hearing and appeal shall be as described in the Bylaws.

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

### **Section 1     The Medical Staff**

The Medical Staff shall be divided into Active Attending, Primary Consulting, Consulting, Affiliate and Honorary Categories.

### **Section 2     Active Attending Staff**

The Active Attending Staff shall consist of physicians who regularly admit patients to the hospital and who assume all the functions and responsibilities for membership on the active Medical Staff including, where appropriate, emergency care and consultation assignments. Members of the Active Attending Staff shall be eligible to vote, to hold office and to serve on and chair the MEC and other Medical Staff committees.

### **Section 3     Primary Consulting Staff**

The Primary Consulting Staff shall consist of specialist Practitioners in various categories of care who shall act in an auxiliary capacity to the Active Attending Staff in the management of patients. They shall not be eligible to admit patient to the Inpatient Service, but may admit patients to the Out-Patient Department. Members of the Primary Consulting Staff may be appointed as members of the MEC and other Medical Staff committees as deemed necessary, and are encouraged to attend Medical Staff meetings. Primary Consulting Staff must have participated in the treatment of a minimum of twenty (20) patients during their initial or most recent two (2) year appointment period. They shall not be eligible to hold office, but shall be eligible to vote.

### **Section 4     Consulting Staff**

The Consulting Staff shall consist of physicians, dentists and podiatrists with recognized professional credentials who, upon invitation of a member of the Active Attending Staff, have indicated a willingness to serve in a consulting capacity. They shall not be eligible to admit patients to the Inpatient Service. However, they may admit patients to the Out-Patient Department. Consulting Staff may attend annual Medical Staff meeting. Consulting Staff must have participated in the treatment of a minimum of five (5) patients during their initial or most recent two (2) year appointment period. They shall not be eligible to participate as members of the MEC, vote, or hold office.

## **Section 5      Affiliate Staff**

The Affiliate Staff shall consist of specialist Practitioners who participate in the treatment of fewer than five (5) patients during their initial or most recent two (2) year appointment period, but who are associates of members of the Primary Consulting Staff or the Consulting Staff and provide specialty call coverage for those members. They must meet and maintain the qualifications outlined in Article III, Sections 2 and 3 as well as demonstrated competence as evidenced by continuing membership in Good Standing on the Medical Staff of another local hospital. They shall not be eligible to admit patients to the Inpatient Service or to the Out-Patient Department. Affiliate Staff may attend annual Medical Staff meeting. They shall not be eligible to participate as members of the MEC, vote, or hold office.

## **Section 6      Honorary Staff**

The Honorary Staff shall consist of Practitioners who are not active in the hospital, but who have made extraordinary contributions to Craig Hospital and/or the rehabilitation field. These may be individuals who are recognized for their outstanding reputation and/or their long-standing service to the hospital. Honorary members shall not be eligible to admit patients, to participate as members of the MEC, vote, hold office, or serve on standing Medical Staff committees, but they may act as consultants to the organized Medical Staff on Bylaws, policies and procedures, and other relevant matters, and will be invited to the annual Medical Staff meetings.

## **Section 7      Designation of Category**

The MEC shall recommend to the Governing Body the appropriate staff category of each applicant for appointment or reappointment. The decision of the Governing Body shall be final.

# **ARTICLE V.    PRIVILEGES**

## **Section 1      Clinical Privileges**

A.      Every Practitioner practicing in this hospital by virtue of Medical Staff membership or otherwise, shall, in connection with such practice, be entitled to exercise only those clinical privileges as delineated in the Medical Staff Rules and Regulations and specifically granted by the Governing Body, except as provided in Sections 2, 3 and 4 of this Article V.

B.      Every initial application for appointment to the Medical Staff must contain a request for the specific clinical privileges desired by the applicant. The evaluation of such requests shall be based upon the applicant's education, training, experience, demonstrated competence, references and other relevant information in accordance with the processes under Article III. The applicant shall have the burden of establishing his or her qualifications and competency in the clinical privileges requested.

C.      All Practitioners with initial privileges will be subject to the FPPE in accordance with the Professional Practice Evaluation policy, as amended from time to time.

D.      Periodic redetermination of clinical privileges and the increase or curtailment of same shall be based upon the results of any FPPE, routine OPPE, direct observation of care provided, review

of the records of patients treated in this or other hospitals and review of the records of the Medical Staff that document the evaluation of the member's participation in the delivery of medical care.

## **Section 2      Temporary Privileges**

A.      Temporary privileges may be granted by the Governing Body or the MCAC or a subcommittee thereof, upon recommendation of the Medical Staff President (or authorized designee), only in the circumstances described below:

1.      Important Patient Care Need - To fulfill an important patient care need that, in the opinion of the Medical Staff President (or an authorized designee), identifies the need for an immediate authorization to practice, for a limited period of time. Verification for such temporary privileges will include confirmation of current licensure and current competence.
2.      Pendency of Application - To an applicant awaiting final MEC and Governing Body approval. The applicant must have:
  - a.      Current licensure
  - b.      Relevant training or experience
  - c.      Current competence
  - d.      Ability to perform the privileges requested
  - e.      A query and evaluation of the NPDB information
  - f.      A complete application
  - g.      No current or previously successful challenge to licensure or registration
  - h.      No subjection to involuntary termination of Medical Staff membership at another organization
  - i.      No subjection to involuntary limitation, reduction, denial or loss of clinical privileges at this hospital or another facility

B.      Under the foregoing circumstances, temporary privileges may be granted for a limited period of time, not to exceed 120 days.

## **Section 3      Emergency Privileges**

A.      In case of an emergency, any Practitioner member of the Medical Staff, an AHP who is an advanced practice registered nurse or physician assistant, to the degree permitted by the individual's license and regardless of staff status or lack of it, shall be permitted and assisted to do everything possible to save the life of a patient, using every facility of the hospital necessary, including the calling for any consultation necessary or desirable. When an emergency situation no longer exists, such physician must hand-off care to an appropriately privileged Practitioner.

B. For the purpose of this section, an “emergency” is defined as a condition in which the life or limb of a patient is in immediate danger and any delay in administering treatment would add to that danger.

#### **Section 4 Disaster Privileges**

In the event the hospital’s Emergency Operations Plan is activated, disaster privileges may be granted to licensed independent practitioners who are not members of the Medical Staff in accordance with the Medical Staff Policy for Granting Disaster Privileges in an emergency or disaster situation. The President/CEO or his/her designee (s) has the authority to grant disaster privileges.

### **ARTICLE VI. OFFICERS**

#### **Section 1 Officers of the Medical Staff**

The officers of the Medical Staff shall be the Medical Staff President and the Medical Staff Vice-President.

#### **Section 2 Qualifications of Officers**

Officers must be members of the Active Attending Medical Staff at the time of nomination and election and must remain Active Attending members in Good Standing during their term of office. Failure to maintain such status shall result in automatic removal and immediately create a vacancy in the office involved.

#### **Section 3 Election of Officers**

A. Officers shall be elected every two (2) years, either at the Annual Meeting of the Medical Staff or by mail or electronic vote.

B. An ad hoc Nominating Committee shall be formed by the Medical Staff President and shall consist of two members of the Active Attending Medical Staff. This committee shall nominate at least one nominee for Medical Staff President, and one nominee for Medical Staff Vice President.

C. In lieu of holding the election at the Annual Meeting of the Medical Staff, at the discretion of the Medical Staff President, a mail or electronic ballot may be sent to the voting members, with instructions to return the ballot within fifteen (15) days or such other period determined by the Medical Staff President.

