CENTRACARE - RICE MEMORIAL HOSPITAL

301 BECKER AVENUE SW
WILLMAR, MINNESOTA

MEDICAL STAFF BYLAWS,
RULES AND REGULATIONS,
AND POLICIES

MEDICAL STAFF FAIR HEARING MANUAL

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Table of Contents

Article 1 – Interventions and Corrective Action 1

1.1 Collegial Intervention 1

1.2 Corrective Action 2

1.2-1 Criteria for Initiation 2

1.2-2 Initiation 2

1.2-3 Investigation 2

1.2-4 Medical Executive Committee Action 3

1.2-5 Subsequent Action 4

1.3 Summary Restriction or Suspension 4

1.3-1 Criteria for Initiation 4

1.3-2 Written Notice of Summary Suspension 5

1.3-3 Medical Executive Committee Action 5

1.3-4 Procedural Rights 5

1.4 Automatic Suspension or Resignation 7

1.4-1 Action by Government Agency or Insurer and Failure to Satisfy Threshold Eligibility Criteria 7

1.4-2 Failure to Provide Information 8

1.4-3 Failure to Satisfy Special Appearance Requirement 9

1.4-4 Medical Records 9

1.4-5 Failure to Pay Dues/Assessments 9

1.4-6 Medical Executive Committee Deliberation 9

Article 2 – Hearing and Appeal Procedures 10

2.1 Grounds for Hearing 10

2.1-1 Actions that Constitute Grounds for Hearing 10

2.1-2 Actions Not Grounds for Hearing 10

2.2 Requests for Hearing 11

2.2-1 Notice of Action or Proposed Action 11

2.2-2 Request for Hearing 11

2.2-3 Time and Place for Hearing 11

2.2-4 Notice of Hearing 12

2.3 Fair Hearing Committee 12

2.3-1 Membership Approval 12
2.3-2 Member Restrictions 12
2.3-3 Appointment of Non-staff Committee Members 12
2.3-4 Failure to Appear or Proceed 12
2.3-5 Postponements and Extensions 13
2.4 Hearing Procedure 13
2.4-1 Prehearing Procedure 13
2.4-2 Representation 14
2.4-3 Hearing Officer 14
2.4-4 Record of the Hearing 15
2.4-5 Rights of the Parties within the Hearing 15
2.4-6 Miscellaneous Rules 15
2.4-7 Burdens of Presenting Evidence and Proof 15
2.4-8 Adjournment and Conclusion 16
2.4-9 Basis for Decision 16
2.4-10 Decision of the Fair Hearing Committee 16
2.5 Appeal 17
2.5-1 Time for Appeal 17
2.5-2 Grounds for Appeal 17
2.5-3 Time, Place and Notice 17
2.5-4 Appeal Board 18
2.5-5 Appeal Procedure 18
2.5-6 Decision 18
2.5-7 Right to One Hearing 19
2.6 Exceptions to Hearing Rights 19
2.6-1 Appropriateness of Exclusive Contracts 19
2.6-2 Automatic Suspension or Limitation of Practice Privileges 19
2.6-3 Department/Service Formation or Elimination 19
2.7 Reporting to the MN Board of Medical Practice and National Practitioner Data Bank 19
2.7-1 Adverse Actions 19
2.7-2 Dispute Process 20
ARTICLE 3 - AMENDMENTS 20
ARTICLE 4 - ADOPTION 20

Article 1 – Interventions and Corrective Action

1.1 Collegial Intervention

1.1-1 This Policy encourages the use of progressive steps by Medical Staff leaders and Hospital management, beginning with collegial and educational efforts, to address issues pertaining to clinical competence or professional conduct. The goal of these efforts is to arrive at voluntary actions by the individual to resolve an issue that has been raised. Collegial intervention may be carried out, within the discretion of Medical Staff leaders and Hospital management, but is not mandatory.

1.1-2 Collegial intervention is a part of the Hospital's professional review activities and may include counseling, education, and related steps. These interventions are described in the Medical Staff Quality: Professional Practice Evaluation Policy.

1.1-3 If an issue is raised pertaining to clinical competence or professional conduct of a member of the APP or AHP Staff, the Supervising/Collaborating Physician will be notified and may be invited to participate in the collegial intervention.

1.1-4 The relevant Medical Staff leader(s), in conjunction with the Physician Director of Acute Care, may determine whether a matter should be handled in accordance with another policy (e.g., code of conduct, impaired provider policy, system level peer review policy) or should be referred to the Privileging Committee or the Medical Executive Committee for further action.

1.1-5 The relevant Medical Staff leader(s) will determine whether to document a collegial intervention effort. Any documentation that is prepared will be placed in an individual's confidential quality file. The individual will have an opportunity to review the documentation and respond to it. The response will be maintained in the individual's file along with the original documentation.

1.1-6 All ongoing and focused professional practice evaluations will be conducted in accordance with the Medical Staff Quality policy. Matters that cannot be appropriately resolved through collegial intervention or through the system level peer review policy will be referred to the Peer Review Committee.

1.2 Corrective Action

For purposes of this Article, "member" includes those holding privileges awarded pursuant to the Bylaws (e.g. temporary, locum tenens, telemedicine).

