



**Pacific Hospital of Long  
Beach  
Medical Staff  
Bylaws  
2006**

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## **ARTICLE I PURPOSES AND TERMS**

### **1.1 PURPOSES OF THE BYLAWS**

These bylaws are adopted in order to provide for the organization of the medical staff of Pacific Hospital and to provide a framework for self-government in order to permit the medical staff to discharge its responsibilities in matters involving the quality of medical care, and to govern the orderly resolution of those purposes. These bylaws provide the professional and legal structure for medical staff operations, organized medical staff relations with the board of directors, and relations with applicants to and members of the medical staff.

### **1.2 DEFINITIONS**

**1.2-1 ADMINISTRATOR/CHIEF EXECUTIVE OFFICER** means the person appointed by the board of directors to serve in an administrative capacity.

**1.2-2 AUTHORIZED REPRESENTATIVE or HOSPITAL'S AUTHORIZED REPRESENTATIVE** means the individual designated by the hospital and approved by the medical executive committee to provide information to and request information from the National Practitioner Data Bank according to the terms of these bylaws.

**1.2-3 BOARD OF DIRECTORS** means the governing body of the hospital.

**1.2-4 CHIEF OF STAFF** means the chief officer of the medical staff elected by members of the medical staff.

**1.2-5 CLINICAL PRIVILEGES or PRIVILEGES** means the permission granted to medical staff members to provide patient care and includes unrestricted access to those hospital resources (including equipment, facilities and hospital personnel), which are necessary to effectively exercise those privileges.

**1.2-6 HOSPITAL** means Pacific Hospital of Long Beach.

**1.2-7 INVESTIGATION** means a process specifically instigated by the medical executive committee to determine the validity, if any, to a concern or complaint raised against a member of the medical staff, and does not include activity of the medical staff aid committee.

**1.2-8 MEDICAL EXECUTIVE COMMITTEE** means the executive committee of the medical staff, which shall constitute the governing body of the medical staff as described in these bylaws.

**1.2-9 MEDICAL STAFF or STAFF** means those physicians (MD or DO or their equivalent as defined in Section 2.2-2(a)), dentists, podiatrists and clinical psychologists who have been granted recognition as members of the medical staff pursuant to the terms of these bylaws.

**1.2-10 MEDICAL STAFF YEAR** means the period from January 1 to December 31.

**1.2-11 MEMBER** means, unless otherwise expressly limited, any physician (MD or DO or their equivalent as defined in Section 2.2-2(a)), dentist, podiatrist or clinical psychologist holding a current license to practice within the scope of that license who is a member of the medical staff.

**1.2-12 PHYSICIAN** means an individual with an MD or DO degree or the equivalent degree (i.e., foreign) as recognized by the Medical Board of California (MBC) or the Board of Osteopathic Examiners (BOE), who is licensed by either the MBC or the BOE.

**1.3 NAME**

The name of this organization is the Medical Staff of Pacific Hospital of Long Beach.

## **ARTICLE II MEMBERSHIP**

### **2.1 NATURE OF MEMBERSHIP**

No physician, dentist, podiatrist, clinical psychologist, including those in a medical administrative position by virtue of a contract with the hospital, shall admit or provide medical or health-related services to patients in the hospital unless the physician is a member of the medical staff or has been granted temporary privileges in accordance with the procedures set forth in these bylaws. Appointment to the medical staff shall confer only such clinical privileges and prerogatives as have been granted in accordance with these bylaws.

### **2.2 QUALIFICATIONS FOR MEMBERSHIP**

#### **2.2-1 GENERAL QUALIFICATIONS**

Only physicians, dentists, podiatrists, clinical psychologists shall be deemed to possess basic qualifications for membership in the medical staff, except for the honorary and retired staff categories in which case these criteria shall only apply as deemed individually applicable by the medical staff, and who

- (a) document their (1) current licensure, (2) adequate experience, education, and training, (3) current professional competence, (4) good judgment, and (5) current adequate physical and mental health status, so as to demonstrate to the satisfaction of the medical staff that they are professionally and ethically competent and that patients treated by them can reasonably expect to receive quality medical care;
- (b) are determined (1) to adhere to the ethics of their respective professions, (2) to be able to work cooperatively with others so as not to adversely affect patient care, (3) to keep as confidential, as required by law, all information or records received in the physician-patient relationship, and (4) to be willing to participate in and properly discharge those responsibilities determined by the medical staff;
- (c) maintain in force professional liability insurance in not less than the minimum amounts, if any, as from time to time may be jointly determined by the board of directors and medical executive committee. The medical executive committee, for good cause shown may waive this requirement with regard to such member as long as such waiver is not granted or withheld on an arbitrary,

discriminatory or capricious basis. In determining whether an individual exception is appropriate, the following facts may be considered:

- (1) Whether the member has applied for the requisite insurance;
  - (2) Whether the member has been refused insurance, and if so, the reasons for such refusal; and
  - (3) Whether insurance is reasonably available to the member, and if not, the reasons for its unavailability.
- (d) any new applicant or any applicant for reappointment who is currently excluded denied participation) from any health care program funded in whole or in part by the Federal Government, or any state health care program, including, but not limited to, Medicare or Medi-Cal is NOT eligible or qualified for Medical Staff membership.

## 2.2-2 PARTICULAR QUALIFICATIONS

- (a) **Physicians.** An applicant for physician membership in the medical staff, except for the honorary staff, must hold an MD or DO degree or their equivalent and a valid and unsuspended certificate to practice medicine issued by the Medical Board of California or the Board of Osteopathic Examiners of the State of California. For the purpose of this section, "or their equivalent" shall mean any degree (i.e., foreign) recognized by the Medical Board of California or the Board of Osteopathic Examiners.
- (b) **Limited License Practitioners.**
- (1) **Dentists.** An applicant for dental membership in the medical staff, except for the honorary staff, must hold a DDS or equivalent degree and a valid and unsuspended certificate to practice dentistry issued by the Board of Dental Examiners of California.
  - (2) **Podiatrists.** An applicant for podiatric membership on the medical staff, except for the honorary staff, must hold a DPM degree and a valid and unsuspended certificate to practice podiatry issued by the Medical Board of California.
  - (3) **Clinical Psychologists.** An applicant for clinical psychologist membership on the medical staff, except for the honorary staff, must hold a clinical psychologist degree and a valid and unsuspended

certificate to practice clinical psychology issued by the Medical Board of California.

### **2.3 EFFECT OF OTHER AFFILIATIONS**

No person shall be entitled to membership in the medical staff merely because that person holds a certain degree, is licensed to practice in this or in any other state, is a member of any professional organization, is certified by any clinical board, or because such person had, or presently has, staff membership or privileges at another health care facility. Medical staff membership or clinical privileges shall not be conditioned or determined on the basis of an individual's participation or non-participation in a particular medical group, IPA, PPO, PHO, hospital-sponsored foundation, or other organization or in contracts with a third party which contracts with this hospital.

### **2.4 NONDISCRIMINATION**

No aspect of medical staff membership or particular clinical privileges shall be denied on the basis of sex, race, age, creed, color, national origin, or physical or mental impairment that does not pose a threat to the quality of patient care.

### **2.5 BASIC RESPONSIBILITIES OF MEDICAL STAFF MEMBERSHIP**

Except for the honorary and retired staff, the ongoing responsibilities of each member of the medical staff include:

- (a) providing his/her patients with care of the generally recognized professional level of quality and efficiency;
- (b) abiding by the medical staff bylaws, medical staff rules and regulations, and policies;
- (c) discharging in a responsible and cooperative manner such reasonable responsibilities and assignments imposed upon the member by virtue of medical staff membership, including committee assignments;
- (d) preparing and completing in timely fashion medical records for all the patients to whom the member provides care in the hospital;
- (e) abiding by all applicable laws and regulation of government agencies and comply with applicable standards of the JCAHO and AOA abiding by the lawful ethical principles of the California Medical Association or member's professional association;

- (f) aiding in any medical staff approved educational programs for medical students, interns, resident physicians, resident podiatrist, staff physicians, podiatrist, dentists, clinical psychologist, nurses and other personnel;**
- (g) working cooperatively with members, nurses, hospital administration and others so as not to adversely affect patient care;**
- (h) making appropriate arrangements for coverage of that member's patients as determined by the medical staff;**
- (i) actively participate in and regularly cooperates with the Medical Staff in assisting the Hospital to fulfill its obligations related to patient care, including but not limited to, continuous quality improvement, peer review, utilization management, quality evaluation and related monitoring activities required of the Medical Staff, and in discharging such other functions as may be required from time to time;**
- (j) accept responsibility for participating in Medical Staff proctoring as may be determined by the Medical Staff;**
- (k) cooperate with the Medical Staff in assisting in the Hospital to meet its uncompensated or partially compensated patient care obligations;**
- (l) refusing to engage in unlawful fee splitting or improper inducements for patient referral;**
- (m) participating in continuing education programs that meets all licensing requirements and is appropriate the members specialty;**
- (n) participating in such emergency service coverage or consultation panel as may be determined by the medical staff;**
- (o) discharging such other staff obligations as may be lawfully established from time to time by the medical staff or medical executive committee; and**
- (p) providing information to and/or testifying on behalf of the medical staff or an accused practitioner regarding any matter under an investigation pursuant to paragraph 6.1-3, and those which are the subject of a hearing pursuant to Article VII.**

## **2.6 HARASSMENT PROHIBITED**

Harassment by a medical staff member against any individual (e.g., against another medical staff member, house staff, hospital employee or patient) on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical disability, marital status, sex or sexual orientation shall not be tolerated.

"Sexual harassment" is unwelcome verbal or physical conduct of a sexual nature, which may include verbal harassment (such as epithets, derogatory comments or slurs), physical harassment (such as unwelcome touching, assault, or interference with movement or work), and visual harassment (such as the display of derogatory cartoons, drawings, or posters).

Sexual harassment includes unwelcome advances, requests for sexual favors, and any other verbal, visual, or physical conduct of a sexual nature when (1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, retention, promotion, or other aspects of employment; or (2) this conduct substantially interferes with the individual's employment or creates an intimidating, hostile, or offensive work environment. Sexual harassment also includes conduct, which indicates that employment and/or employment benefits are conditioned upon acquiescence in sexual activities.

All allegations of sexual harassment shall be immediately investigated by the medical staff and, if confirmed, will result in appropriate corrective action, from reprimands up to and including termination of medical staff privileges or membership, if warranted by the facts.

## **ARTICLE III CATEGORIES OF MEMBERSHIP**

### **3.1 CATEGORIES**

The categories of the medical staff shall include the following: active, courtesy, affiliate, provisional, honorary, retired, and education health professional. At appointment and each time of reappointment, the member's staff category shall be determined.

### **3.2 ACTIVE STAFF**

#### **3.2-1 QUALIFICATIONS**

The active staff shall consist of members who:

- (a) meet the general qualifications for membership set forth in Section 2.2;

- (b) have offices or residences which, in the opinion of the medical executive committee, are located closely enough to the hospital to provide appropriate continuity of quality care;
- (c) regularly care for 20 patients per year in this hospital and are regularly involved in medical staff functions, as determined by the medical staff; and
- (d) except for good cause shown as determined by the medical staff, have satisfactorily completed their designated term in the provisional staff category.

### **3.2-2 PREROGATIVES**

Except as otherwise provided, the prerogatives of an active medical staff member shall be to:

- (a) admit patients and exercise such clinical privileges as are granted pursuant to Article V;
- (b) consult in that member's area of expertise
- (c) attend and vote on matters presented at general and special meetings of the medical staff and of the department and committees to which the member is duly appointed; and
- (d) hold staff, division, or department office and serve as a voting member of committees to which the member is duly appointed or elected by the medical staff or duly authorized representative thereof.

### **3.2-3 TRANSFER OF ACTIVE STAFF MEMBER**

After two consecutive years in which a member of the active staff fails to regularly care for patients in this hospital or be regularly involved in medical staff functions as determined by the medical staff, that member shall be automatically transferred to the appropriate category, if any, for which the member is qualified.

## **3.3 THE COURTESY MEDICAL STAFF**

### **3.3-1 QUALIFICATIONS**

The courtesy medical staff shall consist of members who:

- (a) meet the general qualifications set forth in Section 2.2;

- (b) have offices or residences which, in the opinion of the medical executive committee, are located closely enough to the hospital to provide appropriate continuity of quality care;
- (c) do not regularly care for more than 19 patients per year or are not regularly involved in medical staff functions as determined by the medical staff ;
- (d) are members in good standing of the active or associate medical staff of another California licensed hospital, although exceptions to this requirement may be made by the medical executive committee for good cause; and
- (e) have satisfactorily completed appointment in the provisional category.

### **3.3-2 PREROGATIVES**

Except as otherwise provided, the courtesy medical staff member shall be entitled to:

- (a) admit patients to the hospital with the limitations of Section 3.3-1(b) and exercise such clinical privileges as are granted pursuant to Article V; and
- (b) consult in that member's area of expertise
- (c) attend in a non-voting capacity meetings of the medical staff and the department of which the individual is a member, including open committee meetings and educational programs, but shall have no right to vote at such meetings, except within committees when the right to vote is specified at the time of appointment.
- (d) Courtesy staff members shall not be eligible to hold office in the medical staff.

### **3.3-3 LIMITATION**

Courtesy staff members who admit patients or regularly care for patients at the hospital shall, upon review of the medical executive committee, be encouraged to seek appointment to the appropriate staff category.