D. Officers will be elected either (i) by a majority at the Annual Meeting at which a quorum is present, or (ii) in the case of election by mail or electronic ballots, by a majority vote of the ballots returned within the allotted time. The votes will be counted by a designee of the President/CEO. In the event no candidate receives a majority vote, the MEC will select the officer.

#### **Section 4 Term of Office**

All officers shall serve a two year term from their election date, or until a successor is elected. Officers shall take office at the close of the Annual Meeting at which they are elected or upon confirmation of election by ballot by the Medical Staff President or Designee.

#### **Section 5 Vacancies in Office**

Vacancies in office during the Medical Staff Year, except for presidency, shall be filled by appointment by the Medical Staff President appointing a member of the Active Attending Medical Staff. A vacancy in the office of the presidency shall be filled by the MEC appointing a member of the Active Attending Medical Staff until a re-election.

#### **Section 6 Resignation and Removal from Office**

A. Any Medical Staff officer may resign at any time by giving written notice to the MEC. Such resignation, which may or may not be contingent on formal acceptance, takes effect on the date of receipt or at any later time specified in it.

B. Removal of a Medical Staff officer may be effected either by:

1. the Governing Body after a joint conference with the MEC, with the affected Officer absent from the joint conference; or
2. an affirmative vote of two-thirds (2/3) of Medical Staff members who are eligible to vote, present at a special meeting called for that purpose and ratified by the MEC and the Governing Body.

C. Removal may be based only upon failure to perform the duties of the position held as described in the Medical Staff Bylaws.

D. A Medical Staff Officer is automatically removed failure to remain an Active Attending Medical Staff member in Good Standing during his or her term of office under Section 2 above.

#### **Section 7 Duties of Officers**

A. **President:** The President shall:

1. call, preside at and be responsible for the agenda of all general meetings of the Medical Staff;
2. chair and serve on the MEC;
3. serve as a member of all other Medical Staff committees, either on a regular or *ex officio* basis, except for a Hearing Panel;
4. appoint committee members to all standing, special and multidisciplinary Medical Staff committees, subject to the approval of the MEC;

5. attend Governing Body meetings;
6. serve on Governing Body and Hospital committees, as requested by the Governing Body;
7. work cooperatively with the President/CEO or his or her designee in all medico-administrative affairs affecting the Medical Staff;
8. represent the views, policies, needs and grievances of the Medical Staff to the Governing Body and administration;
9. receive and interpret the policies of the Governing Body to the Medical Staff;
10. report to the Governing Body on the performance and maintenance of quality with respect to the Medical Staff's delegated responsibility to provide care;
11. be responsible for the coordination of educational activities of the Medical Staff; and
12. act in coordination and cooperation with the hospital President/CEO in all matters of mutual concern within the hospital.

**B. Vice-President:** In the absence of the Medical Staff President, the Medical Staff Vice-President shall assume all the duties and have the authority of the Medical Staff President. The Medical Staff Vice-President shall be a member of the MEC.

## **ARTICLE VII. MEDICAL STAFF MEETINGS**

### **Section 1 Medical Staff Year**

For purposes of the business of the Medical Staff, the business year will commence on January 1 of each year and end on December 31 of the same year.

### **Section 2 Annual Meeting**

A. The Active Attending Staff shall, by standing resolution, designate the time and place for the Annual Meeting at which time elections of officers for the ensuing period shall be conducted.

### **Section 3 Special Meetings**

Special meetings of the Medical Staff may be called at any time by the Medical Staff President, the MEC or not less than one-fourth of the members of the Active Attending Medical Staff. There shall be ten (10) days' written notice given of all special meetings and the purpose of the meeting shall be stated in the notice. At any special meeting no business shall be transacted except that stated in the notice.

#### **Section 4 Quorum and Voting**

The presence of 50% of the total membership of the Active Attending Staff at the Annual Meeting or a special meeting of the Medical Staff shall constitute a quorum for the purposes of amending these Medical Staff Bylaws.

The presence of 30% of the Active Attending Staff shall constitute a quorum for all other actions taken the Annual Meeting or a special meeting of the Medical Staff.

Except as otherwise provided in these Medical Staff Bylaws, the affirmative vote of a majority of the voting members present at any meeting of the Medical Staff at which a quorum has been established shall be the action of the Medical Staff.

For purposes of the election of officers by mail or electronic voting without a meeting under Article VI, Section 3, there is no quorum requirement. An officer is elected by a majority of ballots returned within the time period allotted.

For purposes of approval of amendments to these Medical Staff Bylaws by mail or electronic voting without a meeting under Article XVII, there is no quorum requirement. The amendments are approved by the affirmative vote of a majority of the ballots returned.

#### **Section 5 Attendance Requirements**

A. Active Attending Staff: Each active attending staff member shall be required to attend a minimum of 50% of the Medical Staff meetings held in a Medical Staff year, inclusive of the Annual Medical Staff Meeting and the Active Attending Medical Staff Meetings.

B. Primary Consulting Staff: Each Primary Consulting Staff member shall be encouraged to attend the annual Medical Staff meeting.

C. Consulting and Affiliate Staffs: Due to minimal activity in the hospital, members of the Consulting and Affiliate Medical Staffs shall not be required to attend Medical Staff meetings.

#### **Section 6 Agenda**

A. The Agenda of the Annual Meeting shall be determined by the Medical Staff President, and may include the election of officers, unless the Medical Staff President determines to proceed with mail or electronic voting.

B. The agenda for special meetings shall be:

1. Reading of the notice calling the meeting.
2. Transaction of the business for which the meeting was called.
3. Adjournment.

## **Section 7 Minutes**

Minutes of the Annual Meeting and any special meetings of the Medical Staff shall be prepared and shall include the vote taken on each matter. The minutes shall be signed by the presiding officer.

## **ARTICLE VIII. ORGANIZATION OF SERVICES**

Craig Hospital, being a specialty hospital, shall be a single Medical Staff, not organized by department services.

## **ARTICLE IX. COMMITTEES**

### **Section 1 Executive Committee**

A. **Composition:** The MEC shall be a standing committee and shall consist of all members of the Active Attending Staff and at least two (2) representatives from Primary Consulting category of the Medical Staff, of any discipline or specialty, who are appointed annually by the president of the Medical Staff. The Medical Staff President shall be the MEC chair, and shall also appoint a vice chair. All of the physician members shall be voting members of the committee. The majority of voting members of the MEC shall be physicians. The non-voting members shall include representatives from hospital administration, including the President/CEO and/or designee; Nursing Department; Quality Management and other hospital support services as designated by the committee.

B. **Duties:** The duties delegated by the Medical Staff to the MEC shall be:

1. to represent and act on behalf of the Medical Staff between Medical Staff meetings, subject to such limitations as may be imposed by these bylaws;
2. to coordinate quality improvement activities and fulfill the Medical Staff's accountability to the Governing Body for the quality of overall medical care rendered to the patients in the hospital;
3. to implement and enforce the Bylaws, rules, regulations and approved policies of the Medical Staff;
4. to provide liaison among the Medical Staff, administration and the Governing Body;
5. to review and act upon reports and recommendations from any and all Medical Staff committees, services and assigned activity groups;
6. to recommend to the Governing Body all matters relating to Medical Staff structure, Medical Staff membership, Medical Staff appointment and reappointments, staff categorization, processes used to review credentials and delineate clinical privileges, the delineation of privileges for each Practitioner privileged through the Medical Staff process, initiation of investigations, termination of appointment or privileges, and corrective action;

7. to initiate and pursue corrective action, when warranted, in accordance with the provisions of these bylaws;
8. to inform the staff of the accreditation program of The Joint Commission and other applicable accrediting programs as well as requirements of regulatory agencies, and to ensure that the staff is in satisfactory compliance with the required standards and regulations;
9. to request evaluations of Practitioners privileged through the Medical Staff process in instances where there is doubt about an applicant's ability to perform the privileges requested;
10. to monitor the performance of the Medical Staff, including significant trends by analyzing aggregate data, including Ongoing Professional Practice data, and identifying areas for improvement;
11. to implement FPPEs for unusual clinical patterns;
12. to conduct pre-operative and post-operative review of surgical cases, to ensure that surgery is justified and high-quality;
13. to monitor blood usage to evaluate the appropriateness of blood product administration;
14. to monitor adverse events, including unplanned readmissions and transfers, complications and other adverse patient outcome to promote appropriate treatment and services.