1.2-1 Criteria for Initiation

A. Any person may provide information to the medical staff about the conduct, performance, or competence of its members. When reliable information indicates a member may have exhibited acts, demeanor, or conduct reasonably likely to be:
   1. detrimental to patient safety or to the delivery of quality patient care within the hospital;
   2. unethical;
   3. contrary to the medical staff bylaws and rules or regulations;
   4. below applicable professional standards; or
   5. a violation of law involving moral turpitude or the practice of the healing arts

   the person to whom the information is referred will make a sufficient inquiry to determine whether the information is credible. If found to be credible, a request for an investigation or other form of corrective action against such member may be initiated by the Chief of Staff, a department chair, or the Medical Executive Committee. If the information pertains to a member of the APP or AHP Staff, the Supervising/Collaborating Physician may also be notified.

B. In addition, if the Board becomes aware of information that raises concerns about the qualifications of any member of the Medical Staff or APP/AHP Staff, the matter will be referred to the Chief of Staff, the Physician Director of Acute Care, or the Administrator.

C. Prior to initiation of action under this Article, behavior that indicates that the member suffers from a physical, mental or emotional condition will be evaluated to promote assisting the medical staff member while protecting others. Any actions required to protect physicians, staff, patients, or visitors shall be immediately undertaken.

1.2-2 Initiation

A request for an investigation must be in writing, submitted to the Medical Executive Committee, and supported by reference to specific activities or conduct alleged. If the Medical Executive Committee initiates the request, it shall make an appropriate written record of the reasons.

1.2-3 Investigation

The Medical Executive Committee will review the information and may discuss the matter with the individual, in order to determine whether to conduct an investigation or direct that the issue be handled pursuant to another policy. If the Medical Executive Committee concludes an investigation is warranted, it shall direct an investigation to be undertaken.

A. The Medical Executive Committee may conduct the investigation itself, or may assign the task to an appropriate medical staff officer, medical staff department, or standing or ad hoc committee of the medical staff, or may determine that no further investigation is warranted because the request for corrective action is adequately supported.

B. The date on which the Medical Executive Committee or its delegate first meets to begin the investigation process shall be considered the official start date of the investigation.

C. The Medical Executive Committee in its discretion may appoint practitioners who are not members of the medical staff as temporary members of the medical staff for the sole purpose of serving on a standing or ad hoc committee, and not for the purpose of granting these practitioners temporary clinical privileges under these bylaws, should circumstances warrant.

D. If the investigation is delegated to an officer or a committee other than the Medical Executive Committee, such officer or committee shall proceed with the investigation in a prompt manner and shall forward a written report of the investigation to the Medical Executive Committee as soon as practicable, but in no event longer than 60 days. The report may include recommendations for appropriate corrective action.

E. The member shall be notified that an investigation is being conducted and shall be given an opportunity to provide information in a manner and upon such terms as the investigating body deems appropriate.

F. The individual or body investigating the matter may, but is not obligated to, conduct interviews with persons involved; however, such interviews shall not constitute a "hearing" as that term is used in these bylaws, nor shall the procedural rules with respect to hearings or appeals apply.

G. Despite the status of any investigation, at all times the Medical Executive Committee shall retain authority and discretion to take whatever action may be warranted by the circumstances, including summary suspension, termination of the investigative process, or other action.

1.2-4 Medical Executive Committee Action

As soon as practicable after the conclusion of the investigation, the Medical Executive Committee shall take action which may include, without limitation:

A. Determining no corrective action is justified and, if the Medical Executive Committee determines there was no credible evidence for the complaint in the first instance, removing any adverse information from the member's file;

B. Deferring action for a reasonable time where circumstances warrant;

C. Issuing letters of guidance, counsel, admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude department chairs from issuing informal written or oral warnings outside of the mechanism for corrective action. In the event such letters are issued, the affected members may make a written response which shall be placed in the member's file;

D. Recommending the imposition of terms of probation or special limitation upon continued medical staff membership or exercise of clinical privileges, including, without limitation, requirements for co-admission, mandatory consultation, or monitoring;

E. Recommending reduction, modification, suspension or revocation of clinical privileges;

F. Recommending reductions of membership status or limitations of any prerogatives directly related to the member's delivery of patient care;

G. Recommending revocation or probation of medical staff membership; and

H. Taking other actions deemed appropriate under the circumstances.

1.2-5 Subsequent Action

A. If corrective action that is recommended by the Medical Executive Committee constitutes grounds for hearing and appellate review under these bylaws, that recommendation shall be transmitted to the Board of Directors and to the member pursuant to these bylaws.

B. Providing the Board shall judge that the recommendation of the Medical Executive Committee is supported by substantial evidence, the recommendation shall be adopted by the Board as final action, unless the member requests a hearing pursuant in which case the final decision shall be determined as set forth in the hearing and appeals provisions of these bylaws. This final action is considered a Professional Review Action.