## **3.4 PROVISIONAL STAFF**

### **3.4-1 QUALIFICATIONS**

The provisional staff shall consist of members who:

- (a) meet the general medical staff membership qualifications set forth in Sections 3.2-1(a) and (b) or 3.2-2(a)-(c); and

- (b) immediately prior to their application and appointment were not members (or were no longer members) in good standing of this medical staff.

### **3.4-2 PREROGATIVES**

The provisional staff member shall be entitled to:

- (a) admit patients and exercise such clinical privileges as are granted pursuant to Article V; and
- (b) attend meetings of the medical staff and the department of which that person is a member, including open committee meetings and educational programs, but shall have no right to vote at such meetings, except within committees when the right to vote is specified at the time of appointment.
- (c) Provisional staff members shall not be eligible to hold office in the medical staff organization, but may serve upon committees.

### **3.4-3 OBSERVATION OF PROVISIONAL STAFF MEMBER**

Each provisional staff member shall undergo a period of observation by designated monitors as described in Section 5.3. The purpose of observation shall be to evaluate the member's (1) proficiency in the exercise of clinical privileges initially granted and (2) overall eligibility for continued staff membership and advancement within staff categories. Observation of provisional staff members shall follow whatever frequency and format each department deems appropriate in order to adequately evaluate the provisional staff member including, but not limited to, concurrent or retrospective chart review, mandatory consultation, and/or direct observation. Appropriate records shall be maintained. The results of the observation shall be communicated by the department chair to the Medical Executive Committee.

### **3.4-4 TERM OF PROVISIONAL STAFF STATUS**

A member shall remain in the provisional staff until proctoring requirements have been met or for a period of 6 months, unless that status is extended by the medical executive committee for an additional period of up to 24 months upon a determination of good cause, which determination shall not be subject to review pursuant to Articles VI or VII.

### **3.4-5 ACTION AT CONCLUSION OF PROVISIONAL STAFF STATUS**

- (a) If the provisional staff member has satisfactorily demonstrated the ability to exercise the clinical privileges initially granted and otherwise appears qualified for continued medical staff membership, the member shall be eligible for placement in the active, courtesy or consulting staff as appropriate, upon recommendation of the medical executive committee; and

- (b) In all other cases, the appropriate department shall advise and make its report to the medical executive committee, which, in turn, shall make its recommendation to the board of directors regarding a modification or termination of clinical privileges or termination of medical staff membership.

### **3.5 HONORARY AND RETIRED STAFF**

#### **3.5-1 QUALIFICATIONS**

- (a) **The Honorary Staff**

The honorary staff shall consist of physicians, dentists, podiatrists, clinical psychologists who do not actively practice at the hospital but are deemed deserving of membership by virtue of their outstanding reputation, noteworthy contributions to the health and medical sciences, or their previous long-standing service to the hospital, and who continue to exemplify high standards of professional and ethical conduct.

- (b) **The Retired Staff**

The retired staff shall consist of members who have retired from active practice and, at the time of their retirement, were members in good standing of the active medical staff , and who continue to adhere to appropriate professional and ethical standards.

#### **3.5-2 PREROGATIVES**

Honorary and retired staff members are not eligible to admit patients to the hospital or to exercise clinical privileges in the hospital, or to vote or hold office in this medical staff organization, but they may serve upon committees with or without vote at the discretion of the medical executive committee. They may attend staff and department meetings, including open committee meetings and educational programs.

### **3.6 LIMITATION OF PREROGATIVES**

The prerogatives set forth under each membership category are general in nature and may be subject to limitation by special conditions attached to a particular membership, by other sections of these bylaws and by the medical staff rules and regulations.

#### **3.7 GENERAL EXCEPTIONS TO PREROGATIVES**

Regardless of the category of membership in the medical staff, limited license members:

- (a) shall only have the right to vote on matters within the scope of their licensure. In the event of a dispute over voting rights, that issue shall be determined by

the chair of the meeting, subject to final decision by the medical executive committee; and

- (b) shall exercise clinical privileges only within the scope of their licensure and as set forth in Section 5.4.

### **3.8 MODIFICATION OF MEMBERSHIP**

On its own, upon recommendation of the department, or pursuant to a request by a member under Section 4.6-1(b), or upon direction of the board of directors as set forth in Section 6.1-6, the medical executive committee may recommend a change in the medical staff category of a member consistent with the requirements of the bylaws.

## **3.9 ALLIED HEALTH PROFESSIONAL**

### **3.9-1 QUALIFICATIONS**

Allied Health Professionals (AHP's) who are qualified and recognized in their own field of expertise may be granted limited privileges to care for patients within the scope of their licensure under these Bylaws and such privileges shall be under the jurisdiction of the appropriate department of the medical staff. AHP's shall be credentialed in the same manner set forth in Article IV of these Bylaws.

### **3.9-2 PEROGATIVES**

- (a) Allied Health Professional shall not admit patients and all direct patient care services shall be specifically ordered by and supervised by the physician (MD/DO) responsible for the medical care of the patient.
- (b) Allied Health Professionals shall not be eligible for membership on the medical staff and accordingly shall not be eligible to vote at meetings or hold office.
- (c) Each Allied Health Professional shall be assigned to the department or departments appropriate to his/her occupational or professional training and, unless otherwise specified in these Bylaws or the Rules and Regulations, shall be subject to terms and conditions paralleling those specified for Practitioners as they may logically be applied to AHP's and appropriately tailored to the particular AHP.
- (d) Nothing herein shall create any vested rights by Allied Health Professional to receive or maintain any privileges to practice in the Hospital.

### **3.9-3 PROCEDURAL RIGHTS OF ALLIED HEALTH PROFESSIONALS**

AHP's shall be entitled to certain fair hearing and appeal rights, as described below:

- (a) Clinical psychologists shall be entitled to the procedural rights set forth at Article VII, Hearings and Appellate Reviews.
- (b) Other AHP applicants shall have the right to challenge a recommendation of the appropriate clinical department to deny or restrict requested privileges by filing a written grievance with the Medical Executive committee within 15 days of such action. Upon receipt of such a grievance, the Medical Executive Committee or its designee shall conduct a review that shall afford the AHP an opportunity for an interview concerning the grievance. Any such interview shall not constitute a hearing as established by Article VII, Hearings and Appellate Reviews, of the Bylaws and shall not be conducted according to the procedural rules applicable to such hearings. Before the interview, the AHP shall be informed of the general nature and circumstances giving rise to the action, and the AHP may present information relevant thereto at the interview. A record of the interview shall be made. The Medical Executive Committee or its designee shall make a decision based on the interview and all other information available to it.
- (c) An AHP other than a clinical psychologist holding clinical privileges who is subject to a recommendation of the Clinical Department to revoke, restrict or not renew any or all of such AHP's privileges shall be entitled to the rights set forth below.
  - (1) The affected AHP shall be given written notice of the recommended action.
  - (2) The affected AHP shall have ten days within which to request a Medical Executive Committee review hearing of the action.
  - (3) If review is requested, the affected AHP shall be given written notice of the general reasons for the action, and the date, time and place that the Medical Executive Committee review hearing is scheduled. Such date shall afford the AHP at least 14 calendar days' notice.
  - (4) The affected AHP and the appropriate clinical department, through its designated representative, shall each have ten days to submit written information and argument in support of their positions.
  - (5) The affected AHP shall have a right to appear at the Medical Executive Committee hearing, to hear such evidence as the representative of the clinical department may present in support of the department's recommended action, and to present evidence in support of the AHP's challenge to that recommendation. Neither party shall be represented by legal counsel in the hearing.
  - (6) The Medical Executive Committee may then, at a time convenient to itself, deliberate outside the presence of the parties.

- (7) The Medical Executive Committee decision following such a hearing shall be effective immediately, but shall be subject to appeal to the Governing body (or, in the discretion of the Governing Body, to an Appeal Board appointed by the Governing Body).
- (8) The affected AHP shall be promptly informed, in writing, of the Medical Executive Committee's decision, and of his or her right to appeal the decision.
- (9) The affected AHP shall have ten days to request an appeal hearing. The request for appeal shall state, with specificity, the basis for the appeal.
- (10) The appeal hearing shall be conducted within 30 days. The parties to the appeal shall be the Medical Executive Committee (which shall be represented by a member of the medical staff, who may, but need not be a member of the Medical Executive Committee or the applicable clinical department).
- (11) Each party shall have the right to present a written statement in support of his, her or its position on appeal. The Governing Body (or appeal board, if applicable) chair may establish reasonable time frames for the appealing party to submit a written statement and for the responding party to respond. Each party has the right to personally appear and make oral argument. The Governing Body (or appeal board, if applicable) may then, at a time convenient to itself, deliberate outside the presence of the parties.
- (12) The Governing Body (or appeal board, if applicable) shall issue a final decision, in writing.

#### **3.9-4 AUTOMATIC TERMINATION**

An AHP's privileges shall automatically terminate, without review pursuant to Section 6.3 or any other section of these Bylaws, in the event:

- (a) The Medical Staff membership of the supervising Practitioner is terminated, whether such termination is voluntary or involuntary.
- (b) The supervising Practitioner no longer agrees to act as the supervising Practitioner for any reason, or the relationship between the AHP and the supervising Practitioner is otherwise terminated, regardless of the reason therefore;
- (c) The AHP's certification or license expires, is revoked, or is suspended.

## **3.10 EDUCATIONAL HEALTH PROFESSIONALS**

### **3.10-1 QUALIFICATIONS**

Educational Health Professionals are those holding licenses, certificates or such other legal credentials, if any, as required by California Law or physicians, podiatrists, dentists, or clinical psychologist who choose to affiliate with the medical staff solely to participate in its education and training programs.

### **3.10-2 PEROGATIVES**

Educational Health Professionals shall not have practice (clinical) privileges but because of their documented experience, background, training, demonstrated ability, judgement and recognized professional attainments, are qualified to participate in the educational activities of the staff, teach and guide the post graduate education training programs, work cooperatively with others in the hospital setting, and willing to commit to and regularly assist the hospital and its medical staff in fulfilling its obligations related to education within their area of professional competence.

## **3.11 THE AFFILIATE MEDICAL STAFF**

### **3.11-1 QUALIFICATIONS**

The Affiliate Staff shall include practitioners located in the geographical referral area who desire to follow their patients admitted to Pacific Hospital of Long Beach.

Each member of the Affiliate Staff shall be required to meet the basic qualifications for staff membership as specified in Section 2.2 of these Bylaws.

- (a) Members of the Affiliate Staff do not have clinical privileges.
- (b) Admission of an Affiliate Staff member's patient must be pre-arranged with the Active or Courtesy Staff member who will be responsible for the patient's appropriate consultation and care, as well as with the admitting office. Such Affiliate Staff member shall agree to abide by all medical staff and department Bylaws and Rules and Regulations. All patients thus admitted shall be under the specific control of the Active or Courtesy Staff members. Affiliate Staff members shall not have individual surgical, procedural or order writing privileges.
- (c) Members of the Affiliate Staff may attend departmental or staff meetings, continuing education meetings or provide lecturing for the teaching services. Members of the Affiliate Staff are not eligible to vote or hold office.

## **ARTICLE IV APPOINTMENT AND REAPPOINTMENT**

### **4.1 GENERAL**

Except as otherwise specified herein, no person (including persons engaged by the hospital in administratively responsible positions) shall exercise clinical privileges in the hospital unless and until that person applies for and receives appointment to the medical staff or is granted temporary privileges as set forth in these bylaws, or, with respect to allied health practitioners, has been granted a service authorization or privileges under applicable medical staff policies. By applying to the medical staff for appointment or reappointment (or, in the case of members of the honorary staff, by accepting an appointment to that category), the applicant acknowledges responsibility to first review these bylaws and medical staff rules, regulations and policies, and agrees that throughout any period of membership that person will comply with the responsibilities of medical staff membership and with the bylaws, rules and regulations and policies of the medical staff as they exist and as they may be modified from time to time. Appointment to the medical staff shall confer on the appointee only such clinical privileges as have been granted in accordance with these bylaws.

### **4.2 BURDEN OF PRODUCING INFORMATION**

In connection with all applications for appointment, reappointment, advancement, or transfer, the applicant shall have the burden of producing information for an adequate evaluation of the applicant's qualifications and suitability for the clinical privileges and staff category requested, of resolving any reasonable doubts about these matters, and of satisfying requests for information. The applicant's failure to sustain this burden shall be grounds for denial of the application. To the extent consistent with law, this burden may include submission to a medical or psychological examination, at the applicant's expense, if deemed appropriate by the medical executive committee, which may select the examining physician.

### **4.3 APPOINTMENT AUTHORITY**

Appointments, denials and revocations of appointments to the medical staff shall be made by the Board of Directors as set forth in these bylaws, but only after there has been a recommendation from the medical staff, or as set forth in Section 6.1-6.

### **4.4 DURATION OF APPOINTMENT AND REAPPOINTMENT**

Except as otherwise provided in these bylaws, initial appointments to the medical staff shall be for a period of two (2) years. Reappointment shall be for a period of up to two medical staff years.