C. **Medical Staff Functions:** The MEC shall be responsible for the effective discharge, either as a committee of the whole or through subcommittees that may be created from time to time, as warranted, of the additional delegated Medical Staff functions. These are to:

1. Conduct credentialing and privileging, and make recommendations regarding Medical Staff appointment and privileges to the Governing Body.
2. Conduct or coordinate investigations regarding Medical Staff membership and the granting of clinical privileges and specified services in accordance with these Bylaws.
3. Provide leadership for the process and outcome measurement, assessment, and improvement which includes, though are not limited to the medical assessment and treatment of patients, use of medications, use of blood and blood components, use of operative and other procedures, other monitors related to patient safety, mortality review, and the efficiency of and significant departures from established clinical practice patterns.
4. Conduct or coordinate utilization review activities.
5. Investigate and advise in the control of nosocomial infections and monitor the hospital's infection control program.

6. Monitor and evaluate information concerning care provided and assist in the development of clinical policies for all care areas.
7. Receive and act upon recommendations and actions of the Environment of Care Committee, where appropriate, to enhance safety within the hospital and on its grounds.
8. Assist in the planning for response to fire and other disasters and for the provision of services required to meet the needs of the community.
9. Direct Medical Staff organizational activities, including medical Staff Bylaws review and revision, Medical Staff officer and committee appointments and assist in the review and maintenance of hospital licensure and accreditation.
10. Facilitate in the coordination of care provided by the members of the Medical Staff with the care provided by the Nursing Department and all other clinical support departments and services.
11. Provide continuing education opportunities responsive to quality assessment/improvement activities, new state-of-the art developments and other identified needs.
12. Provide oversight in the process of analyzing and improving patient satisfaction.
13. Engage in other functions requested by the Governing Body and the Medical Staff.

**D. Attendance Requirements**

1. Active Attending Staff: As required members of the MEC, active attending staff members are required to attend at least two-thirds of these meetings in a Medical Staff year. However, these attendance requirements may be waived by virtue of a conflicting meeting requirement pertaining to an active attending staff member's role as the Medical Staff President of programs in other affiliate institutions.

**E. Removal**

1. Any MEC member may be removed by an affirmative vote of two-thirds (2/3) of members of the MEC who are eligible to vote, present at a special meeting called for that purpose, with the affected MEC member absent, and ratified by the Governing Body.
2. Removal may be based only upon the member's failure to perform the duties of the MEC held as described in the Medical Staff Bylaws or failure to maintain staff appointment for any reason.
3. Removal from the MEC will not affect the clinical privileges or membership of the removed MEC member.

**F. Meeting Frequency and Records**

The MEC shall meet at least eight times annually and shall maintain a permanent record of its conclusions, recommendations, actions taken and the results of actions taken. It shall report to the Governing Body through the Medical Staff President, as needed.

## **Section 2      Creation of Standing Committees**

The MEC may, by resolution and upon approval of the Governing Body, without amendment of these bylaws, establish additional committees to perform one or more Medical Staff functions. In the same manner, the MEC may, by resolution and upon approval of the Governing Body, dissolve committees or otherwise rearrange committee structure, duties or composition as needed to better accomplish Medical Staff functions. Any function required to be performed by these bylaws that is not assigned to a standing or ad hoc committee shall be performed by the MEC.

## **ARTICLE X.    CONTINUING EDUCATION**

The Medical Staff members shall participate in continuing education activities within his or her area of practice, and provide documentation of participation in continuing education prior to each reappointment.

## **ARTICLE XI.   AUTOMATIC AND SUMMARY SUSPENSION**

### **Section 1      Automatic Suspension**

A.      Automatic suspensions are effective immediately and shall be reported to the MEC at its next scheduled meeting. Grounds for automatic suspension shall include the following:

1.      whenever a Practitioner fails to continuously maintain the qualifications under Article III;
2.      whenever there is failure to satisfy a special appearance requirement (for purposes of these bylaws, a “special appearance” requirement arises whenever the MEC, the Governing Body or any committee appointed by the MEC requires the appearance of a Practitioner during a review or investigation of the clinical course of treatment regarding a patient or the Practitioner’s professional conduct. If possible, the chair or designee of the meeting should give the Practitioner at least 10 days’ advance written notice of the time and place of the meeting (appearance at a hearing is not a “special appearance”);
3.      whenever a Practitioner’s medical records are not completed in a timely manner in accordance with the Rules and Regulations,
4.      whenever a Practitioner is no longer employed by or under contract with a Practitioner or group of Practitioners who hold an exclusive arrangement for a service line or service at the hospital, and

B.      With the exception of medical record deficiencies, a Practitioner whose Medical Staff appointment and/or clinical privileges are automatically suspended must submit a written request for reinstatement to the Medical Staff President with documented proof that the circumstances leading to the suspension have been corrected.

C. If a Practitioner's appointment and/or clinical privileges are automatically suspended for longer than 90 days, the Practitioner's Medical Staff membership and privileges shall be automatically terminated.

D. Automatic suspension shall continue until the later of automatic termination under subsection C, or the Practitioner's submission of proof that the basis for the automatic suspension has been removed.

E. In circumstances where the sole reason for automatic suspension is due to failure to complete medical records, the privileges shall be automatically reinstated upon completion of the medical records in accordance with the rules and regulations.

F. Immediately upon the imposition of an automatic suspension, the Medical Staff President or designee shall have the authority to provide or arrange for alternative medical coverage for the patients of the suspended Practitioner still in the hospital at the time of such automatic suspension. The wishes of the patients shall be considered in the selection of such alternative Practitioner.

G. The Medical Staff President or designee will notify the Practitioner of the automatic suspension, but the Practitioner's receipt of the notice is not required for the automatic suspension to be effective.

## **Section 2 Summary Suspension**

A. Any one of the following: the President/CEO, the President of the Medical Staff, or the chair of the Governing Body shall each have the authority to suspend a Practitioner's membership or suspend or restrict all or any portion of his or her privileges (collectively, a "summary suspension") whenever the failure to take such action may result in imminent danger to the health and/or safety of any individual. Such summary suspension shall become effective immediately upon imposition.

B. Immediately upon the imposition of a summary suspension, the Medical Staff President or designee shall have the authority to provide or arrange for alternative medical coverage for the patients of the suspended Practitioner still in the hospital at the time of such suspension. The wishes of the patients shall be considered in the selection of such alternative Practitioner.

C. The Medical Staff President will notify the Practitioner of the summary suspension, but the Practitioner's receipt of the notice is not required for the summary suspension to be effective.

D. A Practitioner subject to summary suspension for longer than 30 days shall be entitled to the procedural rights as provided in Article XII and Article XIII of these bylaws.