1.3 Summary Restriction or Suspension

1.3-1 Criteria for Initiation

Whenever a member's conduct appears to require that immediate action be taken to prevent imminent danger to the health of any patient, prospective patient, or other person, the Chief of Staff, the Medical Executive Committee, the chair of the department in which the member holds privileges, or the designee of any such authority may summarily restrict or suspend the medical staff membership or clinical privileges of such member. Unless otherwise stated, such summary restriction or suspension shall become effective immediately upon imposition and the person or body responsible shall promptly give written notice to the Board of Directors, the Medical Executive Committee and the

Administrator. In addition, the affected medical staff member shall be provided with a brief written description of the reason(s) for the summary restriction or suspension. The summary restriction or suspension may be limited in duration and shall remain in effect for the period stated or, if none, until resolved as set forth herein. Unless otherwise indicated by the terms of the summary restriction or suspension, the member's patients shall be promptly assigned to another member by the department chair or by the Chief of Staff, considering where feasible, the wishes of the patient in the choice of a substitute member.

1.3-2 Written Notice of Summary Suspension

Within one working day of imposition of a summary suspension, the affected medical staff member shall be provided with written notice of such suspension. This initial written notice shall include a statement of facts demonstrating that the suspension was necessary because failure to suspend or restrict the member's privileges summarily could reasonably result in an imminent danger to the health of an individual. The statement of facts provided in this initial notice shall also include a summary of one or more particular incidents giving rise to the assessment of imminent danger. This initial notice shall not substitute for, but is in addition to, the notice required under Article 2.2-1 (which applies in all cases where the Medical Executive Committee does not immediately terminate the summary suspension). The notice under Article 2.2-1 may supplement the initial notice provided under this Article, by including any additional relevant facts supporting the need for summary suspension or other corrective action.

1.3-3 Medical Executive Committee Action

Within one week after such summary restriction or suspension has been imposed, a meeting of the Medical Executive Committee or a subcommittee appointed by the Chief of Staff shall be convened to review and consider the action. Upon request, the member may attend and make a statement concerning the issues under investigation, on such terms and conditions as the Medical Executive Committee may impose, although in no event shall any meeting of the Medical Executive Committee, with or without the member, constitute a "hearing" within the meaning of these bylaws. The Medical Executive Committee may modify, continue, or terminate the summary restriction or suspension, but in any event it shall furnish the member with notice of its decision within two working days of the meeting, which notice shall also describe the member's procedural rights.

1.3-4 Procedural Rights

Unless the Medical Executive Committee terminates the summary restriction or suspension during the meeting which should occur within seven days of the action, the member shall be entitled to the procedural rights afforded by these bylaws. In addition, the affected member shall have the following rights:

A. Any affected member shall have the right to challenge imposition of the summary suspension, particularly on the issue of whether or not the facts stated in the notice present a reasonable possibility

of imminent danger to an individual. Initially, the member may present this challenge to the Medical Executive Committee at the meeting held within one week of imposition of the suspension. If the Medical Executive Committee decision is to continue the summary suspension, then any member who has properly requested a hearing under the medical staff bylaws may request that the hearing be bifurcated, with the first part of the hearing being devoted exclusively to procedural matters, including the propriety of summary suspension. The hearing officer (or hearing panel) may, in its discretion, elect whether or not to bifurcate the hearing. Along with any other appropriate requests for rulings, the affected member may request that the hearing officer (or hearing panel) stay the summary suspension, pending the final outcome of the hearing and any appeal. The hearing officer (or hearing panel) may stay the summary suspension and if it does so, it may impose any less restrictive conditions or requirement that it deems appropriate under the circumstances.

B. At the conclusion of the procedural portion of the hearing, the hearing officer (or hearing panel) shall issue a written opinion on the issues raised, including whether or not facts which gave rise to the summary restrictions or suspension adequately support a determination that failure to summarily restrict or suspend could reasonably result in "imminent danger" to an individual. Such written opinion shall be transmitted to both the affected practitioner and the Medical Executive Committee within one week of the date of the procedural hearing.

C. If the hearing officer's (or hearing panel's) determination is that the facts stated in the notice required by Article 1.3-2 do not support a reasonable determination that failure to summarily restrict or suspend the member's privileges could result in imminent danger, the summary suspension shall be immediately stayed pending the outcome of the hearing and any appeal.

D. If the hearing officer (or hearing panel) determines that the facts stated in the notice required by Article 1.3-2 support a reasonable determination that summary suspension was necessary to avoid imminent danger to an individual, the summary suspension shall remain in effect pending conclusion of the hearing and any appellate review.

1.4 Automatic Suspension or Relinquishment

In the following instances, the member's privileges or membership may be suspended or relinquished as described.

1.4-1 Action by Government Agency or Insurer and Failure to Satisfy Threshold Eligibility Criteria

A. Any action taken by any licensing board, professional liability insurance company, court or government agency regarding any of the matters set forth below, or failure to satisfy any of the threshold eligibility criteria, must be promptly reported to the Physician Director of Acute Care, or Chief of Staff.

B. An individual's appointment and clinical privileges will be automatically relinquished, without right to hearing or appeal, if any of the following occur:

1. Licensure: Revocation, probation, expiration, suspension, or the placement of conditions or restrictions on an individual's license.