## 4.5 APPLICATION FOR INITIAL APPOINTMENT AND REAPPOINTMENT

### 4.5-1 APPLICATION FORM

- (a) Each Practitioner who expresses formal interest in a recognized and appropriate category of membership and privileges shall be provided an application form for Medical Staff membership. Upon completion by the Practitioner, the form shall be returned to the Medical Staff Office together with a non-refundable application fee if required by the Medical Staff.
- (b) The application form shall be approved by the Medical Executive Committee and the Governing Body. The application shall include an agreement to abide by the Medical Staff and Hospital Bylaws, Rules and Regulations, and applicable policies. The application shall request information pertinent to the applicant's qualifications, such as (but not limited to):
- 1) the applicant's qualifications, including, but not limited to, professional training and experience, current licensure, current DEA registration, current malpractice certificate and continuing education information related to the clinical privileges to be exercised by the applicant;
  - 2) peer references familiar with the applicant's professional competence and ethical character;
  - 3) requests for membership categories, departments and clinical privileges;
  - 4) previously successful or currently pending challenges to any licensure or registration (state or district, Drug Enforcement Administration) or the voluntary relinquishment of such licensure or registration;
  - 5) voluntary or involuntary termination of medical staff membership or voluntary or involuntary limitation, reduction, or loss of clinical privileges at another hospital or healthcare institution;
  - 6) current physical and mental health status; and
  - 7) final judgments or settlements made against the applicant in professional liability cases, and any filed and served cases pending.
- (c) Each application for initial appointment and reappointment to the medical staff shall be in writing submitted on the prescribed form with all provisions completed ( or accompanied by an explanation of why answers are unavailable), and signed by the applicant. When a new applicant requests an application form, that person shall be given a copy of these bylaws, the medical staff rules and regulations, and summaries of other applicable policies relating to clinical practice in the hospital, if any.

#### **4.5-2 EFFECT OF APPLICATION**

In addition to the matters set forth in Section 4.1, by applying for appointment to the medical staff each applicant:

- (a) signifies willingness to appear for interviews in regard to the application;**
- (b) authorizes consultation with others who have been associated with the applicant and who may have information bearing on the applicant's competence, qualifications and performance, and authorizes such individuals and organizations to candidly provide all such information;**
- (c) consents to inspection of records and documents that may be material to an evaluation of the applicant's qualifications and ability to carry out clinical privileges requested, and authorizes all individuals and organizations in custody of such records and documents to permit such inspection and copying;**
- (d) releases from any liability, to the fullest extent provided by law, all persons for their acts performed in connection with investigating and evaluating the applicant;**
- (e) releases from any liability, to the fullest extent provided by law, all individuals and organizations who provide information regarding the applicant, including otherwise confidential information;**
- (f) consents to the disclosure to other hospitals, medical associations, licensing boards, and to other similar organizations as required by law, any information regarding the applicant's professional or ethical standing that the hospital or medical staff may have, and releases the medical staff and hospital from liability for so doing to the fullest extent permitted by law;**
- (g) if a requirement then exists for medical staff dues, acknowledges responsibility for timely payment;**
- (h) pledges to provide for continuous quality care for patients;**
- (i) pledges to maintain an ethical practice, including refraining from illegal inducements for patient referral, seeking consultation whenever necessary, refraining from providing "ghost" surgical or medical services, and refraining from delegating patient care responsibility to non-qualified or inadequately supervised practitioners; and**

- (j) pledges to be bound by the medical staff bylaws, rules and regulations, and policies.

#### **4.5-3 VERIFICATION OF INFORMATION**

The applicant shall deliver a completely filled-in, signed, and dated application and supporting documents to the appropriate medical staff officer and an advance payment of medical staff dues or fees, if any is required. The administrator shall be notified of the application. The application and all supporting materials then available shall be transmitted to the chair of each department in which the applicant seeks privileges. The department, and the administrator when requested to assist by the department, shall expeditiously seek to collect or verify the references, licensure status, and other evidence submitted in support of the application. The hospital's authorized representative shall query the National Practitioner Data Bank regarding the applicant or member and submit any resulting information to the department for inclusion in the applicant's or member's credentials file. The applicant shall be notified of any problems in obtaining the information required, and it shall be the applicant's obligation to obtain any reasonably requested information. When collection and verification of information other than the National Practitioner Data Bank is accomplished, the application shall be considered complete, and all such information shall be transmitted to the appropriate department(s). No final action on an application may be taken until receipt of the Data Bank report.

#### **4.5-4 INCOMPLETE APPLICATION**

- (a) If the Medical Staff Office is unable to verify the information, or if all necessary references have not been received, or if the application is otherwise significantly incomplete, the Medical Staff Office may delay further processing of the application.
  
- (b) If the processing of the application is delayed for more than 60 days and if the missing information is reasonably deemed significant to a fair determination of the applicant's qualifications, the affected Practitioner shall be so informed. He or she shall then be given the opportunity to withdraw his or her application, or to request the continued processing of his or her application. If the applicant does not respond within 30 days, he or she shall be deemed to have voluntarily withdrawn his or her application. If the applicant requests further processing, but then fails to provide or arrange for the provision within 45 days or any other date mutually agreed to when the extension was granted ( whichever) is later or the necessary information that the Practitioner could obtain with reasonable diligence, the Practitioner shall be deemed to have voluntarily withdrawn his or her application.

- (c) Any application deemed incomplete and withdrawn under this Rule may thereafter, be reconsidered only if all requested information is submitted, and all other information has been updated. In the event an application for medical staff membership is withdrawn for the reasons set forth herein, the procedures set forth in Article VII shall not apply.

#### **4.5-5 DEPARTMENT ACTION**

After receipt of the application, the chair or appropriate committee of each department to which the application is submitted, shall review the application and supporting documentation, and may conduct a personal interview with the applicant at the chair's or committee's discretion. The chair or appropriate committee shall evaluate all matters deemed relevant to a recommendation, including information concerning the applicant's provision of services within the scope of privileges granted, and the reapplicant's participation in relevant continuing education and shall transmit to the credentials committee a written report and recommendation as to appointment and, if appointment is recommended, as to membership category, department affiliation, clinical privileges to be granted, and any special conditions to be attached. The chair may also request that the credentials committee defer action on the application.

#### **4.5-6 CREDENTIALS COMMITTEE ACTION**

The credentials committee shall review the application, evaluate and verify the supporting documentation, the department chair's report and recommendations, and other relevant information. The credentials committee may elect to interview the applicant and seek additional information. As soon as practicable, the credentials committee shall transmit to the medical executive committee a written report and its recommendations as to appointment and, if appointment is recommended, as to membership category, department affiliation, clinical privileges to be granted, and any special conditions to be attached to the appointment. The committee may also recommend that the medical executive committee defer action on the application.

#### **4.5-7 MEDICAL EXECUTIVE COMMITTEE ACTION**

At its next regular meeting after receipt of the credentials committee report and recommendation, or as soon thereafter as is practicable, the medical executive committee shall consider the report and any other relevant information. The medical executive committee may request additional information, return the matter to the department for further investigation, and/or elect to interview the applicant. The medical executive committee shall forward to the administrator, for prompt transmittal to the board of directors, a written report and recommendation as to medical staff appointment and, if appointment is recommended, as to membership category, department affiliation, clinical privileges to be granted, and any special

conditions to be attached to the appointment. The committee may also defer action on the application. The reasons for each recommendation shall be stated.

#### **4.5-8 EFFECT OF MEDICAL EXECUTIVE COMMITTEE ACTION**

- (a) **Favorable Recommendation:** When the recommendation of the medical executive committee is favorable to the applicant, it shall be promptly forwarded, together with supporting documentation, to the board of directors.
- (b) **Adverse Recommendation:** When a final recommendation of the medical executive committee is adverse to the applicant, the board of directors and the applicant shall be promptly informed by written notice. The applicant shall then be entitled to procedural rights as provided in Article VII.

#### **4.5-9 ACTION ON THE APPLICATION**

The board of directors may accept the recommendation of the medical executive committee or may refer the matter back to the medical executive committee for further consideration, stating the purpose for such referral and setting a reasonable time limit for making a subsequent recommendation. The following procedures shall apply with respect to action on the application:

- (a) If the medical executive committee issues a favorable recommendation, the board of directors shall affirm the recommendation of the medical executive committee if the medical executive committee's decision is supported by substantial evidence.
  - (1) If the board of directors concurs in that recommendation, the decision of the board shall be deemed final action.
  - (2) If the tentative final action of the board of directors is unfavorable, the administrator shall give the applicant written notice of the tentative adverse recommendation and the applicant shall be entitled to the procedural rights set forth in Article VII. If procedural rights are waived by the applicant, the decision of the board of directors shall be deemed final action.
- (b) In the event the recommendation of the medical executive committee, or any significant part of it, is unfavorable to the applicant the procedural rights set forth in Article VII shall apply.
  - (1) If procedural rights are waived by the applicant, the recommendations of the medical executive committee shall be forwarded to the board of

directors for final action, which shall affirm the recommendation of the medical executive committee if the medical executive committee's decision is supported by substantial evidence.

- (2) If the applicant requests a hearing following the adverse medical executive committee recommendation pursuant to Section 4.5-8(b) or an adverse board of directors tentative final action pursuant to 4.5-8(a), the board of directors shall take final action only after the applicant has exhausted all procedural rights as established by Article VII. After exhaustion of the procedures set forth in Article VII, the board shall make a final decision and shall affirm the decision of the judicial review committee if the judicial review committee's decision is supported by substantial evidence, following a fair procedure. The board's decision shall be in writing and shall specify the reasons for the action taken.

#### **4.5-10 NOTICE OF FINAL DECISION**

- (a) Notice of the final decision shall be given to the chief of staff, the medical executive and the chair of each department concerned, the applicant, and the administrator.
- (b) A decision and notice to appoint or reappoint shall include, if applicable: (1) the staff category to which the applicant is appointed; (2) the department to which that person is assigned; (3) the clinical privileges granted; and (4) any special conditions attached to the appointment.

#### **4.5-11 REAPPLICATION AFTER ADVERSE APPOINTMENT DECISION**

An applicant who has received a final adverse decision regarding appointment shall not be eligible to reapply to the medical staff for a period of 12 months. Any such reapplication shall be processed as an initial application, and the applicant shall submit such additional information as may be required to demonstrate that the basis for the earlier adverse action no longer exists.

#### **4.5-12 TIMELY PROCESSING OF APPLICATIONS**

Applications for staff appointments shall be considered in a timely manner by all persons and committees required by these bylaws to act thereon. While special or unusual circumstances may constitute good cause and warrant exceptions, the following maximum time periods provide a guideline for routine processing of applications:

- (a) evaluation, review, and verification of application and all supporting documents by the medical staff office: 45 days from receipt of all necessary documentation;
- (b) review and recommendation by department(s): 45 days after receipt of all necessary documentation from the medical staff office;
- (c) review and recommendation by credentials committee: 45 days after receipt of all necessary documentation from the clinical department(s);
- (d) review and recommendation by executive committee: 45 days after receipt of all necessary documentation from the department(s); and
- (e) final action: by the Board of Directors 60 days after receipt of all necessary documentation or conclusion or hearings and by the full Board within 60 days of receipt of notification of action by its executive committee.

## **4.6 REAPPOINTMENT AND REQUESTS FOR MODIFICATIONS OF STAFF STATUS OR PRIVILEGES**

### **4.6-1 APPLICATION**

- (a) At least six months prior to the expiration date of the current staff appointment, a reapplication form developed by the medical executive committee shall be mailed or delivered to the member. If an application for reappointment is not received at least 90 days prior to the expiration date, written notice shall be promptly sent to the applicant advising that the application has not been received. At least 75 days prior to the expiration date, each medical staff member shall submit to his assigned department the completed application form for renewal of appointment to the staff for the coming year, and for renewal or modification of clinical privileges. The reapplication form shall include all information necessary to update and evaluate the qualifications of the applicant including, but not limited to, the matters set forth in Section 4.5-1, as well as other relevant matters. Upon receipt of the application, the information shall be processed as set forth commencing at Section 4.5-3.
- (b) A medical staff member who seeks a change in medical staff status or modification of clinical privileges may submit such a request at any time upon a form developed by the medical executive committee, except that such application may not be filed within 180 days of the time a similar request has been denied.

#### **4.6-2 EFFECT OF APPLICATION**

The effect of an application for reappointment or modification of staff status or privileges is the same as that set forth in Section 4.5-2.

#### **4.6-3 STANDARDS AND PROCEDURE FOR REVIEW**

When a staff member submits the first application for reappointment, and every two years thereafter, or when the member submits an application for modification of staff status or clinical privileges, the member shall be subject to an in-depth review generally following the procedures set forth in Sections 4.5-3 through 4.5-11.

#### **4.6-4 FAILURE TO FILE REAPPOINTMENT APPLICATION**

Failure without good cause to timely file a completed application for reappointment shall result in the voluntary resignation of the member's admitting privileges and expiration of other practice privileges and prerogatives at the end of the current staff appointment. In the event membership terminates for the reasons set forth herein, the procedures set forth in Article VII shall not apply.

### **4.7 LEAVE OF ABSENCE**

#### **4.7-1 LEAVE STATUS**

At the discretion of the medical executive committee, a medical staff member may obtain a voluntary leave of absence from the staff upon submitting a written request to the medical executive committee stating the reason for the leave and the approximate period of leave desired, which may not exceed two years. During the period of the leave, the member shall not exercise clinical privileges at the hospital, and membership rights and responsibilities shall be inactive, but the obligation to pay dues, if any, shall continue, unless waived by the medical staff.

#### **4.7-2 TERMINATION OF LEAVE**

At least 30 days prior to the termination of the leave of absence, or at any earlier time, the medical staff member may request reinstatement of privileges by submitting a written notice to that effect to the medical executive committee. The staff member shall submit a summary of relevant activities during the leave, if the executive committee so requests. The medical executive committee shall make a recommendation concerning the reinstatement of the member's privileges and prerogatives, and the procedure provided in Sections 4.1 through 4.5-12 shall be followed.