## **ARTICLE XII. CORRECTIVE ACTION**

A. Whenever the clinical activities or professional conduct of any Practitioner with clinical privileges are considered to be lower than the standards or aims of the Medical Staff, in violation of the Medical Staff Bylaws, rules or regulations, or policies, or to be disruptive to the operations of the hospital, a corrective action investigation of such Practitioner may be requested by any officer of the Medical Staff, the chair of any standing committee of the Medical Staff, or by the

Governing Body. All requests for corrective action shall be in writing, shall be made to the Medical Staff President and shall be supported by reference to the specific activities or conduct which constitutes grounds for the request. Corrective action may include termination, revocation, limitation or reduction of Medical Staff membership or clinical privileges.

B. Questions of physical or mental impairment may be addressed in accordance with the Impaired Practitioner/Disruptive Behaviors policy, as such is amended from time to time.

C. The Medical Staff President shall forward such request to the MEC, which shall promptly appoint an ad hoc committee to investigate the matter.

D. Within sixty (60) days after the ad hoc committee's receipt of the request for corrective action, the ad hoc committee shall make a report of its investigation to the MEC. Prior to the making of such report, the Practitioner against whom a corrective action investigation has been requested shall have an opportunity for an interview with the ad hoc investigating committee. At such interview, the Practitioner shall be informed of the general nature of the charges against him or her and shall be invited to discuss, explain or refute them. This interview shall not constitute a hearing, shall be preliminary in nature, the Practitioner is not permitted to have an attorney or other representative attend, and none of the procedural rules provided in these bylaws with respect to hearings shall apply thereto. A record of such interview shall be made by the ad hoc committee and be included with its report to the MEC.

E. Within thirty (30) business days following a receipt of a report from the ad hoc committee, the MEC shall take action upon the request. If the corrective action could involve a reduction, termination or suspension of clinical privileges, or a suspension or termination from the Medical Staff, the affected Practitioner shall be permitted to make an appearance before the MEC prior to its taking action. This appearance shall not constitute a hearing, shall be preliminary in nature, the Practitioner is not permitted to have an attorney or other representative attend, and none of the procedural rules provided in these bylaws with respect to hearings shall be made by the MEC.

F. The action of the MEC following a corrective action investigation may be to issue a warning, a letter of admonition, or a letter of reprimand, 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 summary suspension of clinical privileges be terminated, modified or sustained, or to recommend that the Practitioner's staff membership be limited or terminated.

G. The Medical Staff President shall be responsible for giving prompt written notice by certified mail, return receipt requested, to the Practitioner of an adverse recommendation or decision of the MEC which, if ratified by decision of the Governing Body, will adversely affect the appointment to, or status as, a member of the Medical Staff or the exercise of clinical privileges. The Medical Staff President's notice shall specifically include a statement of the action proposed to be taken, the reasons for the proposed action, that the Practitioner has the right to request a hearing, that the Practitioner has 30 days from receipt of the notice to request a hearing and a summary of the Practitioner's procedural rights at the hearing (which may be satisfied by including a copy of these bylaws with the notice).

H. The time frames in this Article XII are guidelines and are not enforceable by the affected Practitioner or directives for the committees.

## **ARTICLE XIII. HEARINGS AND APPEALS**

### **Section 1 General Provisions**

#### **A. Review Procedures**

This Article XIII gives the Medical Staff and Governing Body discretion to create hearings and other processes that provide for a low level of formality while assuring a fair review under a variety of circumstances. The Medical Staff, the Governing Body, and their officers, committees, and agents hereby constitute themselves as Peer Review (also known as Professional Review) committees under the federal Health Care Quality Improvement Act of 1986,<sup>i</sup> the Colorado Professional Review Act<sup>ii</sup>, and the Hospital Licensing Statute Quality Management Provisions,<sup>iii</sup> as such are amended from time to time, and claim all Privileges and immunities afforded by applicable federal and state laws.

#### **B. Exhaustion of Remedies**

If an Adverse Action as described in this Article is taken or recommended, the Practitioner must exhaust the remedies afforded by these Bylaws before commencing any judicial proceeding in any administrative, state or federal court.

#### **C. Limitations on Remedies**

The hearing and appeal rights established in these Bylaws are “judicial” and not “legislative” in structure and function. The hearing committee and Appeal Board (as defined below) have no authority to adopt or modify Rules and Regulations and standards or to decide questions about the merits or substantive validity of the Medical Staff Bylaws, Rules and Regulations or policies.

### **Section 2 Definitions**

Except as otherwise provided in these Bylaws, the following definitions shall apply under this Article XIII:

A. “Body whose decision prompted the hearing” means the MEC in all cases when the MEC took the action or rendered the decision, which resulted in a hearing being requested. It refers to the Governing Body in all cases when the Governing Body took the action or rendered the decision, which resulted in a hearing being requested.

B. “Practitioner” shall include Practitioners and Allied Health Providers.

### **Section 3 Substantial Compliance**

Technical, insignificant, immaterial, or nonprejudicial deviations from the procedures set forth in these Bylaws shall not be grounds for invalidating the action taken or immunities available.

A. Grounds for Hearing - Except as otherwise specified in these Bylaws, a Practitioner may request a hearing when an “Adverse Action” is taken or recommended against the Practitioner, including those Adverse Actions based on findings made after an investigation indicating that the Practitioner lacks qualifications, has provided substandard or inappropriate care, or has exhibited inappropriate professional conduct. Adverse Actions may be recommended or taken by the MEC or the Board in accordance with Article III (Appointment) and Article XII (Corrective Action), and summary suspension as an Adverse Action may be taken by the persons and committees set forth in Article XI (Automatic and Summary Suspensions).

B. Actions Not Grounds For Hearing

1. Actions that do not constitute grounds for a hearing, and shall take effect without hearing or appeal, include but are not limited to:

a. Rejection of an application for initial Medical Staff membership based on failure to submit a completed application or failure to meet the basic or minimum qualifications or criteria for Medical Staff membership under Article III of the Medical Staff Bylaws;

b. Rejection of an application for renewed Medical Staff membership based on failure to submit a completed application or failure to meet the minimum qualifications or criteria for Medical Staff membership under Article III of the Medical Staff Bylaws;

c. Denial of requested Privileges based on failure to meet minimum qualifications or criteria for the Privileges;

d. Automatic Administrative Suspension or Termination of Medical Staff membership or Clinical Privileges under Article XI of the Medical Staff Bylaws;

e. Expiration of Temporary Privileges;

f. Removal of a Practitioner from the call roster or on-call schedule;

g. Imposition of proctoring that is imposed on a new Practitioner to the Medical Staff or for newly granted Privileges;

h. Issuance of letters of warning, admonition, reprimand, guidance or education;

i. Imposition of a request for additional education, training, a physical or mental health screening; and/or

j. Summary suspension for thirty (30) or fewer days.

**Section 4 Notice and Requests for Hearing**

A. Special Notice of Adverse Action or Recommended Adverse Action<sup>iv</sup> - In all cases in which Adverse Action has been taken or a recommendation made as set forth in this Article, the

Hospital President shall promptly give the Practitioner Special Notice of the Adverse Action (“Notice Letter”). The Notice Letter shall contain:

1. A statement of the Adverse Action recommended or taken;
2. A general statement of the reasons for the Adverse Action recommended or taken which may include a list of the patient charts in question that form the basis of the adverse recommendation or action;
3. A statement that the Practitioner has the right to request a hearing within thirty (30) days of receipt of the Notice Letter and that the request for a hearing must be in writing and delivered to the Medical Staff President, with a copy to the Hospital President, by certified mail, return receipt requested, by registered mail, by hand delivery or overnight courier;
4. A statement that the Practitioner has the right (i) to be represented by an attorney or other person of the Practitioner’s choice at the hearing; (ii) 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; (iii) to call, examine and cross-examine witnesses at the hearing; (iv) to present evidence determined to be relevant by the Hearing Officer’ and (v) to submit a written statement at the close of the hearing;
5. A statement that the Practitioner has the right to receive the written recommendation of the Hearing Committee, along with the bases of the recommendation, and the final written decision of the Hospital, including a statement of the basis for the decision;
6. A statement that if the Practitioner does not request a hearing within the time and within the manner stated in the Notice Letter, the Practitioner shall have waived the hearing and any appeal and be deemed to have accepted the adverse recommendation or action taken as a final action, effective immediately upon final Governing Body action; and
7. A copy of this Article XIII the Hearing and Appeal Procedures.