2. DEA Registration: Revocation, suspension, or the placement of conditions or restrictions on an individual's DEA registration, as applicable to his/her practice.

3. Insurance Coverage: Termination or lapse of an individual's professional liability insurance coverage, or other action causing the coverage to fall below the minimum required by the Hospital.

4. Medicare and Medicaid Participation: Termination, exclusion, or preclusion by government action from participation in the Medicare/Medicaid or other federal or state health care programs.

5. Criminal Activity: Arrest, indictment, conviction, or a plea of guilty or no contest pertaining to any felony, or to any misdemeanor involving (i) controlled substances; (ii) illegal drugs; (iii) Medicare, Medicaid, or insurance or health care fraud or abuse; (iv) violence; (v) sexual misconduct; or (vi) moral turpitude.

    a. If an individual is arrested for any criminal activity identified in this section, such individual's appointment and clinical privileges may be automatically relinquished, without right to hearing or appeal

C. An individual's appointment and clinical privileges will be automatically relinquished, without entitlement to a hearing and appeal, if the individual fails to satisfy any of the threshold eligibility criteria or perform his or her responsibilities.

D. Automatic relinquishment will take effect immediately upon notice to the Hospital and continue until the matter is resolved and the individual is reinstated.

E. If the underlying matter leading to automatic relinquishment is resolved or if the individual contends that there are exceptional circumstances which warrant an exception to an automatic relinquishment, the individual may request reinstatement. Failure to resolve the matter within 60 days of the date of relinquishment will result in an automatic resignation from the Medical Staff or APP/AHP Staff.

F. Requests for reinstatement will be reviewed by the relevant department chairperson, the Chairperson of the Privileging Committee, the Chief of Staff, and the Physician Director of Acute Care. If all these individuals make a favorable recommendation on reinstatement, the individual may immediately resume clinical practice at the Hospital. This determination will then be forwarded to the Privileging Committee, the Medical Executive Committee, and the Board for ratification. If, however, any of the individuals reviewing the request have any questions or concerns, those questions will be noted and the reinstatement request will be forwarded to the Privileging Committee, Medical Executive Committee and Board for review and recommendation.

1.4-2 Failure to Provide Information

Appointment and clinical privileges will be deemed to be automatically relinquished upon the occurrence of:

A. failure to notify the Chief of Staff, the Physician Director of Acute Care, or the Privileging Committee Chair (or designee) of any change in any information provided on an application for initial appointment or reappointment. Prior to automatic relinquishment of privileges, the Chief of Staff and the Physician Director of Acute Care will review the omission or change and consider any written or oral explanation provided by the individual;

B. failure to provide information or to otherwise respond to requests pertaining to an individual's qualifications for appointment or clinical privileges in response to a written request specifying the time frame for response from the Medical Executive Committee or any other committee authorized to request such information, until the information is provided to the satisfaction of the requesting party; or

C. failure to undergo a blood, hair or urine test or a complete physical or mental examination if at least two Medical Staff leaders (or one Medical Staff leader and the Administrator or Physician Director of Acute Care) are concerned about the member's ability to safely and competently care for patients.

1.4-3 Failure to Satisfy Special Appearance Requirement

A. Whenever there is a concern regarding an individual's clinical practice or professional conduct, the individual may be requested to attend a meeting with one or more Medical Staff leaders and/or a committee of the Medical Staff.

B. Special notice will be given to inform the individual that attendance at the meeting is mandatory and that the individual must make himself or herself available as described in the special notice.

C. Failure of the individual to attend the meeting will be reported to the Privileging Committee. Unless excused by the Privileging Committee upon a showing of good cause, failure to attend will result in the automatic relinquishment of all or such portion of the individual's clinical privileges as the Privileging Committee may direct. Such relinquishment will remain in effect until the individual attends the requested meeting.

1.4-4 Medical Records

Members of the medical staff are required to complete medical records within such reasonable time as may be prescribed by the Medical Executive Committee. Failure to complete medical records within 30 days will result in automatic suspension of all clinical privileges, after notification by the medical records department of delinquency. Suspension will continue until all delinquent records are completed and reinstatement accomplished in accordance with applicable rules and regulations. Failure to complete the medical records that caused suspension within 30 days of the suspension will result in automatic resignation from the Medical Staff or APP/AHP Staff. Bona fide vacation or illness may constitute an excuse subject to approval by the Medical Executive Committee.

1.4-5 Failure to Pay Dues/Assessments

Failure without good cause as determined by the Medical Executive Committee, to pay dues or assessments, as required under these bylaws, shall be grounds for automatic suspension of a member's clinical privileges, and if within six months after written warnings of the delinquency the member does not pay the required dues or assessments, the member's membership shall be automatically terminated.

1.4-6 Medical Executive Committee Deliberation

As soon as practicable after action is taken or warranted as described in this Article, the Medical Executive Committee shall convene to review and consider the facts, and may recommend such further corrective action as it may deem appropriate following the procedure generally set forth below.