#### **4.7-3 FAILURE TO REQUEST REINSTATEMENT**

Failure, without good cause, to request reinstatement shall be deemed a voluntary resignation from the medical staff and shall result in automatic termination of membership, privileges, and prerogatives. A member whose membership is

automatically terminated shall be entitled to the procedural rights provided in Article VII for the sole purpose of determining whether the failure to request reinstatement was unintentional or excusable, or otherwise. A request for medical staff membership subsequently received from a member so terminated shall be submitted and processed in the manner specified for applications for initial appointments.

#### **4.7-4 MILITARY LEAVE OF ABSENCE**

Requests for leave of absence to fulfill military service obligations shall be granted upon notice and review by the medical executive committee. Reactivation of membership and clinical privileges previously held shall be granted, notwithstanding the provisions of Sections 4.7-2 and 4.7-3, but may be granted subject to monitoring and/or proctoring as determined by the medical executive committee.

## **ARTICLE V CLINICAL PRIVILEGES**

### **5.1 EXERCISE OF PRIVILEGES**

Except as otherwise provided in these bylaws, a member providing clinical services at this hospital shall be entitled to exercise only those clinical privileges specifically granted. Said privileges and services must be hospital specific, within the scope of any license, certificate or other legal credential authorizing practice in this state and consistent with any restrictions thereon, and shall be subject to the rules and regulations of the clinical department and the authority of the department chair and the medical staff. Medical staff privileges may be granted, continued, modified or terminated by the governing body of this hospital only upon recommendation of the medical staff, only for reasons directly related to quality of patient care and other provisions of the medical staff bylaws, and only following the procedures outlined in these bylaws.

### **5.2 DELINEATION OF PRIVILEGES IN GENERAL**

#### **5.2-1 REQUESTS**

Each application for appointment and reappointment to the medical staff must contain a request for the specific clinical privileges desired by the applicant. A request by a member for a modification of clinical privileges may be made at any time, but such requests must be supported by documentation of training and/or experience supportive of the request.

## **5.2-2 BASES FOR PRIVILEGES DETERMINATION**

Requests for clinical privileges shall be evaluated on the basis of the member's education, training, experience, current demonstrated professional competence and judgment, clinical performance, ability to safely practice the clinical privileges requested, and the documented results of patient care and other quality review and monitoring which the medical staff deems appropriate. Privilege determinations may also be based on pertinent information concerning clinical performance obtained from other sources, especially other institutions and health care settings where a member exercises clinical privileges.

## **5.3 PROCTORING**

### **5.3-1 GENERAL PROVISIONS**

Except as otherwise determined by the medical executive committee, all initial appointees to the medical staff and all members granted new clinical privileges shall be subject to a period of proctoring. Each appointee or recipient of new clinical privileges shall be assigned to a department where performance on an appropriate number of cases as established by the medical executive committee, or the department as designee of the medical executive committee, shall be observed by the chair of the department, or the chair's designee, during the period of proctoring specified in the department's rules and regulations, to determine suitability to continue to exercise the clinical privileges granted in that department. The exercise of clinical privileges in any other department shall also be subject to direct observation by that department's chair or the chair's designee. The member shall remain subject to such proctoring until the medical executive committee has been furnished with:

- (a) a report signed by the chair of the department(s) to which the member is assigned describing the types and numbers of cases observed and the evaluation of the applicant's performance, a statement that the applicant appears to meet all of the qualifications for unsupervised practice in that department, has discharged all of the responsibilities of staff membership, and has not exceeded or abused the prerogatives of the category to which the appointment was made; and
- (b) a report signed by the chair of the other department(s) in which the appointee may exercise clinical privileges, describing the types and number of cases observed and the evaluation of the applicant's performance and a statement that the member has satisfactorily demonstrated the ability to exercise the clinical privileges initially granted in those departments.

### **5.3-2 FAILURE TO OBTAIN CERTIFICATION**

If an initial appointee fails within the time of provisional membership to furnish the certification required, or if a member exercising new clinical privileges fails to furnish such certification within the time allowed by the department, those specific clinical privileges shall automatically terminate, and the member shall be entitled to a hearing, upon request, pursuant to Article VII.

### **5.3-3 MEDICAL STAFF ADVANCEMENT**

The failure to obtain certification for any specific clinical privileges shall not, of itself, preclude advancement in medical staff category of any member. If such advancement is granted absent such certification, continued proctorship on the uncertified procedure shall continue for the specified time period.

## **5.4 CONDITIONS FOR PRIVILEGES OF LIMITED LICENSE PRACTITIONERS**

### **5.4-1 ADMISSIONS**

- (a) Except as provided by subdivision (b), when dentists and oral surgeons, podiatrists, clinical psychologists who are members of the medical staff admit patients, a physician member of the medical staff must conduct or directly supervise the admitting history and physical examination (except the portion related to dentistry, podiatry or clinical psychology), and assume responsibility for the care of the patient's medical problems present at the time of admission or which may arise during hospitalization which are outside of the limited license practitioner's lawful scope of practice.
  
- (b) Oral and maxillofacial surgeons who have successfully completed a postgraduate program in oral and maxillofacial surgery accredited by a nationally recognized accrediting body approved by the U.S. Office of Education and have been determined by the medical staff to be competent to do so, may perform a history and physical examination and determine the ability of their patient to undergo surgical procedures the oral and maxillofacial surgeon proposes to perform. Completion of a history and physical by a qualified oral and maxillofacial surgeon under this subsection (b) shall satisfy the appraisal portion of the requirements of Section 5.4-3, below. For patients with existing medical conditions or abnormal findings beyond the surgical indications, a physician member of the medical staff must conduct or directly supervise the admitting history and physical examination, except the portion related to oral and maxillofacial surgery, and assume responsibility for the care of the patient's medical problems present at the time of admission or

which may arise during hospitalization which are outside of the oral and maxillofacial surgeon's lawful scope of practice.

#### **5.4-2 SURGERY**

Surgical procedures performed by dentists and podiatrists shall be under the overall supervision of the chair of the department of surgery or the chair's designee.

#### **5.4-3 MEDICAL APPRAISAL**

All patients admitted for care in a hospital by a dentist or oral and maxillofacial surgeon, podiatrist or clinical psychologist shall receive the same basic medical appraisal as patients admitted to other services, and the dentists or oral and maxillofacial surgeons, podiatrists or clinical psychologists shall seek consultation with a physician member to determine the patient's medical status and need for medical evaluation whenever the patient's clinical status indicates the presence of a medical problem. Where a dispute exists regarding proposed treatment between a physician member and a limited license practitioner based upon medical or surgical factors outside of the scope of licensure of the limited license practitioner, the treatment will be suspended insofar as possible while the dispute is resolved by the appropriate department(s).

### **5.5 TEMPORARY CLINICAL PRIVILEGES**

#### **5.5-1 CARE OF A SPECIFIC PATIENT**

Temporary clinical privileges may be granted where good cause exists to a physician, dentist, podiatrist or clinical psychologist for the care of a specific patient, but not more than four (4) during a calendar year, provided that the procedure described in Section 5.5-5 (a)(1) has been completed.

#### **5.5-2 LOCUM TENENS**

Temporary clinical privileges may be granted to a person serving as a locum tenens for a current member of the medical staff, provided that the procedure described in Section 5.5-5(a)(1) has been completed. Such person may attend only patients of the member(s) for whom that person is providing coverage, for a period not to exceed thirty (30) days, unless the medical executive committee recommends a longer period for good cause.

#### **5.5-3 PENDING APPLICATION FOR PERMANENT MEDICAL STAFF MEMBERSHIP**

Temporary clinical privileges may be granted to a person during pendency of that person's application for permanent medical staff membership and privileges, provided that the procedure described in Section 5.5-5 (a)(2) has been completed, and that the applicant has no current or previously successful challenge to professional licensure or

registration, no involuntary termination of medical staff membership at any other organization, and no involuntary limitation, reduction, denial or loss of clinical privileges. Such persons may only attend patients for a period not to exceed 120 days.

#### **5.5-4 TEMPORARY MEMBERSHIP AND TEMPORARY PRIVILEGES NOT CO-EXTENSIVE**

Temporary members of the medical staff pursuant to Section 6.1-3 are not, by virtue of such membership, granted temporary clinical privileges.

#### **5.5-5 APPLICATION AND REVIEW**

(a) Upon receipt of a completed application and supporting documentation from a physician, dentist, podiatrist or clinical psychologist authorized to practice in California, the chief executive officer or his or her designee, on the recommendation of either the applicable clinical department chairperson or the chief of staff, may grant temporary privileges to a member who appears to have qualifications, ability and judgment consistent with Section 2.2-1, but only:

- 1) With respect to applications by a locum tenens, or to fulfill an important patient care need, after verification of current licensure and competence;
- 2) With respect to a new applicant awaiting review and approval of the medical staff executive committee and the governing body, and consistent with Section 5.5-3, after the following has been completed:
  - (i) the National Practitioner Data Bank report regarding the applicant for temporary privileges has been received and evaluated, current licensure has been verified and evidence of current competence has been obtained and reviewed.

#### **5.6 GENERAL CONDITIONS**

(a) If granted temporary privileges, the applicant shall act under the supervision of the department chair to which the applicant has been assigned, and shall ensure that the chair, or the chair's designee, is kept closely informed as to the applicant's activities within the hospital.

(b) Temporary privileges shall automatically terminate at the end of the designated period, unless earlier terminated or suspended under Articles VI and/or VII of these bylaws or unless affirmatively renewed following the procedure as set forth in Section 5.5-5. As necessary, the appropriate department chair or, in the chair's absence, the chair of the medical executive

committee, shall assign a member of the medical staff to assume responsibility for the care of such member's patient(s). The wishes of the patient shall be considered in the choice of a replacement medical staff member.

- (c) Requirements for proctoring and monitoring, including but not limited to those in Section 5.3, shall be imposed on such terms as may be appropriate under the circumstances upon any member granted temporary privileges by the chief of staff after consultation with the departmental chair or the chair's designee.
- (d) All persons requesting or receiving temporary privileges shall be bound by the bylaws and rules and regulations of the medical staff.

#### **5.7 EMERGENCY PRIVILEGES**

- (a) In the case of an emergency, any member of the medical staff, to the degree permitted by the scope of the applicant's license and regardless of department, staff status, or clinical privileges, shall be permitted to do everything reasonably possible to save the life of a patient or to save a patient from serious harm. The member shall make every reasonable effort to communicate promptly with the department chair concerning the need for emergency care and assistance by members of the medical staff with appropriate clinical privileges, and once the emergency has passed or assistance has been made available, shall defer to the department chair with respect to further care of the patient at the hospital.
- (b) In the event of an emergency, any person shall be permitted to do whatever is reasonably possible to save the life of a patient or to save a patient from serious harm. Such persons shall promptly yield such care to qualified members of the medical staff when it becomes reasonably available.

#### **5.8 DISASTER PRIVILEGES**

The chief executive officer or president of the medical staff or his or her designee(s) may grant disaster privileges upon presentation of any of the following:

- (a) A current picture hospital ID card.
- (b) A current license to practice and a valid picture ID issued by a state, federal or regulatory agency.
- (c) Identification indicating that the individual is a member of a Disaster Medical Assistance Team (DMAT).

- (d) Identification indicating that the individual has been granted authority to render patient care in emergency circumstances. Such authority having been granted by a federal, state or municipal entity.
- (e) Presentation by current hospital or medical staff member(s) with personal knowledge regarding practitioner's identity.

## **5.9 MODIFICATION OF CLINICAL PRIVILEGES OR DEPARTMENT ASSIGNMENT**

On its own, upon recommendation of the appropriate department, or pursuant to a request under Section 4.6-1(b), the medical executive committee may recommend a change in the clinical privileges or department assignment(s) of a member. The executive committee may also recommend that the granting of additional privileges to a current medical staff member be made subject to monitoring in accordance with procedures similar to those outlined in Section 5.3-1.

## **5.10 LAPSE OF APPLICATION**

If a medical staff member requesting a modification of clinical privileges or department assignments fails to timely furnish the information reasonably necessary to evaluate the request, the application shall automatically lapse, and the applicant shall not be entitled to a hearing as set forth in Article VII.

# **ARTICLE VI CORRECTIVE ACTION**

## **6.1 CORRECTIVE ACTION**

### **6.1-1 CRITERIA FOR INITIATION**

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; or (4) below applicable professional standards, a request for an investigation or action against such member may be initiated by the chief of staff, a department chair, or the medical executive committee.

### **6.1-2 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 recordation of the reasons.

### **6.1-3 INVESTIGATION**

If the medical executive committee concludes an investigation is warranted, it shall direct an investigation to be undertaken. 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. 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 Section 5.5, should circumstances warrant. If the investigation is delegated to an officer of 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.

The report may include recommendations for appropriate corrective action. 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. The individual or body investigating the matter may, but is not obligated to, conduct interviews with persons involved; however, such investigation shall not constitute a "hearing" as that term is used in Article VII, nor shall the procedural rules with respect to hearings or appeals apply. 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.

### **6.1-4 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 be taken and, if the 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 admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude department heads from issuing informal written or oral warnings outside of the mechanism for corrective action. In the event such letters are issued, the affected member 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 limitation of any prerogatives directly related to the member's delivery of patient care;
- (g) recommending suspension, revocation or probation of medical staff membership; and
- (h) taking other actions deemed appropriate under the circumstances.

#### **6.1-5 SUBSEQUENT ACTION**

- (a) If corrective action as set forth in Section 7.2(a)-(k) is recommended by the medical executive committee, that recommendation shall be transmitted to the board of directors.
- (b) So long as the recommendation is supported by substantial evidence the recommendation of the medical executive committee shall be adopted by the board as final action unless the member requests a hearing, in which case the final decision shall be determined as set forth in Article VII.