B. Request for Hearing

1. The Practitioner shall have 30 days following the Date of Receipt of the Notice Letter to request a hearing. The request shall be in writing addressed to the Medical Staff President with a copy to the Hospital President. The request shall include the name, address, and telephone number of any attorney or other representative retained by the Practitioner as of the date of the Practitioner’s request for a hearing. In the event the Practitioner has not engaged an attorney or other representative by the date of his or her request for a hearing, the Practitioner may identify his or her attorney or other representative in accordance with Section \_\_\_.
2. If the Practitioner does not request a hearing within the time and in the manner described above, the Practitioner shall be deemed to have waived any right to a hearing or appeal and accepted the Adverse Action recommended or taken. Such final

recommendation or action shall be considered by the Governing Body within 70 days and shall be given great weight by the Governing Body, although it is not binding on the Governing Body.

## **Section 5      Hearing Procedure**

### **A.      Hearings Prompted by Governing Body Action**

If the hearing is based upon an Adverse Action by the Governing Body, the chair of the Governing Body shall fulfill the functions assigned in this Article XIII to the Medical Staff President.

### **B.      Special Notice of Hearing Time, Place, Hearing Committee, Witnesses and Reasons for Adverse Action<sup>v</sup>**

1.      Upon receipt of a timely request for a hearing, the Medical Staff President shall promptly schedule a hearing and a prehearing conference.

    a.      The Medical Staff President shall give Special Notice to the Practitioner of the time, place, and date of the hearing and the pre-hearing conference (“Hearing Notice”). The date the hearing commences shall not be less than 30 days from the date of Practitioner’s receipt of the Hearing Notice.<sup>vi</sup>

    b.      The Hearing Notice shall include a statement of the reasons for the Adverse Action taken or recommended, including the alleged acts or omissions by the Practitioner and a list of the patient charts in question (when applicable).

    c.      The Hearing Notice shall identify the witnesses (if any) expected to testify at the hearing on behalf of the body whose decision prompted the hearing and provide a general summary of their expected testimony.

    d.      The Hearing Notice shall identify the members of the Hearing Committee and its chair, if known, and inform the Practitioner that he/she shall have ten (10) days to submit, in writing, any objections to a Hearing Committee member, along with the bases of the objection, to the Medical Staff President for consideration. The Medical Staff President may sustain the objection and replace the Hearing Committee member or overrule the objection. If the Medical Staff President identifies the Hearing Committee members after the Hearing Notice is sent, the Hearing Officer will rule on the Practitioner’s objection to a Hearing Committee member at the pre-hearing conference. If sustained, the Medical Staff President will select another person to serve on the Hearing Committee. Supplemental Notices may be provided to the Practitioner at any time, but not less than five days before the pre-hearing conference, except for good cause, as determined by the Hearing Officer.

### **C.      Hearing Committee<sup>vii</sup>**

1.      When a hearing is requested, the Medical Staff President, in consultation with the Hospital President, shall appoint a Hearing Committee which shall be composed of not less than three (3) active staff Members who are not in economic competition with the

Practitioner, and who have not acted as accuser, investigator, witness, fact finder, initial decision maker, or other active participant in the consideration of the matter leading up to the recommendation or action.<sup>viii</sup> Knowledge of the matter involved shall not preclude a Member of the Medical Staff from serving as a member of the Hearing Committee. In the event that it is not feasible to appoint a Hearing Committee from the active Medical Staff, the Medical Staff President may appoint Members from other Medical Staff categories or Practitioners who are not Medical Staff Members. Such appointment shall include designation of a chair. The Hearing Committee shall include at least one (1) member who is a peer. The Medical Staff President may appoint alternates who meet the standards described above and who can serve if a Hearing Committee member becomes unavailable.

2. The Hearing Committee shall have such powers as are necessary to discharge its responsibilities.

3. The Practitioner shall be notified of the identity of the members of the Hearing Committee in advance of the pre-hearing conference.

4. When a hearing is requested by an Advanced Practice Registered Nurse, either: (i) at least one (1) voting member of the Hearing Committee will be an Advanced Practice Registered Nurse with a similar Scope of Practice as the person who is the subject of the hearing, or (ii) the Hearing Committee will obtain an independent review performed by an APRN with a similar Scope of Practice as the person who is the subject of the review, and who was not previously involved in the review.<sup>ix</sup> In the event that it is not feasible to appoint an Advanced Practice Registered Nurse as a Hearing Committee member credentialed by the Hospital, the Medical Staff President may appoint an Advanced Practice Registered Nurse who is not credentialed by the Hospital.

5. When a hearing is requested by a Physician Assistant, the Medical Staff President may, but is not required to, appoint a Physician Assistant as a voting member of the Hearing Committee. In the event that it is not feasible to appoint a Physician Assistant as a Hearing Committee member credentialed by the Hospital, the Medical Staff President may appoint a Physician Assistant who is not credentialed by the Hospital.

6. When a hearing is requested by an Anesthesiologist Assistant, the Medical Staff President may, but is not required to, appoint an Anesthesiologist Assistant as a voting member of the Hearing Committee. In the event that it is not feasible to appoint an Anesthesiologist Assistant as a Hearing Committee member credentialed by the Hospital, the Medical Staff President may appoint an Anesthesiologist Assistant who is not credentialed by the Hospital.

#### D. The Hearing Officer

The Medical Staff President shall appoint an impartial and unbiased Hearing Officer to preside at the hearing. The Hearing Officer shall be an attorney at law. The Hearing Officer may not act as a witness, prosecutor or advocate. The Hearing Officer shall maintain order and decorum in the proceedings and assure that all parties have a reasonable opportunity to be heard and present relevant evidence. The Hearing Officer shall apply these Bylaws and determine the order of the

presentation of evidence and argument during the hearing. The Hearing Officer shall have the authority to make all rulings on disputes involving the application of these Bylaws, including challenges to the qualifications of members of the Hearing Committee. The Hearing Officer shall insure that the hearing proceeds efficiently and expeditiously. The Hearing Officer may participate in the deliberations of the Hearing Committee, but shall not be entitled to vote.

#### E. Representation

The Practitioner shall have the right, at his or her expense, to representation by an attorney or by another person who is a Practitioner licensed to practice in the State of Colorado. The body whose decision prompted the hearing may be represented by an attorney in the hearing. The Practitioner shall provide written Notice to the Medical Staff President of the name, address and telephone number of the Practitioner's attorney or other representative no later than five (5) days before the pre-hearing conference.

#### F. Failure to Appear or Proceed

Failure without good cause of the Practitioner to personally attend and proceed at a hearing in an efficient and orderly manner shall be deemed to constitute voluntary forfeiture of the right to a hearing and acceptance of the recommendations or actions involved.

#### G. Postponements and Extensions

After a request for hearing has been made, the Hearing Officer may, for good cause and with Notice to all parties, grant extensions of deadlines imposed by these Bylaws.