Article 2 – Hearing and Appeal Procedures

2.1 Grounds for Hearing

2.1-1 Actions that Constitute Grounds for Hearing

A. Except as otherwise specified in these bylaws, any one or more of the following actions or recommended actions shall be deemed actual or potential adverse action and constitute grounds for a hearing:
   1. Denial of medical staff membership;
   2. Denial of medical staff reappointment;
   3. Suspension of staff membership;
   4. Revocation of medical staff membership;
   5. Denial of requested clinical privileges;
   6. Involuntary reduction of current clinical privileges;
   7. Suspension of clinical privileges for more than 30 days (other than summary restriction or suspension)
   8. Termination of all clinical privileges; or
   9. Involuntary imposition of significant consultation or monitoring requirements.

B. No other recommendations or actions will entitle the individual to a hearing.

C. If the Board makes any of these recommendations without an adverse recommendation by the Medical Executive Committee, an individual is entitled to request a hearing. For ease of use, this Article refers to adverse recommendations by the Medical Executive Committee. When a hearing is triggered by an adverse recommendation of the Board, any reference in this Article to the “Medical Executive Committee” will be interpreted as a reference to the “Board”.

2.1-2 Actions Not Grounds for Hearing

A. A letter of guidance, counsel, warning or reprimand;
B. Conditions, monitoring, proctoring, or a general consultation requirement;
C. A lapse or decision not to grant or not to renew temporary privileges;
D. Automatic relinquishment of appointment or privileges;
E. A requirement for additional training or continuing education;
F. Summary restriction or suspension;
G. Denial of a request for leave of absence or for an extension of a leave;
H. Determination that the application is incomplete;
I. Determination that an application will not be processed due to a misstatement or omission;
J. Determination of ineligibility based on a failure to meet threshold eligibility criteria, a lack of need or resources, or because of an exclusive contract; or
K. A recommendation for or commencement of a focused professional practice evaluation.

2.2 Requests for Hearing

2.2-1 Notice of Action or Proposed Action

In all cases in which action has been taken or a recommendation made as set forth in Article 2, said person or body shall give the member prompt written notice of (1) the recommendation or final proposed action and that such action, if adopted, shall be taken and reported to the Minnesota Board of Medical Practice and the National Practitioner Data Bank, as required by applicable rules or laws; (2) the reasons for the proposed action including the acts of commission or omission with which the member is charged; (3) the right to request a hearing pursuant to these bylaws, and that such hearing must be requested with 31 days; and (4) a summary of the rights granted in the hearing pursuant to the medical staff bylaws and this Fair Hearing Manual, as detailed in sections 2.2-3 through 2.2-5, and including disclosure of the right to legal counsel.
This notice should be similar to this: "If you choose to have a hearing, you must notify us in writing within 31 days of your receipt of this letter. The Medical Executive Committee will schedule this hearing and give you notice of the time, place, and date of the hearing within 15 days of receipt of your request. You are, of course, entitled to legal representation before or after you respond and during the hearing. The hearing will be before a Fair Hearing Committee of the CenrtraCare - Rice Memorial Hospital Board of Directors or their designees. The details of the hearing procedure are listed in Article 2 of the Fair Hearing Manual, which defines prehearing requirements and options and describes the conduct of the hearing. Note that both sides can call, examine, and cross-examine witnesses. Appeal proceedings are detailed in the Bylaws, as well."

2.2-2 Request for Hearing

The member shall have 31 days following receipt of notice of such action to request a hearing. The request shall be in writing addressed to the Medical Executive Committee with a copy to the Board of Directors. In the event the member does not request a hearing within the time and in the manner described, the member shall be deemed to have waived any right to a hearing and accepted the recommendation or action involved.

2.2-3 Time and Place for Hearing

Upon receipt of a request for hearing, the Medical Executive Committee shall schedule a hearing and, within 15 days give notice to the member of the time, place and date of the hearing. Unless extended by the Fair Hearing Committee, the date of the commencement of the hearing shall be not less than 30 days, nor more than 60 days from the date of the notice; provided, however, that when the request is received from a member who is under summary suspension the hearing shall be held as soon as the arrangements may reasonably be made, but not to exceed 45 days from the date of receipt of the request.

2.2-4 Notice of Hearing

Together with the notice stating the time, place and date of the hearing, which date shall not be less than 30 days after the date of the notice unless waived by a member under summary suspension, the Medical Executive Committee or Board, if its action is the cause of the hearing, shall provide a list of the charts in question, where applicable, and a list of the witnesses (if any) expected to testify at the hearing on behalf of the Medical Executive Committee or the Hospital Board, if its action is the cause of the hearing. The content of this list is subject to update pursuant to these bylaws.

2.3 Fair Hearing Committee

2.3-1 Membership Approval

When a hearing is requested, the Medical Executive Committee shall recommend a Fair Hearing Committee to the Board of Directors for appointment. The Board of Directors shall be deemed to approve the selection unless it provides written notice to the Medical Executive Committee stating the reasons for its objection within 5 days. Upon approval, the administrator shall notify the committee members of their appointment in writing.

The Fair Hearing committee shall be composed of not less than 5 members of the medical staff.