#### **6.1-6 INITIATION BY BOARD OF DIRECTORS**

If the medical executive committee fails to investigate or take disciplinary action, contrary to the weight of the evidence, the board of directors may direct the medical executive committee to initiate investigation or disciplinary action, but only after consultation with the medical executive committee. The board's request for medical staff action shall be in writing and shall set forth the basis for the request. If the medical executive committee fails to take action in response to that board of directors direction, the board of directors may initiate corrective action after written notice to the medical executive committee, but this corrective action must comply with Articles VI and VII of these medical staff bylaws.

## **6.2 SUMMARY RESTRICTION OR SUSPENSION**

### **6.2-1 CRITERIA FOR INITIATION**

Whenever a member's conduct appears to require that immediate action be taken to protect the life or well-being of patient(s) or to reduce a substantial and imminent likelihood of significant impairment of the life, health, safety of any patient, prospective patient, or other person, the chief of staff, the medical executive committee, or the head of the department or designee in which the member holds privileges 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 written notice of the action which notice fully complies with the requirements of Section 6.2-2 below. 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.

### **6.2-2 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 practitioner'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 Section 7.3-1 (which applies in all cases where the medical executive committee does not immediately terminate the summary suspension). The notice under Section 7.3-1 may supplement the initial notice provided under this section, by including any additional relevant facts supporting the need for summary suspension or other corrective action.

### **6.2-3 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 Article VII, nor shall any procedural rules apply. 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.

#### **6.2-4 PROCEDURAL RIGHTS**

Unless the medical executive committee promptly terminates the summary restriction or suspension, the member shall be entitled to the procedural rights afforded by Article VII. In addition, the affected practitioner shall have the following rights:

- (a) Any affected practitioner 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 practitioner 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's decision is to continue the summary suspension, then any practitioner 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. Along with any other appropriate requests for rulings, the affected practitioner may request that the hearing officer stay the summary suspension, pending the final outcome of the hearing and any appeal.
- (b) At the conclusion of the procedural portion of the hearing, the hearing officer shall issue a written opinion on the issues raised, including whether or not the facts stated in the written notice to the affected practitioner 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 determination is that the facts stated in the notice required by Section 6.2-2 do not support a reasonable determination that failure to summarily restrict or suspend the practitioner'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 Section 6.2-2 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.

#### **6.2-5 INITIATION BY BOARD OF DIRECTORS**

If the chief of staff, members of the medical executive committee and the head of the department (or designee) in which the member holds privileges are not available to summarily restrict or suspend the member's membership or clinical privileges, the board of directors (or designee) may immediately suspend a member's privileges if a failure to suspend those privileges is likely to result in an imminent danger to the health of any person, provided that the board of directors (or designee) made reasonable attempts to contact the chief of staff, members of the medical executive committee and the head of the department (or designee) before the suspension.

Such a suspension is subject to ratification by the medical executive committee. If the medical executive committee does not ratify such a summary suspension within two working days, excluding weekends and holidays, the summary suspension shall terminate automatically. If the medical executive committee does ratify the summary suspension, all other provisions under Section 6.2 of these bylaws will apply. In this event, the date of imposition of the summary suspension shall be considered to be the date of ratification by the medical executive committee for purposes of compliance with notice and hearing requirements.

### **6.3 AUTOMATIC SUSPENSION OR LIMITATION**

In the following instances, the member's privileges or membership may be suspended or limited as described, and a hearing, if requested, shall be limited to the question of whether the grounds for automatic suspension as set forth below have occurred.

#### **6.3-1 LICENSURE**

- (a) **Expiration, Revocation and Suspension:** Whenever a member's license or other legal credential authorizing practice in this state is expired, revoked or suspended, medical staff membership and clinical privileges shall be automatically revoked or suspended as of the date such action becomes effective.
- (b) **Restriction:** Whenever a member's license or other legal credential authorizing practice in this state is limited or restricted by the applicable licensing or certifying authority, any clinical privileges which the member has been granted at the hospital which are within the scope of said limitation or restriction shall

be automatically limited or restricted in a similar manner, as of the date such action becomes effective and throughout its term.

- (c) Probation: Whenever a member is placed on probation by the applicable licensing or certifying authority, membership status and clinical privileges shall automatically become subject to the same terms and conditions of the probation as of the date such action becomes effective and throughout its term.

#### **6.3-2 CONTROLLED SUBSTANCES**

- (a) Whenever a member's DEA certificate expires, is revoked, limited, or suspended, the member shall automatically and correspondingly be divested of the right to prescribe medications covered by the certificate, as of the date such action becomes effective and throughout its term.
- (b) Probation: Whenever a member's DEA certificate is subject to probation, the member's right to prescribe such medications shall automatically become subject to the same terms of the probation, as of the date such action becomes effective and throughout its term.

#### **6.3-3 MEDICAL RECORDS**

Members of the Medical Staff are required to complete the medical records of a patient within 14 days after the patient's most recent discharge. A limited suspension in the form of withdrawal of admitting and other related privileges until medical records are completed, shall be imposed by the chief of staff, or the chief of staff's designee, after notice of delinquency for failure to complete medical records within such period. For the purpose of this Section, "related privileges" means voluntary on-call service for the emergency room, scheduling surgery, assisting in surgery, consulting on hospital cases, and providing professional services within the hospital for future patients. Bona fide vacation or illness may constitute an excuse subject to approval by the medical executive committee. Members whose privileges have been suspended for delinquent records may admit patients only in life-threatening situations. The suspension shall continue until lifted by the chief of staff or his or her designee.

#### **6.3-4 FAILURE TO PAY DUES/ASSESSMENTS**

Failure without good cause as determined by the medical executive committee, to pay dues or assessments, as required under Section 13.2, 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 automatically be considered a voluntary resignation from the medical staff.

### **6.3-5 PROFESSIONAL LIABILITY INSURANCE**

Failure to maintain professional liability insurance, if any is required, shall be grounds for automatic suspension of a member's clinical privileges, and if within 90 days after written warnings of the delinquency the member does not provide evidence of required professional liability insurance, the member's membership shall automatically be considered a voluntary resignation from the medical staff..

### **6.3-6 MEDICAL EXECUTIVE COMMITTEE DELIBERATION**

As soon as practicable after action is taken or warranted as described in Section 6.3-1(b) or (c), 6.3-2, or 6.3-4, or 6.3-5, the medical executive committee shall convene to review and consider the facts, and may recommend any further corrective action as it may deem appropriate in accordance with these bylaws.

### **6.3-7 EXCLUSION FROM FEDERAL OR STATE FUNDED HEALTH CARE PROGRAMS**

Any applicant, current member or member applying for reappointment who is currently excluded (denied participation) from any health care program funded in whole or in part by any Federal or State health care program, including, but not limited to, Medicare or Medi-Cal is NOT eligible or qualified for Medical Staff membership and shall be automatically terminated from staff.

## **ARTICLE VII HEARINGS AND APPELLATE REVIEWS**

### **7.1 GENERAL PROVISIONS**

#### **7.1-1 EXHAUSTION OF REMEDIES**

If adverse action described in Section 7.2 is taken or recommended, the applicant or member must exhaust the remedies afforded by these bylaws before resorting to legal action.

#### **7.1-2 APPLICATION OF ARTICLE**

For purposes of this Article, the term "member" may include "applicant," or other practitioner granted temporary clinical privileges as it may be applicable under the circumstances, unless otherwise stated.

#### **7.1-3 TIMELY COMPLETION OF PROCESS**

The hearing and appeal process shall be completed within a reasonable time.

### **7.1-4 FINAL ACTION**

Recommended adverse actions described in Section 7.2 shall become final only after the hearing and appellate rights set forth in these bylaws have either been exhausted or waived, and only upon being adopted as final actions by the board of directors.

## **7.2 GROUNDS FOR HEARING**

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:

- (a) denial of medical staff membership;
- (b) denial of requested advancement in staff membership status, or category;
- (c) denial of medical staff reappointment;
- (d) demotion to lower medical staff category or membership status;
- (e) suspension of staff membership;
- (f) revocation of medical staff membership;
- (g) denial of requested clinical privileges;
- (h) involuntary reduction of current clinical privileges;
- (i) suspension of clinical privileges;
- (j) termination of all clinical privileges; or
- (k) involuntary imposition of significant consultation or monitoring requirements (excluding monitoring incidental to provisional status and Section 5.3).

## **7.3 REQUESTS FOR HEARING**

### **7.3-1 NOTICE OF ACTION OR PROPOSED ACTION**

In all cases in which action has been taken or a recommendation made as set forth in Section 7.2, the chief of staff or designee on behalf of the medical executive committee 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 Medical Board of California and/or to the National Practitioner Data Bank if required; (2) the reasons for the proposed action including the acts or omissions with which the member is charged; (3) the right to request a hearing pursuant to Section 7.3-2, and that such hearing must be requested within 30 days; and (4) a summary of the rights granted in the hearing pursuant to the medical staff bylaws. If the recommendation or final proposed action is reportable to the Medical Board of California and/or to the National Practitioner Data Bank, the written notice shall state the proposed text of the report(s).

### **7.3-2 REQUEST FOR HEARING**

The member shall have 30 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.

### **7.3-3 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 judicial review committee, the date of the commencement of the hearing shall be not less than 30 days from the date of notice, nor more than 60 days from the date of receipt of the request by the medical executive committee for a hearing; 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, so long as the member has at least 30 days from the date of notice to prepare for the hearing or waives this right.

### **7.3-4 NOTICE OF HEARING**

Together with the notice stating the place, time 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 chief of staff or designee on behalf of the medical executive committee shall provide the reasons for the recommended action, including the acts or omissions with which the member is charged, 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. The content of this list is subject to update pursuant to Section 7.4-1.

### **7.3-5 JUDICIAL REVIEW COMMITTEE**

When a hearing is requested, the medical executive committee shall recommend a judicial review 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. The judicial review committee shall be composed of not less than 5 members of the medical staff. The judicial review committee members shall gain no direct financial benefit from the outcome, and shall not have acted as accusers, investigators, fact finders, initial decision makers 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 judicial review committee. In the event that it is not feasible to appoint a judicial review committee from the active medical staff, the medical executive committee may appoint members from other staff categories or practitioners who are not members of the medical staff. Such appointment shall include designation of the chair. Membership on a judicial review committee shall

consist of one member who shall have the same healing arts licensure as the accused, and where feasible, include an individual practicing the same specialty as the member. All other members shall have MD or DO degrees or their equivalent as defined in Section 2.2-2(a).

#### **7.3-6 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.

#### **7.3-7 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.

### **7.4 HEARING PROCEDURE**

#### **7.4-1 PREHEARING PROCEDURE**

- (a) If either side to the hearing requests in writing a list of witnesses, within 15 days of such request, and in no event less than 10 days before commencement of the hearing, 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, as well as all other evidence relevant to the charges. The member 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 will be made available to the Judicial Review Committee. Failure to disclose the identity of a witness or produce copies of all documents expected to be produced at least ten days before the commencement of the hearing shall constitute good cause for a continuance.
- (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 possesses or controls 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:
  - (i) whether the information sought may be introduced to support or defend the charges;
  - (ii) the exculpatory or inculpatory nature of the information sought, if any;
  - (iii) the burden imposed on the party in possession of the information sought, if access is granted; and
  - (iv) 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 judicial review committee members and the hearing officer. Challenges to the impartiality of any judicial review committee member or the hearing officer shall be ruled on by the hearing officer.
- (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 judicial review 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.

#### **7.4-2 REPRESENTATION**

The hearings provided for in these bylaws are for the purpose of intraprofessional 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, if the member so chooses, 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 California who is not also an attorney at law, and the medical executive committee shall appoint a representative who is not

an attorney to present its action or recommendation, the materials in support thereof, examine witnesses, and respond to appropriate questions. The medical executive committee shall not be represented by an attorney at law if the member is not so represented.

#### **7.4-3 THE 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. 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 judicial review 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.

#### **7.4-4 RECORD OF THE HEARING**

A shorthand reporter shall be present to make a record of the hearing proceedings, and the pre-hearing proceedings if deemed appropriate by the hearing officer. The cost of attendance of the shorthand reporter shall be borne by the hospital, but the cost of the transcript, if any, shall be borne by the party requesting it. The judicial review 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.

#### **7.4-5 RIGHTS OF THE PARTIES**

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 and examined as if under cross-examination.

#### **7.4-6 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 judicial review committee may interrogate the witnesses or call additional witnesses if it deems such action appropriate. At its discretion, the judicial review committee may request or permit both sides to file written arguments. The hearing process shall be completed within a reasonable time after the notice of the action is received; unless the hearing officer issues a written decision that the member or the medical executive committee failed to provide information in a reasonable time or consented to the delay.

#### **7.4-7 BURDENS OF PRESENTING EVIDENCE AND PROOF**

- (a) At the hearing the medical executive committee 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 judicial review committee, by a preponderance of the evidence, of the applicant's qualifications by producing information, which allows for adequate evaluation and resolution of reasonable doubts concerning the applicant's 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 judicial review committee, by a preponderance of the evidence, that its action or recommendation is reasonable and warranted.

#### **7.4-8 ADJOURNMENT AND CONCLUSION**

After consultation with the chair of the judicial review 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. Both the medical executive committee 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.

#### **7.4-9 BASIS FOR DECISION**

The decision of the judicial review 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 judicial review committee shall be subject to such rights of appeal as described in these bylaws, but shall otherwise be affirmed by the board of directors as the final action if it is supported by substantial evidence, following a fair procedure.