#### H. Pre-Hearing Conference

Unless otherwise agreed by all parties, the Hearing Officer shall schedule a pre-hearing conference at least five (5) days before the hearing. The Hearing Officer shall make all rulings and enter orders necessary for the efficient and fair presentation of evidence at the hearing. The Hearing Officer shall hear and decide all objections to exhibits or witnesses, challenges to the qualifications of the Hearing Committee members as described herein, challenges to the qualifications of the Hearing Officer, and all other disputes arising under these Bylaws or otherwise that can reasonably be anticipated in advance of the hearing. The failure of a party to object or move for relief at the pre-hearing conference shall constitute, absent good cause shown, grounds for denying the party's objection or motion at the hearing.

#### I. Pre-Hearing Discovery

##### 1. Rights of Inspection and Copying

The Practitioner may inspect and copy (at his or her expense) any documentary information relevant to the reasons for the adverse action recommended or taken that the Medical Staff has in its possession or under its control, other than information protected by the attorney-client privilege, and work product doctrine. The body whose decision prompted the hearing may inspect and copy (at its expense) any documentary information relevant to this matter that the Practitioner has in his or her possession or under his or her

control other than information protected by the attorney client privilege and work product doctrine. The requests for discovery shall be fulfilled as soon as practicable. Failures to comply with reasonable discovery requests at least five (5) days before the pre-hearing conference shall be good cause for a continuance of the hearing or such other discretionary action as may be warranted by the circumstances. All confidential documentary information disclosed shall be kept confidential and shall not be disclosed or used by the receiving party for any purpose not related to the hearing and appeal, unless otherwise required by law.

The disclosure of documentary information under these Bylaws is not intended to waive any privilege under applicable law.

2. The Practitioner, his or her attorney or other representative or any other person acting on behalf of the Practitioner, shall not contact Hospital employees, Medical Staff leaders, Medical Staff committee members, or Governing Body members concerning the subject matter of the hearing without prior approval of the Hospital President or his or her Designee.

### 3. Limits on Discovery

The Hearing Officer shall rule on discovery disputes the parties cannot resolve. Discovery may be denied based on relevancy. Discovery may also be denied or limited if the request is unreasonable or unduly burdensome or expensive or when necessary to protect any applicable Privilege or based on patient privacy. Further, the right to inspect and copy by either party does not extend to confidential Peer Review information concerning specifically identified or identifiable APPs or Practitioners other than the Practitioner under review. The right to inspect and copy does not create or imply any obligation to modify or create documents.

### 4. Objections to Introduction of Evidence Previously Not Produced for the Medical Staff

The body whose decision prompted the hearing may object to the introduction of the evidence that was not provided during an appointment, reappointment, or Privilege application review or during corrective action after requested by or on behalf of the Medical Staff, any committee or Peer Review body. The Hearing Officer shall not admit such evidence unless the Practitioner demonstrates good cause for failing to comply with the earlier request.

## J. Pre-Hearing Exhibit Exchange

The parties must exchange all exhibits that might be offered into evidence at least five (5) days before the pre-hearing conference. Failure to comply with this Section shall be good cause for the Hearing Officer to grant a continuance or to limit the introduction of any exhibits not provided to the other side in a timely manner. Objections to exhibits shall be submitted in writing to the Hearing Officer at or before the prehearing conference. All confidential exhibits exchanged shall be maintained as confidential and shall not be disclosed or used by the receiving party for any

purpose not related to the hearing and appeal, unless otherwise required by law. The exchange of exhibits under these Bylaws is not intended to waive any Privilege under applicable law.

K. Pre-Hearing Witness Lists

At least five (5) days before the pre-hearing conference, each party shall furnish to the other a written list of the names and addresses of persons, in addition to those witnesses identified in the Hearing Notice under Section \_\_, who can reasonably be anticipated to give testimony or evidence in support of that party at the hearing, along with a general summary of their anticipated testimony. Testimony of additional witnesses may be presented for purposes of rebuttal or other good cause shown. Failure to provide the name of a witness at least five (5) days before the prehearing conference date shall constitute good cause for the Hearing Officer to continue the hearing, exclude the witness's testimony, or take other action warranted by the circumstances.

L. Pre-Hearing Disputes

1. The parties shall promptly notify the Hearing Officer of any disputes involving discovery, procedure, or other matters that might be resolved before the hearing. Objections to any prehearing rulings of the Hearing Officer may be made at the hearing.

2. The parties may present any motions necessary to exercise rights created by these Bylaws. Except for good cause shown, motions shall be in writing, shall be submitted no later than 10 days before the hearing, and shall concisely state the relief requested, relevant facts, and any supporting authority. The moving party shall provide copies by hand delivery (or by such other reliable method of delivery approved by the Hearing Officer) to the Hearing Officer and the opposing party. The opposing party may serve a response within five (5) days. The Hearing Officer may hold a hearing by telephone or otherwise before ruling. Rulings on written motions shall be in writing and promptly provided to the parties. The Hearing Officer shall make all motions, responses, and rulings thereon part of the record of the proceedings.

M. Record of the Hearing<sup>x</sup>

A court reporter shall record the hearing proceedings and retain all exhibits. Unless requested by a party, the pre-hearing conference need not be recorded. The cost of attendance of the court reporter shall be borne by the Hospital, but the cost of the transcript, if any, shall be borne by the requesting party. The Hearing Officer may require oral evidence be taken under oath.

N. Rights of the Parties<sup>xi</sup>

1. At the hearing, both sides shall have the following rights, subject to reasonable limits determined by the Hearing Officer:

- a. to call and examine witnesses, to the extent they are available and willing to testify,
- b. to offer exhibits,

c. to cross-examine or impeach any witness on any matter relevant to the issues,

d. to be represented by counsel, who may examine and cross-examine witnesses and present statements and arguments, and

e. to submit a written statement within ten (10) business days after the close of the hearing or on a later date set by the Hearing Officer. Any written memorandum submitted by the party shall be delivered by that party on the same day to the other party.

f. The Practitioner may be called by the body whose decision prompted the hearing or the Hearing Committee and examined as if under cross-examination.

g. The Hearing Committee may question witnesses or call additional witnesses as the Hearing Committee, in its discretion, deems necessary.

#### O. Rules and Regulations of Evidence

Judicial Rules and Regulations of evidence and judicial Rules and Regulations of procedure shall not apply to a hearing conducted under this Article XIII. All relevant evidence shall be considered by the Hearing Committee, without regard to admissibility of such evidence in a court of law.

#### P. Official Notice

The Hearing Officer shall have the discretion to take official notice of any matters relating to the issues under consideration that could have been judicially noticed by the courts of the State of Colorado. Participants in the hearing shall be informed of the matters to be officially noticed. The matters shall be noted in the record of the hearing. Either party shall have the opportunity to request that a matter be officially noticed or to refute the noticed matter

#### Q. Computation of Time

Calendar days shall be used in all computations of time made under the provisions of this Article XIII; unless indicated otherwise, provided that if the last day for any Special Notice or Notice is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.

#### R. Practitioner's Failure to Appear at the Hearing

1. Failure, without good cause, of the Practitioner to appear and proceed at the hearing shall be deemed to constitute:

a. a waiver of the Practitioner's right to a hearing and appeal; and

b. a voluntary acceptance of the pending adverse recommendation or action taken as a final action, which shall be forwarded to the Governing Body for final determination.