2.3-2 Member Restrictions

Fair Hearing Committee members shall gain no direct financial benefit from the outcome, and shall not have acted as accuser, investigator, fact finder, initial decision maker or otherwise have not actively participated in the consideration of the matter leading up to the recommendation or action. Knowledge of the matter involved shall not preclude a member of the medical staff from serving as a member of the Fair Hearing committee.

2.3-3 Appointment of Non-staff Committee Members

In the event that it is not feasible to appoint a Fair Hearing committee from the medical staff, the Medical Executive Committee may recommend practitioners who are not members of the medical staff. Such appointment shall include designation of the chair.

2.3-4 Failure to Appear or Proceed

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

2.3-5 Postponements and Extensions

Once a request for hearing is initiated, postponements and extensions of time beyond the times permitted in these bylaws may be permitted by the hearing officer on a showing of good cause, or upon agreement of the parties.

2.4 Hearing Procedure

2.4-1 Prehearing Procedure

A. If either side to the hearing requests in writing a list of witnesses, within 15 days of such request, each party shall furnish to the other a written list of the names and addresses of the individuals, so far as is reasonably known or anticipated, who are anticipated to give testimony or evidence in support of that party at the hearing. The member shall have the right to inspect and copy documents or other evidence upon which the charges are based, and shall also have the right to receive at least 30 days prior to the hearing a copy of the evidence forming the basis of the charges which is reasonably necessary to enable the member to prepare a defense, including all evidence which was considered by the Medical Executive Committee in determining whether to proceed with the adverse action, and any exculpatory evidence in the possession of the hospital or medical staff. The member and the Medical Executive Committee shall have the right to receive all evidence which shall be made available to the Fair Hearing Committee, and the member shall be provided with a copy of these Bylaws so as to be informed of his/her rights in these proceedings.

B. The Medical Executive Committee shall have the right to inspect and copy, at its expense, any documents or other evidence relevant to the charges which the member has in his or her possession or control as soon as practicable after receiving the request.

C. The failure by either party to provide access to this information at least 30 days before the hearing shall constitute good cause for a continuance. The right to inspect and copy by either party does not extend to confidential information referring solely to individually identifiable members, other than the member under review.

D. The hearing officer shall consider and rule upon any request for access to information and may impose any safeguards the protection of the peer review process and justice requires. In so doing, the hearing officer shall consider:

1. Whether the information sought may be introduced to support or defend the charges;

2. The exculpatory or inculpatory nature of the information sought, if any;

3. The burden imposed on the party in possession of the information sought, if access is granted; and

4. Any previous requests for access to information submitted or resisted by the parties to the same proceeding.

E. The member shall be entitled to a reasonable opportunity to question and challenge the impartiality of Fair Hearing committee members and the hearing officer. Challenges to the impartiality of any Fair Hearing committee member shall be ruled on by the hearing officer. Challenges to the impartiality of the Hearing Officer shall be ruled on by the Chief of Staff.

F. It shall be the duty of the member and the Medical Executive Committee or its designee to exercise reasonable diligence in notifying the chair of the Fair Hearing committee of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible, in order that decisions concerning such matters may be made in advance of the hearing. Objections to any prehearing decisions may be succinctly made at the hearing.

2.4-2 Representation

The hearings provided for in these bylaws are for the purpose of intra professional resolution of matters bearing on professional conduct, professional competency, or character. The member shall be entitled to representation by legal counsel in any phase of the hearing, should he/she so choose, and shall receive notice of the right to obtain representation by an attorney at law. In the absence of legal counsel, the member shall be entitled to be accompanied by and represented at the hearing only by a practitioner licensed to practice in the state of Minnesota who is not also an attorney at law.

2.4-3 Hearing Officer

The Medical Executive Committee shall recommend a hearing officer to the Board of Directors to preside at the hearing. The Board of Directors shall be deemed to approve the selection unless it provides written notice to the Medical Executive Committee stating the reasons for its objections within 5 days. Upon approval, the administrator shall notify the hearing officer of the appointment in writing. The hearing officer may be an attorney at law qualified to preside over a quasi-judicial hearing, but attorneys from a firm regularly utilized by the hospital, the medical staff, or the involved medical staff member or applicant for membership, for legal advice regarding their affairs and activities, shall not be eligible to serve as hearing officer. The hearing officer shall gain no direct financial benefit from the outcome and must not act as a prosecuting officer or as an advocate. The hearing officer shall endeavor to assure that all participants in the hearing have a reasonable opportunity to be heard and to present relevant oral and documentary evidence in an efficient and expeditious manner, and that proper decorum is maintained. The hearing officer shall be entitled to determine the order of or procedure for presenting evidence and argument during the hearing and shall have the authority and discretion to make all rulings on questions which pertain to matters of law, procedure or the admissibility of

evidence. If the hearing officer determines that either side in a hearing is not proceeding in an efficient and expeditious manner, the hearing officer may take such discretionary action as seems warranted by the circumstances. If requested by the Fair Hearing Committee, the hearing officer may participate in the deliberations of such committee and be a legal advisor to it, but the hearing officer shall not be entitled to vote.