#### **7.4-10 DECISION OF THE JUDICIAL REVIEW COMMITTEE**

Within 30 days after final adjournment of the hearing, the judicial review 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 will be reported to the National Practitioner Data Bank, and shall state the text of the report as agreed upon by the committee. The decision shall also state whether the action, if adopted, shall be reported to the Medical Board of California and shall state the text of the report as agreed 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 judicial review committee shall be subject to such rights of appeal or review as described in these bylaws, but shall otherwise be affirmed by the board of directors as the final action if it is supported by substantial evidence, following a fair procedure.

### **7.5 APPEAL**

#### **7.5-1 TIME FOR APPEAL**

Within 10 days after receipt of the decision of the judicial review committee, either the member or the medical executive committee may request an appellate review. A written request for such review shall be delivered to the chief of staff, the administrator, and the other party in the hearing. If a request for appellate review is

not requested within such period, that action or recommendation shall be affirmed by the board of directors as the final action if it is supported by substantial evidence, following a fair procedure.

#### **7.5-2 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 Section 7.5-5; (c) the text of the report(s) to be filed with the Medical Board of California and/or the National Practitioner Data Bank is not accurate.

#### **7.5-3 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, 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.

#### **7.5-4 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 firm selected by the board of directors shall be neither the attorney firm that represented either party at the hearing before the judicial review committee nor the attorney who assisted the hearing panel or served as hearing officer.

#### **7.5-5 APPEAL PROCEDURE**

The proceeding by the appeal board shall be in the nature of an appellate hearing based upon the record of the hearing before the judicial review committee, provided that the appeal board may accept additional oral or written evidence, subject to a foundational showing that such evidence could not have been made available to the

judicial review committee in the exercise of reasonable diligence and subject to the same rights of cross-examination or confrontation provided at the judicial review hearing; or the appeal board may remand the matter to the judicial review committee for the taking of further evidence and for decision. 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 that party's 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 consistent with the standard set forth in Section 7.5-6, or remand the matter to the judicial review committee for further review and decision.

#### **7.5-6 DECISION**

- (a) Except as provided in Section 7.5-6(b), 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 judicial review committee if the judicial review committee's decision is supported by substantial evidence, following a fair procedure.
- (b) Should the board of directors determine that the judicial review committee decision is not supported by substantial evidence, the board may modify or reverse the decision of the judicial review committee and may instead, or shall, where a fair procedure has not been afforded, remand the matter to the judicial review committee for reconsideration, stating the purpose for the referral. If the matter is remanded to the judicial review 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 60 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 judicial review 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 National Practitioner Data Bank and the Medical Board of California, if any, and shall be forwarded to the chief of staff and the medical executive the subject of the hearing, and the administrator, at least (10) days prior to submission to the Medical Board of California.

## **7.5-7 RIGHT TO ONE HEARING**

Except in circumstances where a new hearing is ordered by the Board of Directors or a court because of procedural irregularities or otherwise for reasons not the fault of the member, 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.

## **7.6 EXCEPTIONS TO HEARING RIGHTS**

### **7.6-1 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, only following review by the medical staff of the related quality of care issues pursuant to Section 13.9 and a determination of appropriateness of the closure, continued closure or transfer as set forth below. The board of directors' decision shall uphold the medical staff's determination unless the board of directors makes specific written findings that the medical staff's determination is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

- (a) The medical staff shall determine the need to close or continue closure of a department/service pursuant to an exclusive contract to be appropriate where:
  - (1) a failure to provide full coverage of a needed service cannot be remedied by less extreme measures, such as mandated call schedules; or
  - (2) irreconcilable differences within an existing department/service adversely affecting quality of care have not been resolved by less extreme measures; or
  - (3) demonstrable efficiencies would result, producing significant improvement in the ability of the medical staff to dispense quality care, which have not been accomplished through less extreme measures.

A determination to close a department/service pursuant to an exclusive contract must be based upon the preponderance of the evidence, viewing the record as a whole, presented by any and all interested parties, following notice and opportunity for comment.

A determination to continue closure of a department/service pursuant to an exclusive contract must be based upon the preponderance of the evidence presented by members of the medical staff, following notice and opportunity for comment.

- (b) The medical staff shall determine the transfer of an existing exclusive contract to be appropriate only when:
  - (1) continued closure of the department/service pursuant to an existing contract is found appropriate pursuant to (a) above, and
  - (2) quality of care is maintained or improved by the transfer.
  
- (c) The medical staff member(s) whose privileges may be adversely affected by the medical staff's determination of appropriateness of the closure or continued closure of a department/service pursuant to an exclusive contract, or transfer of an exclusive contract, may request a hearing before the judicial review committee. Such a hearing will be governed by the provisions of Article VII, except that
  - (1) the hearing shall be limited to the following issues:
    - (i) whether the medical staff's determination of appropriateness is supported by a preponderance of the evidence;
    - (ii) whether the medical staff followed its requirement for notice and comment on the issue of appropriateness;
    - (iii) in cases of transfer, whether the medical staff's determination of effect on quality of care was appropriate.
  
  - (2) All requests for such a hearing will be consolidated. Should an affected medical staff member request a hearing under this subsection, the medical staff's recommendation regarding the exclusive contract will be deferred, pending the outcome of the judicial review committee hearing.
  
- (d) A medical staff member providing professional services under a contract with the hospital shall not have medical staff privileges terminated for reasons pertaining to the quality of care provided by the medical staff member without the same rights of hearing and appeal as are available to all members of the medical staff.
  
- (e) Except as specified in this Section, the termination of privileges following the decision determined to be appropriate by the medical staff to close a department/ service pursuant to an exclusive contract or to transfer an exclusive contract shall not be subject to the procedural rights set forth in Article VII.
  
- (f) Except in cases of contemporaneous transfer of an existing exclusive contract determined to be appropriate by the medical staff, a decision to terminate an exclusive contract shall not affect the privileges of medical staff members who were performing services pursuant to that contract, except that their privileges shall no longer be exclusive.

- (g) Terms of this Section 7.6-1 will take precedence over any inconsistent terms in a contract between a member of the medical staff and the hospital, including, but not necessarily limited to, any contractual provisions purporting to waive all rights of hearing and appeal provided in these bylaws.

#### **7.6-2 AUTOMATIC SUSPENSION OR LIMITATION OF PRACTICE PRIVILEGES**

No hearing is required when a member's license or legal credential to practice has expired, been revoked or suspended as set forth in Section 6.3-1(a). In other cases described in Sections 6.3-2 and 6.3-3, 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 certifying authority was unwarranted, but only whether the member may continue practice in the hospital with those limitations imposed.

#### **7.6-3 DEPARTMENT/SERVICE FORMATION OR ELIMINATION**

A medical staff department/service can be formed or eliminated only following a determination by the medical staff of appropriateness of department/service elimination or formation. The board of directors' decision shall uphold the medical staff's determination unless the board of directors makes specific written findings that the medical staff's determination is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

- (a) The medical staff shall determine the formation or elimination of a department/service to be appropriate based upon consideration of its effects on quality of care in the facility and/or community. A determination of the appropriateness of formation or elimination of a department/service must be based upon the preponderance of the evidence, viewing the record as a whole, presented by any and all interested parties, following notice and opportunity for comment.
- (b) The medical staff member(s) whose privileges may be adversely affected by a medical staff's determination of appropriateness of department/service formation or elimination may request a hearing before the judicial review committee. Such a hearing will be governed by the provisions of Article VII, except that
  - (1) the hearing shall be limited to the following issues:
    - (i) whether the medical staff's determination of appropriateness is supported by the preponderance of the evidence;

(ii) whether the medical staff followed its requirements for notice and comment on the issue of appropriateness.

(2) all requests for such a hearing will be consolidated.

Should an affected medical staff member request a hearing under this subsection, the medical staff's recommendation regarding the department/service elimination or formation will be deferred, pending the outcome of the judicial review committee hearing.

(c) Except as specified in this Section, the termination of privileges pursuant to formation or elimination of a department/service determined to be appropriate by the medical staff shall not be subject to the procedural rights otherwise set forth in Article VII.

#### **7.7 EXPUNCTION OF DISCIPLINARY ACTION**

Upon petition, the medical executive committee, in its sole discretion, may expunge previous disciplinary action upon a showing of good cause or rehabilitation.

#### **7.8 NATIONAL PRACTITIONER DATA BANK REPORTING**

The authorized representative shall report an adverse action to 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.

#### **7.9 DISPUTING REPORT LANGUAGE**

If no hearing was requested, a member who is the subject of a proposed adverse action report to the Medical Board of California or the National Practitioner Data Bank may request an informal meeting to dispute the text of 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 VIII OFFICERS**

### **8.1 OFFICERS OF THE MEDICAL STAFF**

#### **8.1-1 IDENTIFICATION**

The officers of the medical staff shall be the chief of staff, vice chief of staff immediate past chief of staff, and secretary-treasurer.

#### **8.1-2 QUALIFICATIONS**

Officers must be members of the active medical staff at the time of their nominations and election, and must remain members in good standing during their term of office. Failure to maintain such status shall create a vacancy in the office involved.

#### **8.1-3 NOMINATIONS**

- (a) A nominating committee shall be appointed by the medical executive committee not later than 60 days prior to the annual staff meeting to be held during the election year or at least 45 days prior to any special election. The nominating committee shall consist of the current chief of staff, the vice chief of staff, and one other member of the medical executive committee, and 2 members chosen by vote of the department chairs from among the active medical staff who are not then members of the medical executive committee. The nominating committee shall nominate one or more nominees for each office. The nominations of the committee shall be reported to the medical executive committee at least 30 days prior to the annual meeting and shall be delivered or mailed to the voting members of the medical staff at least 21 days prior to the election.
- (b) Further nominations may be made for any office by any voting member of the medical staff, provided that the name of the candidate is submitted in writing to the chair of the nominating committee and bears the candidate's written consent. These nominations shall be delivered to the chair of the nominating committee as soon as reasonably practicable, but at least 14 days prior to the date of election. If any nominations are made in this manner, the voting members of the medical staff shall be advised by notice delivered or mailed at least 10 days prior to the meeting. Nominations from the floor will be recognized if the nominee is present and consents.

#### **8.1-4 ELECTIONS**

The chief of staff, vice chief of staff and secretary-treasurer shall be elected at the annual meeting of the medical staff, which falls during the election year. Voting shall be by secret written ballot of those members present and eligible to vote. No proxy

vote will be accepted. Written ballots shall include handwritten signatures on the envelope for comparison with signatures on file, when necessary. A nominee shall be elected upon receiving a majority of the valid votes cast. If no candidate for the office receives a majority vote on the first ballot, a run-off election shall be held promptly between the two candidates receiving the highest number of votes. In the case of a tie on the second ballot, the majority vote of the medical executive committee shall decide the election by secret written ballot at its next meeting or a special meeting called for that purpose.

#### **8.1-5 TERM OF ELECTED OFFICE**

Each officer shall serve a 2 year term, commencing on the first day of the medical staff year following the election. Each officer shall serve in each office until the end of that officer's term, or until a successor is elected, unless that officer shall sooner resign or be removed from office. At the end of that officer's term, the chief of staff shall automatically assume the office of immediate past chief of staff.

#### **8.1-6 RECALL OF OFFICERS**

Any medical staff officer may be removed from office for valid cause, including, but not limited to, gross neglect or misfeasance in office, or serious acts of moral turpitude. Recall of a medical staff officer may be initiated by the medical executive committee or shall be initiated by a petition signed by at least one-third of the members of the medical staff eligible to vote for officers. Recall shall be considered at a special meeting called for that purpose. Recall shall require a two-thirds vote of the medical staff members present and eligible to vote for medical staff officers.

#### **8.1-7 VACANCIES IN ELECTED OFFICE**

Vacancies in office occur upon the death or disability, resignation, or removal of the officer, or such officer's loss of membership in the medical staff. Vacancies, other than that of the chief of staff, shall be filled by appointment by the medical executive committee until the next regular election. If there is a vacancy in the office of chief of staff, then the vice chief of staff shall serve out that remaining term and shall immediately appoint an ad hoc nominating committee to decide promptly upon nominees for the office of vice chief of staff. Such nominees shall be reported to the medical executive committee and to the medical staff. A special election to fill the position shall occur at the next regular staff meeting. If there is a vacancy in the office of vice chief of staff, that office need not be filled by election, but the medical executive committee shall appoint an interim officer to fill this office until the next regular election, at which time the election shall also include the office of chief of staff.

## **8.2 DUTIES OF OFFICERS**

### **8.2-1 CHIEF OF STAFF**

The chief of staff shall serve as the chief officer of the medical staff. The duties of the chief of staff shall include, but not be limited to:

- (a) enforcing the medical staff bylaws and rules and regulations, implementing sanctions where indicated, and promoting compliance with procedural safeguards where corrective action has been requested or initiated;
- (b) calling, presiding at, and being responsible for the agenda of all meetings of the medical staff;
- (c) serving as chair of the medical executive committee; and
- (d) serving as an ex officio member of all other staff committees without vote, unless chief of staff membership in a particular committee is required by these bylaws;
- (e) interacting with the administrator and board of directors in all matters of mutual concern within the hospital;
- (f) appointing, in consultation with the medical executive committee, committee members for all standing committees other than the medical executive committee and all special medical staff, liaison, or multi-disciplinary committees, except where otherwise provided by these bylaws and, except where otherwise indicated, designating the chairs of these committees;
- (g) representing the views and policies of the medical staff to the board of directors and to the administrator;
- (h) being a spokesperson for the medical staff in external professional and public relations;
- (i) performing such other functions as may be assigned to the chief of staff by these bylaws, the medical staff, or by the medical executive committee;
- (j) serving on liaison committees with the board of directors and administration, as well as outside licensing or accreditation agencies.