S. Burdens of Presenting Evidence and Proof

1. At the hearing, the body whose decision prompted the hearing shall have the initial burden of presenting evidence warranting its action or recommendation.
2. If the body whose decision prompted the hearing presents evidence warranting its action or recommendation, the Practitioner shall bear the burden of persuading the Hearing Committee by a preponderance of the evidence that the action or recommendation of the body whose decision prompted the hearing is arbitrary, capricious or unreasonable.
3. If the Practitioner meets his or her burden of persuasion, the Hearing Committee shall reverse or modify the action or recommendation of the body whose decision prompted the hearing; provided, however, that the Hearing Committee may not recommend an Adverse Action that is more restrictive than the Adverse Action recommended or taken by the body whose decision prompted the hearing.
4. If the Practitioner fails to meet his or her burden, the Hearing Committee may affirm entirely or affirm and modify the recommendation and action of the body whose decision prompted the hearing; provided, however, that the Hearing Committee may not recommend an Adverse Action that is more restrictive than the Adverse Action recommended or taken by the body whose decision prompted the hearing.

T. Recess and Close of Hearing

The Hearing Officer may, for good cause, recess and reconvene the hearing without Special Notice. The hearing shall be closed when the Hearing Officer declares that all evidence has been received.

U. Basis for Decision

The Hearing Committee's decision shall be based on the evidence introduced at the hearing, including written statements, testimony and opinions, relevant literature, clinical practice guidelines, reports of any outside consultants, and any other relevant information or explanations provided by the body whose decision prompted the hearing and the Practitioner, and all logical and reasonable inferences that may be drawn from the evidence.

V. Deliberations and Recommendations of the Hearing Committee

The Hearing Committee shall, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon conclusion of the deliberations, the hearing shall be finally adjourned. Within fifteen (15) days of the final adjournment, the Hearing Committee shall render a decision by majority vote and a written report, including recommendations, which shall contain a concise statement of the basis for the decision ("Hearing Report"). In the event the Hearing Committee is considering an already imposed summary suspension, including mandatory consultation or mandatory proctoring, the Hearing Committee shall render the Hearing Report within five (5) days of final adjournment.

W. Disposition of the Hearing Report

1. A copy of the Hearing Report shall be forwarded to the Hospital President, the MEC, the Governing Body, and to the Practitioner. A copy of the recommendations of the Hearing Committee will be forwarded to the appropriate licensing board (Colorado Medical Board or Colorado Nursing Board).<sup>xii</sup> The report shall contain the Hearing Committee's findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached. The Practitioner shall be provided a copy of this Article XIII explaining the procedure for appealing an adverse decision. The decision of the Hearing Committee shall be final, subject only to such rights of appeal or Governing Body review as described in these Bylaws.

2. If the Hearing Committee fails to render a written decision within the time allowed under this Article XIII, the action or recommendation of the body whose decision prompted the hearing shall be deemed affirmed. If the Practitioner requests an appeal in accordance with Section \_\_\_ of this Article, the Hearing Committee shall submit a written report describing the matters decided by the Hearing Committee, if any, and the matters unresolved by the Hearing Committee, including a description of the views of the Hearing Committee members.

## **Section 6 Appeal<sup>xiii</sup>**

### **A. Time for Appeal**

Within fifteen (15) days of receiving the decision of the Hearing Committee, either party (the Practitioner or the body whose decision prompted the hearing) may request an appellate review. A written request for such review shall be delivered to the Medical Staff President, the Hospital President, and the other party by certified mail, return receipt requested, registered mail, personal delivery, or overnight courier. If appellate review is not requested within this period, the Practitioner and/or body whose decision prompted the hearing shall have waived any right of appeal, respectively. If there is no appeal, the recommendation of the Hearing Committee shall be the final recommendation and action of the Medical Staff, and shall be forwarded to the Governing Body for final action. The Governing Body shall adopt, modify or reject the Hearing Committee's recommendation within sixty (60) days.

### **B. Appeal Board**

The Governing Body may sit as the Appeal Board, or it may appoint an Appeal Board, which shall be composed of not less than three (3) members of the Governing Body or independent third parties designated by the Governing Body. Knowledge of the matter involved shall not preclude any person from serving as a member of the Appeal Board. No member of the Appeal Board may be in direct economic competition with the Practitioner or have acted as accuser, investigator, witness, fact finder, initial decision maker, member of the Hearing Committee, or active participant in the consideration of the matter that is the subject of the appeal. The Appeal Board may select an attorney to act as an appellate Hearing Officer and have all of the authority of and carry out all of the duties assigned to a Hearing Officer as described in this Article XIII. The Hearing Officer shall not have a vote. The Appeal Board shall have such powers as are necessary to discharge its responsibilities.

### C. Time, Place, and Notice

If an appellate review is requested in a timely manner, the Appeal Board shall, within 30 days after receiving a Notice of Appeal, schedule a review date and cause each side to be given Special Notice of the time, place, and date of the appellate review (“Appeal Notice”). The appellate review shall commence within 60 days from the date the transcript of the hearing is available or the date of the Appeal Notice, whichever is later, provided, however, when a request for appellate review concerns a Practitioner who is under suspension which is then in effect, the appellate review should commence within 45 days from the date the Appeal Notice was received. The time for appellate review may be extended by the Hearing Officer or Appeal Board for good cause.

### D. Appeal Procedure

Each party shall have the right to be represented by an attorney or other representative designated by that party in connection with the appeal. The proceeding by the Appeal Board shall be an appellate hearing based upon the record of the hearing before the Hearing Committee, the memoranda submitted by the parties, and the oral arguments of the parties. The appellate Hearing Officer may establish reasonable deadlines for the appealing party to provide a written memorandum and for the responding party to respond. Each party shall have the right to present a written memorandum in support of his, her, or its position on appeal, with specific reference to the hearing transcript. Each party has the right to personally appear and make oral argument, not to exceed such time limits as may be established by the Hearing Officer. The appeal shall be deemed submitted when oral arguments are complete. The Appeal Board may, at a time convenient to itself, deliberate outside the presence of the parties.

The Appeal Board may consider evidence not available at the hearing, subject to a showing that such evidence could not have been made available in the exercise of reasonable diligence and subject to the same rights of cross-examination or confrontation provided at the hearing; or the Appeal Board may remand the matter to the Hearing Committee for the taking of further evidence and for a decision.

### E. Decision

1. The Appeal Board shall consider whether the decision of the Hearing Committee is reasonable and warranted by the evidence or is not arbitrary, capricious or unreasonable. The Appeal Board may affirm, modify, reverse, or remand the matter for further review by the Hearing Committee or any other body designated by the Appeal Board; provided, however, that the Appeal Board may not take Adverse Action that is more restrictive than the action recommended or taken by the body whose decision prompted the hearing.

2. Within 45 days after the appeal is submitted, the Appeal Board shall prepare a written decision that specifies the reasons for the decision and the findings of fact and conclusions articulating the connection between the evidence produced at the hearing and the decision reached, if such findings and conclusions differ from those of the Hearing Committee.

3. A copy of the Appeal Board decision shall be forwarded to the Hospital President, the MEC, the Governing Body, and to the Practitioner. The Appeal Board decision shall

become the final action of the Governing Body at the time of the Governing Body's next meeting, unless the Governing Body rejects, modifies or returns the matter for further action.

4. The Appeal Board may remand the matter to the Hearing Committee or any other body the Appeal Board designates for reconsideration or may refer the matter to the Governing Body for review. If the matter is remanded for further review and recommendation, the further review shall be completed within 30 days unless the parties agree otherwise or for good cause as determined by the Appeal Board.

5. The Hearing Officer may extend the time for the Appeal Board's decision not to exceed 30 days. If the Appeal Board fails to render a written decision within the time allowed under this Article XIII, the matter shall be referred to the Governing Body for final decision, and the Appeal Board shall submit a written report describing evidence considered, the matters decided by the Appeal Board, if any, and the matters unresolved by the Appeal Board, including a description of the views of the Appeal Board members. The Governing Body shall make a final decision in accordance with this Article XIII within 45 days of receipt of the Appeal Board's written report.