2.4-4 Record of the Hearing

A stenographer or court recorder shall be present to make a record of the hearing proceedings, and the prehearing proceedings if deemed appropriate by the hearing officer. The cost of attendance of the stenographer or court recorder shall be borne by the Hospital, but the cost of the transcript, if any, shall be borne by the party requesting the transcript. The Fair Hearing Committee may, but shall not be required to, order that oral evidence shall be taken only on oath administered by any person lawfully authorized to administer such oath. A tape recording of the proceedings may also be utilized, if requested by either party.

2.4-5 Rights of the Parties within the Hearing

Within reasonable limitations, both sides at the hearing may call and examine witnesses for relevant testimony, introduce relevant exhibits or other documents, cross examine or impeach witnesses who shall have testified orally on any matter relevant to the issues, and otherwise rebut evidence, as long as these rights are exercised in an efficient and expeditious manner. The member may be called by the Medical Executive Committee, or the Board's representative, if the Board's action has occasioned the hearing, and examined as if under cross-examination.

2.4-6 Miscellaneous Rules

Judicial rules of evidence and procedure relating to the conduct of the hearing, examination of witnesses, and presentation of evidence shall not apply to a hearing conducted under this Article. Any relevant evidence, including hearsay, shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The Fair Hearing Committee may interrogate the witnesses or call additional witnesses if it deems such action appropriate. At its discretion, the Fair Hearing Committee may request or permit both sides to file written arguments.

2.4-7 Burdens of Presenting Evidence and Proof

A. At the hearing the Medical Executive Committee or the Board, if the Board's action has occasioned the hearing, shall have the initial duty to present evidence for each case or issue in support of its action or recommendation. The member shall be obligated to present evidence in response.

B. An applicant shall bear the burden of persuading the Fair Hearing committee, by a preponderance of the evidence, of his/her qualifications by producing information which allows for adequate evaluation and resolution of reasonable doubts concerning his/her current qualifications for membership and privileges. An applicant shall not be permitted to introduce information requested by the medical staff but not produced during the application process unless the applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.

C. Except as provided above for applicants, throughout the hearing, the Medical Executive Committee shall bear the burden of persuading the Fair Hearing Committee, by a preponderance of the evidence, that its action or recommendation is reasonable and warranted.

2.4-8 Adjournment and Conclusion

After consultation with the chair of the Fair Hearing Committee, the hearing officer may adjourn the hearing and reconvene the same without special notice at such times and intervals as may be reasonable and warranted, with due consideration for reaching an expeditious conclusion to the hearing. Either the Medical Executive Committee or the Board, if the Board's action has occasioned the hearing and the member may submit a written statement at the close of the hearing. Upon conclusion of the presentation of oral and written evidence, or the receipt of closing written arguments, if submitted, the hearing shall be closed.

2.4-9 Basis for Decision

The decision of the Fair Hearing Committee shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences from the evidence and the testimony. The decision of the Fair Hearing committee shall be subject to such rights of appeal as described in these bylaws.

2.4-10 Decision of the Fair Hearing Committee

Within 30 days after final adjournment of the hearing, the Fair Hearing Committee shall render a decision which shall be accompanied by a report in writing and shall be delivered to the Medical Executive Committee. If the member is currently under suspension, however, the time for the decision and report shall be 15 days. A copy of said decision also shall be forwarded to the administrator, the Board of Directors, and to the member. The report shall contain a concise statement of the reasons in support of the decision including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the conclusion reached.

If the final proposed action adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days and is based on competence or professional conduct, the decision shall state that the action if adopted shall be reported to the Minnesota Board of Medical Practice, and shall state the text of the report as agreed upon by the committee. Both the member and the Medical Executive Committee shall be provided a written explanation of the procedure for appealing the decision. The decision of the Fair Hearing committee shall be subject to such rights of appeal or review as described in these bylaws. The Board of Directors shall then accept or reject the decision, which, barring appeal becomes the final action.

2.5 Appeal

2.5-1 Time for Appeal

Within 10 days after receipt of the decision of the Fair Hearing Committee, the member or the Medical Executive Committee may request an appellate review. A written request for such review shall be delivered to the other party and the administrator. If a request for appellate review is not received within such period, the action of the Board of Directors shall be accepted as the final action.

2.5-2 Grounds for Appeal

A written request for an appeal shall include an identification of the grounds for appeal and a clear and concise statement of the facts in support of the appeal. The grounds for appeal from the hearing shall be: (a) substantial non-compliance with the procedures required by these bylaws or applicable law which has created demonstrable prejudice; (b) the decision was not supported by substantial evidence based upon the hearing record or such additional information as may be permitted pursuant to this Fair Hearing Manual; (c) the text of the report to be filed to the Minnesota Board of Medical Practice is not accurate.

2.5-3 Time, Place and Notice

If an appellate review is to be conducted, the appeal board shall, within 15 days after receipt of notice of appeal, schedule a review date and cause each side to be given notice of the time, place and date of the appellate review. The date of appellate review shall not be less than 30 nor more than 60 days from the date of such notice, provided however, that when a request for appellate review concerns a member who is under suspension which is then in effect, upon the member's request the appellate review shall be held as soon as the arrangements may reasonably be made, not to exceed 15 days from the date of the notice. The time for appellate review may be extended by the appeal board for good cause.