### **8.2-2 VICE CHIEF OF STAFF**

The vice chief of staff shall assume all duties and authority of the chief of staff in the absence of the chief of staff. The vice chief of staff shall be a member of the medical

executive committee, and any liaison committee with the board of director and administration, and shall perform such other duties as the chief of staff may assign or as may be delegated by these bylaws, or by the medical executive committee.

#### **8.2-3 IMMEDIATE PAST CHIEF OF STAFF**

The immediate past chief of staff shall be a member of the medical executive committee and a member of any liaison committee with the board of directors and administration and shall perform such other duties as may be assigned by the chief of staff or delegated by these bylaws, or by the medical executive committee.

#### **8.2-4 SECRETARY-TREASURER**

The secretary-treasurer shall be a member of the executive committee. The duties shall include, but not be limited to:

- (a) maintaining a roster of members;
- (b) keeping accurate and complete minutes of all medical executive committee and general medical staff meetings;
- (c) calling meetings on the order of the chief of staff or medical executive committee;
- (d) attending to all appropriate correspondence and notices on behalf of the medical staff;
- (e) receiving and safeguarding all funds of the medical staff;
- (f) excusing absences from meetings on behalf of the medical executive committee; and
- (g) performing such other duties as ordinarily pertain to the office or as may be assigned from time to time by the chief of staff or medical executive committee.

## **ARTICLE IX CLINICAL DEPARTMENTS AND DIVISIONS**

### **9.1 ORGANIZATION OF CLINICAL DEPARTMENTS AND DIVISIONS**

The medical staff shall be divided into clinical departments. Each department shall be organized as a separate component of the medical staff and shall have a chair selected and entrusted with the authority, duties, and responsibilities specified in Section 9.6. A department may be further divided, as appropriate, into sections which

shall be directly responsible to the department within which it functions, and which shall have a section chief selected and entrusted with the authority, duties and responsibilities specified in Section 9.7. When appropriate, the medical executive committee may recommend to the medical staff the creation, elimination, modification, or combination of departments or divisions.

## **9.2 CURRENT DEPARTMENTS AND DIVISIONS**

The current departments and divisions are: Medicine/Family Practice, Surgery and OB/GYN/Neonatal, and Psychiatry Subsection.

## **9.3 ASSIGNMENT TO DEPARTMENTS AND SECTIONS**

Each member shall be assigned membership in at least one department, and to a section, if any, within such department, but may also be granted membership and/or clinical privileges in other departments or divisions consistent with practice privileges granted.

## **9.4 FUNCTIONS OF DEPARTMENTS**

The general functions of each department shall include:

- (a) Conducting patient care reviews for the purpose of analyzing and evaluating the quality and appropriateness of care and treatment provided to patients within the department. The number of such reviews to be conducted during the year shall be as determined by the medical executive committee in consultation with other appropriate committees. The department shall routinely collect information about important aspects of patient care provided in the department, periodically assess this information, and develop objective criteria for use in evaluating patient care. Patient care reviews shall include all clinical work performed under the jurisdiction of the department, regardless of whether the member whose work is subject to such review is a member of that department.
- (b) Recommending to the medical executive committee guidelines for the granting of clinical privileges and the performance of specified services within the department.
- (c) Evaluating and making appropriate recommendations regarding the qualifications of applicants seeking appointment or reappointment and clinical privileges within that department.
- (d) Conducting, participating and making recommendations regarding continuing education programs pertinent to departmental clinical practice.

- (e) Reviewing and evaluating departmental adherence to: (1) medical staff policies and procedures and (2) sound principles of clinical practice.
- (f) Coordinating patient care provided by the department's members with nursing and ancillary patient care services.
- (g) Submitting written reports to the medical executive committee concerning: (1) the department's review and evaluation activities, actions taken thereon, and the results of such action; and (2) recommendations for maintaining and improving the quality of care provided in the department and the hospital.
- (h) Meeting at least quarterly for the purpose of considering patient care review findings and the results of the department's other review and evaluation activities, as well as reports on other department and staff functions.
- (i) Establishing such committees or other mechanisms as are necessary and desirable to perform properly the functions assigned to it, including proctoring protocols.
- (j) Taking appropriate action when important problems in patient care and clinical performance or opportunities to improve care are identified.
- (k) Accounting to the medical executive committee for all professional and medical staff administrative activities within the department.
- (l) Appointing such committees as may be necessary or appropriate to conduct department functions.
- (m) Formulating recommendations for departmental rules and regulations reasonably necessary for the proper discharge of its responsibilities subject to the approval by the medical executive committee and the medical staff.
- (n) Advising administration with regard to equipment and personnel needs.
- (o) Assessing and recommending to the relevant hospital authority offsite sources for needed patient care services not provided by the department or the organization.
- (p) The recommendation for a sufficient number of qualified and competent persons to provide care or service.

- (q) The orientation and continuing education of all persons in the department or service.
- (r) Recommendations for space and other resources needed by the department or service.

## **9.5 FUNCTIONS OF SECTIONS**

Subject to approval of the medical executive committee, each section shall perform the functions assigned to it by the department chair. Such functions may include, without limitation, retrospective patient care reviews, and evaluation of patient care practices, credentials review and privileges delineation, and continuing education programs. The division shall transmit regular reports to the department chair on the conduct of its assigned functions.

## **9.6 DEPARTMENT CHAIRS**

### **9.6-1 QUALIFICATIONS**

Each department shall have a chair and vice-chair who shall be members of the active staff and shall be qualified by training, experience and demonstrated ability in at least one of the clinical areas covered by the department. Department chairs must be certified by an appropriate specialty board or must demonstrate comparable competence.

### **9.6-2 SELECTION**

Department chairs and vice-chairs shall be elected every 2 years by those members of the department who are eligible to vote for general officers of the medical staff. For the purpose of this election, each department chair shall appoint a nominating committee of 3 members at least 60 days prior to the meeting at which election is to take place. The recommendations of the nominating committee of one or more nominees for chair and vice-chair positions shall be circulated to the voting members of each department at least 20 days prior to the election. Nominations also may be made from the floor when the election meeting is held, as long as the nominee is present and consents to the nomination. Election of department chairs and vice-chairs shall be subject to ratification by the medical executive committee. Vacancies due to any reason shall be filled for the unexpired term through special election by the respective department with such mechanisms as that department may adopt.

### **9.6-3 TERM OF OFFICE**

Each department chair and vice-chair shall serve a 2 year term which coincides with the medical staff year or until their successors are chosen, unless they shall sooner resign, be removed from office, or lose their medical staff membership or clinical

privileges in that department. Department officers shall be eligible to succeed themselves.

#### **9.6-4 REMOVAL**

After election and ratification, removal of department chairs and vice-chairs from office may occur for cause by a two-thirds vote of the medical executive committee and a two-thirds vote of the department members eligible to vote on departmental matters who cast votes.

#### **9.6-5 DUTIES**

Each chair shall have the following authority, duties and responsibilities, and the vice-chair, in the absence of the chair, shall assume all of them and shall otherwise perform such duties as may be assigned:

- (a) act as presiding officer at departmental meetings;
- (b) report to the medical executive committee and to the chief of staff regarding all professional, clinical and administrative activities within the department;
- (c) generally monitor the quality of patient care and professional performance rendered by members with clinical privileges in the department through a planned and systematic process; oversee the effective conduct of the patient care, evaluation, and monitoring functions delegated to the department by the medical executive committee in coordination and integration with organization-wide quality assessment and improvement activities;
- (d) develop and implement departmental programs for retrospective patient care review, ongoing monitoring of practice, credentials review and privilege delineation, medical education, utilization review, and quality assessment and improvement;
- (e) be a member of the medical executive committee, and give guidance on the overall medical policies of the medical staff and hospital and make specific recommendations and suggestions regarding the department;
- (f) transmit to the medical executive committee the department's recommendations concerning practitioner appointment and classification, reappointment, criteria for clinical privileges, monitoring of specified services, and corrective action with respect to persons with clinical privileges in the department;

- (g) endeavor to enforce the medical staff bylaws, rules, policies and regulations within the department;
- (h) implement within the department appropriate actions taken by the medical executive committee;
- (i) participate in every phase of administration of the department, including cooperation with the nursing service and the hospital administration in matters such as personnel (including assisting in determining the qualifications and competence of department/service personnel who are not licensed independent practitioners and who provide patient care services), supplies, special regulations, standing orders and techniques;
- (j) assist in the preparation of such annual reports, including budgetary planning, pertaining to the department as may be required by the medical executive committee;
- (k) recommend delineated clinical privileges for each member of the department; and
- (l) perform such other duties commensurate with the office as may from time to time be reasonably requested by the chief of staff or the medical executive committee.

## **9.7 SECTION CHIEFS**

### **9.7-1 QUALIFICATIONS**

Each section shall have a chief who shall be a member of the active medical staff and a member of the section, and shall be qualified by training, experience, and demonstrated current ability in the clinical area covered by the division.

### **9.7-2 SELECTION**

Each division chief shall be selected or elected with such mechanism as the medical staff may adopt. Vacancies due to any reason shall be filled for the unexpired term by the department chair.

### **9.7-3 TERM OF OFFICE**

Each division chief shall serve a two-year term which coincides with the medical staff year or until a successor is chosen, unless the division chief shall sooner resign or be removed from office or lose medical staff membership or clinical privileges in that division. Section chiefs shall be eligible to succeed themselves.

#### **9.7-4 REMOVAL**

After appointment and ratification, a division chief may be removed by the department chair and the medical executive committee.

#### **9.7-5 DUTIES**

Each section chief shall:

- (a) act as presiding officer at section meetings;
- (b) assist in the development and implementation, in cooperation with the department chair, of programs to carry out the quality review, and evaluation and monitoring functions assigned to the division;
- (c) evaluate the clinical work performed in the section;
- (d) conduct investigations and submit reports and recommendations to the department chair regarding the clinical privileges to be exercised within the division by members of or applicants to the medical staff; and
- (e) perform such other duties commensurate with the office as may from time to time be reasonably requested by the department chair, the chief of staff, or the medical executive committee.

## **ARTICLE X COMMITTEES**

### **10.1 DESIGNATION**

Medical staff committees shall include but not be limited to, the medical staff meeting as a committee of the whole, meetings of departments and section, meetings of committees established under this Article, and meetings of special or ad hoc committees created by the medical executive committee (pursuant to this Article) or by departments (pursuant to Sections 9.4(i) and (l)). The committees described in this Article shall be the standing committees of the medical staff. Special or ad hoc committees may be created by the medical executive committee to perform specified tasks. Unless otherwise specified, the chair and members of all committees shall be appointed by and may be removed by the chief of staff, subject to consultation with and approval by the medical executive committee. Medical staff committees shall be responsible to the medical executive committee.

## **10.2 GENERAL PROVISIONS**

### **10.2-1 TERMS OF COMMITTEE MEMBERS**

Unless otherwise specified, committee members shall be appointed for a term of two years, and shall serve until the end of this period or until the member's successor is appointed, unless the member shall sooner resign or be removed from the committee.

### **10.2-2 REMOVAL**

If a member of a committee ceases to be a member in good standing of the medical staff, or loses employment or a contract relationship with the hospital, suffers a loss or significant limitation of practice privileges, or if any other good cause exists, that member may be removed by the medical executive committee.

### **10.2-3 VACANCIES**

Unless otherwise specifically provided, vacancies on any committee shall be filled in the same manner in which an original appointment to such committee is made; provided however, that if an individual who obtains membership by virtue of these bylaws is removed for cause, a successor may be selected by the medical executive committee.

## **10.3 MEDICAL EXECUTIVE COMMITTEE**

### **10.3-1 COMPOSITION**

The medical executive committee shall consist of the following persons:

- (a) the officers of the medical staff;
- (b) the department chairs. In the absence of the department chair, the vice chair shall be the voting member. Vice Chairs shall only attend in the absence or in place of the department chair;
- (c) the President of the Hospital, ex-officio and without vote, or his/her designee;
- (d) the following have the privilege of attending meetings of the medical executive committee, ex-officio, with the right to speak but not to vote: chairs of medical staff committees; chiefs of established sections / divisions / services as recognized by the medical staff, the director of medical education and the chairman of the board of directors of the Hospital;
- (e) one at-large member of the active medical staff who shall be appointed by the medical executive committee and serve a 2-year term in conjunction with the terms of the current officers.

### **10.3-2 DUTIES**

The duties of the medical executive committee shall include, but not be limited to:

- (a) representing and acting on behalf of the medical staff in the intervals between medical staff meetings, subject to such limitations as may be imposed by these bylaws;
- (b) coordinating and implementing the professional and organizational activities and policies of the medical staff;
- (c) receiving and acting upon reports and recommendations from medical staff departments, divisions, committees, and assigned activity groups;
- (d) recommending actions to the board of directors on matters of a medical administrative nature;
- (e) adopting policies regarding the structure of the medical staff, the mechanisms to review credentials and delineate individual clinical privileges, the granting of individual staff memberships and privileges, the organization of quality assessment and improvement activities and mechanisms of the medical staff, termination of medical staff membership and fair hearing procedures, needed changes to medical staff bylaws, and other matters relevant to the operation of an organized medical staff.
- (f) evaluating the medical care rendered to patients in the hospital;
- (g) participating in the development of all medical staff and hospital policy, practice, and planning;
- (h) reviewing the qualifications, credentials, performance and professional competence, and character of applicants and staff members, and making recommendations to the board of directors at least quarterly regarding staff appointments and reappointments, assignments to departments, clinical privileges, and corrective action;
- (i) taking reasonable steps to promote ethical conduct and competent clinical performance on the part of all members including the initiation of and participation in medical staff corrective or review measures when warranted;
- (j) taking reasonable steps to develop continuing education activities and programs for the medical staff;

- (k) designating such committees as may be appropriate or necessary to assist in carrying out the duties and responsibilities of the medical staff and approving or rejecting appointments to those committees by the chief of staff;
- (l) reporting to the medical staff at each regular staff meeting;
- (m) assisting in the obtaining and maintenance of accreditation;
- (n) developing and maintenance of methods for the protection and care of patients and others in the event of internal or external disaster;
- (o) appointing such special or ad hoc committees as may seem necessary or appropriate to assist the medical executive committee in carrying out its functions and those of the medical staff;
- (p) reviewing the quality and appropriateness of services provided by contract physicians;
- (q) reviewing and approving the designation of the hospital's authorized representative for National Practitioner Data Bank purposes; and
- (r) establishing a mechanism for dispute resolution between medical staff members (including limited license practitioners) involving the care of a patient.