#### F. Right to One Hearing and One Appellate Review

Unless otherwise ordered by the Appeal Board, no Practitioner shall be entitled to more than one (1) evidentiary hearing and one (1) appellate review on any matter, which shall have been the subject of Adverse Action or recommendation.

### **ARTICLE XIV. IMMUNITY FROM LIABILITY**

The following shall be the express conditions to any Practitioner's application for Medical Staff membership or privileges, or exercise of, clinical privileges at this hospital:

A. Any act, communication, report, recommendation or disclosure with respect to any such Practitioner, performed or made at the request of an authorized representative of this or any other health care facility, for the purpose of achieving and maintaining quality patient care in this or any other health care facility, shall be entitled to immunity to the fullest extent set forth in these bylaws and as permitted by law.

B. Such immunity shall extend to members of the hospital's Medical Staff and of its Governing Body, its other Practitioners, its President/CEO and his or her representatives, and to third parties, who supply information to any of the foregoing authorized to receive, release or act upon the same. For the purpose of this Article XIV, the term "third parties" means both individuals and organizations from whom information has been requested by an authorized representative of the Governing Body or of the Medical Staff.

C. There shall, to the fullest extent permitted by law, be absolute immunity from civil liability arising from any such act, communication, report, recommendation, or disclosure, even where the information involved would otherwise be deemed privileged.

D. Such immunity shall apply to all acts, communications, reports, recommendations or disclosures performed or made in connection with this or any other health care institution's activities related, but not limited to:

1. applications for appointment or clinical privileges;
2. periodic reappraisals for reappointment or clinical privileges;
3. automatic suspensions,
4. corrective action, including summary suspension;
5. hearings and appellate reviews;
6. process and outcome measurement, assessment and improvement;
7. utilization reviews; and
8. other hospital service or committee activities related to quality patient care and interprofessional conduct.

E. The acts, communications, reports, recommendations and disclosures referred to in this Article XIV may relate to a Practitioner's professional qualifications, clinical competency, character, mental or emotional stability, physical condition, ethics or any other matter that might directly or indirectly have an effect on patient care.

F. In furtherance of the foregoing, each Practitioner shall, upon request of the hospital, execute releases in accordance with the tenor and import of this Article XIV in favor of individuals and organizations specified in sub-paragraph B, subject to such requirements as may be applicable under the laws of this state.

G. The consents, authorizations, releases, rights, privileges, and immunities provided in these bylaws for the protection of this hospital's Practitioners, other appropriate hospital officials and personnel and third parties in connection with applications for initial appointment, shall also be fully applicable to the activities and procedures covered by this Article XIV.

## **ARTICLE XV. RULES AND REGULATIONS; POLICIES**

The MEC shall adopt and may amend such rules and regulations or administrative policies as may be necessary to implement more specifically the general principles found within these bylaws subject to the approval of the Governing Body. These shall relate to the proper conduct of Medical Staff organizational activities as well as embody the level of practice that is to be required of each Practitioner in the hospital. Before proposing the adoption or amendment to any rules and regulations or policies to the Governing Body, the MEC will first communicate the proposal to the Medical Staff.

The Medical Staff may also propose rules and regulations and policies directly to the Governing Body. If the Medical Staff proposes to adopt a rule and regulation or policy, or an amendment, the Medical Staff must first communicate the proposal to the MEC.

Such rules and regulations or administrative policies shall be an extension of these Medical Staff Bylaws and will be final upon approval of the Governing Body.

Neither the organized Medical Staff nor the Governing Body may unilaterally amend the rules and regulations or policies.

In the event of a documented, urgent need for an amendment to the rules and regulations or administrative policies to comply with a law or regulations (e.g., Colorado state licensing or Centers for Medicare and Medicaid Services requirement), the voting members of the Medical Staff hereby delegate to the MEC the authority to adopt such an amendment on a provisional basis without prior notification to the Medical Staff. The Medical Staff will be notified immediately by the MEC or the provisional amendment and has the opportunity for retrospective review and comment on the provisional amendment. The Governing Body will take final action on the proposed amendment. If the Medical Staff does not agree with the amendment adopted under this Section, it may propose changes to the adopted and approved amendment directly to the Governing Body

## **ARTICLE XVI. PARLIAMENTARY AUTHORITY**

Where the Medical Staff Bylaws are silent, the Medical Staff may rely upon the general principles set forth in the Robert's Rules of Order, Newly Revised; provided however, strict compliance with Robert's Rules of Order is not required.

## **ARTICLE XVII. AMENDMENTS**

A. These Medical Staff Bylaws shall be reviewed at least every three years and more frequently when deemed necessary by the Medical Staff or as deemed necessary and appropriate to comply with legal or accreditation requirements.

B. Medical Staff Bylaws, once adopted, may be amended by vote of the organized Medical Staff. Amendments so made shall be effective on approval of the Governing Body.

C. The Medical Staff Bylaws may be amended at the Annual Meeting or a special meeting called for that purpose.

D. The Medical Staff Bylaws may also be amended by mail or electronic ballot in accordance with Article VII, Section 4. A ballot shall be mailed or electronically transmitted to each voting member and have a return date that is at least 15 days after the date the ballot was mailed or electronically transmitted. The ballots shall be accompanied by the proposed Bylaws amendments. The ballots shall be counted by the Medical Staff President or designee.

E. Neither the organized Medical Staff nor the Governing Body may unilaterally amend the Medical Staff Bylaws.

## **ARTICLE XVIII. ADOPTION**

These Medical Staff Bylaws are adopted and made effective upon approval of the Medical Staff and approval of the Governing Body, superseding and replacing any and all previous Medical Staff Bylaws.

## **ARTICLE XIX. CONFLICT MANAGEMENT**

A. Any conflict between the Medical Staff, the MEC, and/or Governing Body will be resolved using the conflict management mechanisms noted below.

B. Each member of the Medical Staff with voting privileges may challenge any matter (except for individual Practitioner credentialing or professional review processes) (collectively, the “MEC Action”) through the following process:

1. Submission of written notification to the President of the Medical Staff of the challenge and the basis for the challenge including any recommended changes to the MEC Action.
2. At the meeting of the MEC that follows such notification, the MEC shall discuss the challenge and determine if any changes will be made to the MEC Action.
3. If changes are adopted, they will be communicated to the Medical Staff, at such time members of the Medical Staff with voting privileges may submit written notification of any further challenge(s) to the MEC Action to the President of the Medical Staff.
4. In response to a written challenge to an MEC Action, the MEC may, but is not required to, appoint a task force to address concerns raised by the challenge.
5. If a task force is appointed, following the recommendations of such task force, the MEC will take final action on the MEC Action.
6. The MEC’s final action will be subject to final approval of the Governing Body if required under these bylaws.

C. Nothing in this Article prevents Medical Staff members from communicating with the Governing Body directly regarding an MEC Action. Such communication will be in writing and the Governing Body may, in its sole discretion, invite one or more Medical Staff members to attend a meeting of the Governing Body or a subcommittee of the Governing Body to present the challenge to the MEC Action.

D. The Medical Staff, by petition of at least 25% of its voting members, or the MEC, may address conflicts with the Governing Body. In the event of a conflict among the Governing Body and the Medical Staff or MEC, the Governing Body may call a joint conference committee meeting, composed of three (3) members of the Governing Body appointed by the chair of the Governing Body, and three (3) members of the Medical Staff, appointed by the President of the Medical Staff.

These Amended and Restated Medical Staff Bylaws are approved at the Special Medical Staff Meeting on November 14, 2019 and by the Governing Body effective December 5, 2019

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