2.5-4 Appeal Board

The Board of Directors may sit as the appeal board, or it may appoint an appeal board which shall be composed of not less than 3 members of the Board of Directors. Knowledge of the matter involved shall not preclude any person from serving as a member of the appeal board, so long as that person did not take part in a prior hearing on the same matter. The appeal board may select an attorney to assist it in the proceeding, but that attorney shall not be entitled to vote with respect to the appeal. The attorney selected by the Board of Directors shall not be the attorney that represented either party at the hearing before the Fair Hearing Committee, or the person who served as the hearing officer.

2.5-5 Appeal Procedure

Each party shall have the right to be represented by legal counsel, or any other representative designated by that party in connection with the appeal, to present a written statement in support of his or her position on appeal, and to personally appear and make oral argument. The appeal board may thereupon conduct, at a time convenient to itself, deliberations outside the presence of the appellant and respondent and their representatives. The appeal board shall present to the Board of Directors its written recommendations as to whether the Board of Directors should affirm, modify, or reverse the judicial review committee decision, or remand the matter to the Fair Hearing Committee for further review and decision.

2.5-6 Decision

A. Except as provided below, within 30 days after the conclusion of the appellate review proceedings, the Board of Directors shall render a final decision and shall affirm the decision of the Fair Hearing Committee if the Fair Hearing committee's decision is supported by substantial evidence, following a fair procedure.

B. Should the Board of Directors determine that the Fair Hearing Committee decision is not supported by substantial evidence, the board may modify or reverse the decision of the Fair Hearing Committee and may instead, or shall, where a fair procedure has not been afforded, remand the matter to the Fair Hearing committee for reconsideration, stating the purpose for the referral. If the matter is remanded to the Fair Hearing Committee for further review and recommendation, the Committee shall promptly conduct its review and make its recommendations to the Board of Directors. This further review and the time required to report back shall not exceed 30 days in duration except as the parties may otherwise agree or for good cause as jointly determined by the chair of the Board of Directors and the Fair Hearing committee.

C. The decision shall be in writing, shall specify the reasons for the action taken, shall include the text of the report which shall be made to the Minnesota Board of Medical Practice, if any, and shall be forwarded to the staff, the Medical Executive and Privileging Committees, the subject of the hearing, and the administrator, at least 10 days prior to submission to the Minnesota Board of Medical Practice.

2.5-7 Right to One Hearing

No member shall be entitled to more than one evidentiary hearing and one appellate review on any matter which shall have been the subject of adverse action or recommendation.

2.6 Exceptions to Hearing Rights

2.6-1 Appropriateness of Exclusive Contracts

Privileges can be reduced or terminated as a result of a decision to close or continue closure of a department/service pursuant to an exclusive contract, or to transfer an existing exclusive contract, and such actions are not subject to the hearing and review procedures unless the actions are taken for reasons relating to the quality of care provided by the adversely affected members.

2.6-2 Automatic Suspension or Limitation of Practice Privileges

No hearing is required when a member's license or legal credential to practice has been revoked or suspended as set forth in Article 1.4-1B(1). In other cases described in Articles 1.4-1, the issues which may be considered at a hearing, if requested, shall not include evidence designed to show that the determination by the licensing or credentialing authority or the DEA was unwarranted, but only whether the member may continue practice in the hospital with those limitations imposed.

2.6-3 Department/Service Formation or Elimination

A medical staff department/service may only be formed or eliminated providing the medical staff is given a sixty (60) day opportunity to comment upon the appropriateness of department/service elimination or formation with the communication to be forwarded in writing to the Board of Directors.

2.7 Reporting to the MN Board of Medical Practice and National Practitioner Data Bank

2.7-1 Adverse Actions

The authorized representative shall report an adverse action to the Minnesota Board of Medical Practice and the National Practitioner Data Bank only upon its adoption as final action and only using the description set forth in the final action as adopted by the Board of Directors. The authorized representative shall report any and all revisions of an adverse action, including, but not limited to, any expiration of the final action consistent with the terms of that final action.

2.7-2 Dispute Process

If no hearing was requested, a member who was the subject of an adverse action report may request an informal meeting to dispute the report filed. The report dispute meeting shall not constitute a hearing and shall be limited to the issue of whether the report filed is consistent with the final action issued. The meeting shall be attended by the subject of the report, the Chief of Staff, the chair of the subject's department, and the hospital's authorized representative, or their respective designees. If a hearing was held, the dispute process shall be deemed to have been completed.

ARTICLE 3 - AMENDMENTS

The process for amending this Medical Staff Fair Hearing Manual is set forth in Article XV of the Medical Staff Bylaws.

ARTICLE 4 - ADOPTION

This Medical Staff Fair Hearing Manual is adopted and made effective upon approval of the Medical Staff Bylaws by the Board, superseding and replacing any and all previous Medical Staff Bylaws and policies pertaining to the subject matter herein.

Adopted by the Medical Staff on:

Date: 12/6/2022

Approved by the Willmar Area Advisory Board:

Date: 01/11/2023