### **10.3-3 MEETINGS**

The medical committee shall meet as often as necessary, but at least bi-monthly and shall maintain a record of its proceedings and actions. The administrator or designee shall be invited to attend all meetings in a non-voting capacity.

### **10.4 OTHER COMMITTEES**

The Executive Committee will be responsible for establishing such Committees as it deems necessary to fulfill the duties of the Medical staff, meet licensing requirements and the standards of JCAHO and the AOA, and to assure that the highest quality of care is provided to patients.

## **10.5 CREDENTIALS COMMITTEE**

### **10.5-1 COMPOSITION**

The credentials committee shall consist of not less than six members of the active staff selected on a basis that will ensure, insofar as feasible, representation of major clinical specialties and each of the staff departments.

## **10.5-2 DUTIES**

The duties of the credentials committee shall include:

- (a) review and evaluate the qualifications of each practitioner applying for initial appointment, reappointment, or modification of clinical privileges, **and, in connection therewith, obtain and consider the recommendations of the appropriate departments;**
- (b) submit required reports and information on the qualifications of each practitioner applying for membership or particular clinical privileges including recommendations with respect to appointment, membership category, department affiliation, clinical privileges and special conditions;
- (c) investigate, review and report on matters referred by the chief of staff or the medical executive committee regarding the qualifications, conduct, professional character or competence of any applicant or medical staff member; and
- (d) submit periodic reports to the medical executive committee on its activities and the status of pending applications.

## **10.5-3 MEETINGS**

The credentials committee shall meet as often as necessary at the call of its chair. The committee shall maintain a record of its proceedings and actions and shall report to the medical executive committee.

## **10.6 PHARMACY & THERAPEUTICS/INFECTION CONTROL COMMITTEE**

### **10.6-1 COMPOSITION**

The pharmacy and infection control committee shall consist of representatives from the departments of medicine, surgery, OB/GYN/Neonatology, pathology, a representative from the pharmaceutical service, an individual directly responsible for management of the infection surveillance, prevention and control program, a representative from the nursing service (which may include any/all nursing managers), operating room manager, Director of Performance Improvement and hospital administration. It may include representatives from relevant hospital services including Environmental Services, Radiology, Cardiopulmonary, Central Services, Dietary Department, etc.

### **10.6-2 DUTIES**

The committee combines both pharmacy and infection control sections.

The duties of the pharmacy section shall include:

- (a) assisting in the formulation of professional practices and policies regarding the continuing evaluation, appraisal, selection, procurement, storage, distribution, use, safety procedures, and all other matters relating to drugs in the hospital, including antibiotic usage;
- (b) advising the medical staff and the pharmaceutical service on matters pertaining to the choice of available drugs;
- (c) making recommendations concerning drugs to be stocked on the nursing unit floors and by other services;
- (d) periodically developing and reviewing a formulary or drug list for use in the hospital;
- (e) evaluating clinical data concerning new drugs or preparations requested for use in the hospital;
- (f) establishing standards concerning the use and control of investigational drugs and of research in the use of recognized drugs;
- (g) maintaining a record of all activities relating to pharmacy functions and submitting periodic reports and recommendations to the medical executive committee concerning those activities;
- (h) developing proposed policies and procedures for, and continuously evaluating the appropriateness of blood and blood products usage, including the screening, distribution, handling and administration, and monitoring of blood and blood components' effects on patients; and
- (i) reviewing untoward drug reactions.

The duties of the infection control section shall include:

- (a) developing a hospital-wide infection control program and maintaining surveillance over the program;
- (b) developing a system for reporting, identifying and analyzing the incidence and cause of nosocomial infections, including assignment of responsibility for the ongoing collection and analytic review of such data, and follow-up activities;

- (c) developing and implementing a preventive and corrective program designed to minimize infection hazards, including establishing, reviewing and evaluating aseptic, isolation and sanitation techniques;
- (d) developing written policies defining special indications for isolation requirements;
- (e) coordinating action on findings from the medical staff's review of the clinical use of antibiotics;
- (f) acting upon recommendations related to infection control received from the chief of staff, the medical executive committee, departments and other committees; and
- (g) reviewing sensitivities of organisms specific to the facility.

### **10.6-3 MEETINGS**

The committee shall meet as often as necessary at the call of its chair but at least quarterly. It shall maintain a record of its proceedings and shall report its activities and recommendations to the medical executive committee as needed but at least quarterly.

## **10.7 BYLAWS COMMITTEE**

### **10.7-1 COMPOSITION**

The bylaws committee shall consist of at least five members of the medical staff, including at least the vice chief of staff or chief of staff-elect and immediate past chief of staff.

### **10-7-2 DUTIES**

The duties of the bylaws committee shall include:

- (a) conducting an annual review of the medical staff bylaws, as well as the rules and regulations and forms promulgated by the medical staff, its departments and sections;
- (b) submitting recommendations to the medical executive committee for changes in these documents as necessary to reflect current medical staff and hospital practices with respect to medical staff organization and functions; and
- (c) receiving and evaluating for recommendation to the medical executive committee suggestions for modification of the items specified in subdivision (a).

### **10.7-3 MEETINGS**

The bylaws committee shall meet as often as necessary at the call of its chair but at least annually. It shall maintain a record of its proceedings and shall report its activities and recommendations to the medical executive committee.

## **10.8 INTERDISCIPLINARY PRACTICE COMMITTEE**

### **10.8-1 COMPOSITION**

The committee on interdisciplinary practice (CIDP) shall consist of, at a minimum, the director of nursing, the administrator or designee, and an equal number of physicians appointed by the medical executive committee and registered nurses appointed by the director of nursing. Licensed or certified health professionals other than registered nurses who perform functions requiring standardized procedures shall be included in the committee. The chair of the committee shall be a physician member of the active medical staff appointed by the medical executive committee.

### **10.8-2 DUTIES**

The duties of the Interdisciplinary Practice Committee shall include the following:

- (a) perform functions consistent with the requirements of law and regulation. The committee shall routinely report to the board of directors through the medical executive committee.
- (b) evaluate and make recommendations regarding the need for and appropriateness of the performance of in-hospital services by allied health practitioners (AHPs).
- (c) evaluate and make recommendations regarding:

  - (1) the mechanism for evaluating the qualifications and credentials of AHPs who are eligible to apply for and provide in-hospital services;
  - (2) the minimum standards of training, education, character, competence, and overall fitness of AHPs eligible to apply for the opportunity to perform in-hospital services;
  - (3) identification of in-hospital services which may be performed by an AHP, or category of AHPs, as well as any applicable terms and conditions thereon; and
  - (4) the professional responsibilities of AHPs who have been determined eligible to perform in-hospital services.

- (d) making recommendations regarding appropriate monitoring, supervision, and evaluation of AHPs who may be eligible to perform in-hospital services.
- (e) evaluating and reporting whether in-hospital services proposed to be performed or actually performed by AHPs are inconsistent with the rendering of quality medical care and with the responsibilities of members of the medical staff.
- (f) evaluating and reporting on the effectiveness of supervision requirements imposed upon AHPs who are rendering in-hospital services.
- (g) periodically evaluating and reporting on the efficiency and effectiveness of in-hospital services performed by AHPs.
- (h) coordinating insofar as necessary with the committee on interdisciplinary practice.

### **10.8-3 MEETINGS**

The Interdisciplinary Practice Committee shall meet at the call of the chair at such intervals as the chair or the medical executive committee may deem appropriate and may held in conjunction with another committee of the medical staff. It shall maintain a record of its proceedings and it shall submit reports of its activities and recommendations to the medical executive committee.

## **10.9 PHYSICIAN WELL-BEING COMMITTEE**

### **10.9-1 COMPOSITION**

The physician well-being committee shall be comprised of no less than three (3) active members of the medical staff, a majority of which, including the chair, shall be physicians. Except for initial appointments, each member shall serve a term of two (2) years, and the terms shall be staggered as deemed appropriate by the executive committee to achieve continuity. Insofar as possible, members of this committee shall not serve as active participants on other peer review or quality assessment and improvement committees while serving on this committee.

### **10.9-2 DUTIES**

The physician well-being committee may receive reports related to the health, well-being, or impairment of medical staff members and, as it deems appropriate, may investigate such reports. With respect to matters involving individual medical staff members, the committee may, on a voluntary basis, provide such advice, counseling, or referrals as may seem appropriate. Such activities shall be confidential; however, in the event information received by the committee clearly demonstrates that the health or known impairment of a medical staff member poses an unreasonable risk of harm to hospitalized patients, that information may be referred for corrective action. The committee shall also consider

general matters related to the health and well-being of the medical staff and, with the approval of the executive committee, develop educational programs or related activities.

### **10.9-3 MEETINGS**

The committee shall meet as often as necessary. It shall maintain only such record of its proceedings as it deems advisable, but shall report on its activities on a routine basis to the medical executive committee.

## **10.10 POST GRADUATE MEDICAL EDUCATION COMMITTEE**

The Post Graduate Medical Education Committee shall be comprised of no less than four (4) Active members of the Medical Staff including, at least, the Chief of Staff or Vice Chief of Staff, as well as representatives from each department of the Medical Staff. Other members shall include the various Program Directors, Academic Director, representatives from the housestaff, hospital librarian, administrative director, quality management director, and representatives from Western University and Touro University. The Director of Medical Education shall serve as the committee chair.

### **10.10.1 DUTIES**

The duties of the Post Graduate Medical Education Committee are as follows:

- (a) Regular review of program improvements;
- (b) Determine equipment needs of the program;
- (c) Establish resident supervision guidelines in conjunction with medical staff rules and policies;
- (d) Establish a mechanism for effective communication between the committee and the medical staff and governing board relative about the performance of its residents, patient safety issues and quality of patient care;
- (e) Submit to the medical staff written descriptions of the roles, responsibilities, and patient care activities of residents to include the mechanisms through which resident directors and supervisors make decisions about a resident's involvement and independence in delivering patient care;
- (f) Develop and maintain policies and procedures that outline which residents may write patient care orders, under what circumstances they may do so and what entries a supervising LIP must countersign;

### **10.10.2 MEETINGS**

The committee shall meet as often as necessary at the call of its chair but at least quarterly. It shall maintain a record of its proceedings and shall report its activities

and recommendations to the medical executive committee as need but not less than quarterly.

## **ARTICLE XI MEETINGS**

### **11.1 MEETINGS**

#### **11.1-1 GENERAL STAFF MEETING**

There shall be at least one (1) meeting of the medical staff during each medical staff year. The date, place and time of the meeting(s) shall be determined by the Chief of Staff and adequate notice shall be given to the members. The Chief of Staff, or such other officers, department or section heads, or committee chairs or medical executive committee may designate, shall present a report on significant actions taken by the Medical Executive Committee during the time since the last General Staff meeting and on other matters believed to be of interest and value to the membership. No business shall be transacted at any General Staff meeting except that stated in the notice calling the meeting

#### **11.1-2 AGENDA**

The order of business at a meeting of the medical staff shall be determined by the chief of staff and medical executive committee. The agenda shall include, insofar as feasible:

- (a) reading and acceptance of the minutes of the last regular and all special meetings held since the last regular meeting;
- (b) administrative reports from the chief of staff, departments, and committees, and the administrator;
- (c) election of officers when required by these bylaws;
- (d) reports by responsible officers, committees and departments on the overall results of patient care audits and other quality review, evaluation, and monitoring activities of the staff and on the fulfillment of other required staff functions;
- (e) old business; and
- (f) new business.

### **11.1-3 SPECIAL MEETINGS**

Special meetings of the medical staff may be called at any time by the chief of staff or the medical executive committee, or shall be called upon the written request of 10% of the members of the active medical staff. The person calling or requesting the special meeting shall state the purpose of such meeting in writing. The meeting shall be scheduled by the medical executive committee within 30 days after receipt of such request. No later than 10 days prior to the meeting, notice shall be mailed or delivered to the members of the staff which includes the stated purpose of the meeting. No business shall be transacted at any special meeting except that stated in the notice calling the meeting.

## **11.2 COMMITTEE AND DEPARTMENT MEETINGS**

### **11.2-1 REGULAR MEETINGS**

Except as otherwise specified in these bylaws, the chairs of committees, departments and section may establish the times for the holding of regular meetings. The chairs shall make every reasonable effort to ensure the meeting dates are disseminated to the members with adequate notice.

### **11.2-2 SPECIAL MEETINGS**

A special meeting of any medical staff committee, department or division may be called by the chair thereof, the medical executive committee, or the chief of staff, and shall be called by written request of one-third of the current members, eligible to vote, but not less than 3 members.

## **11.3 QUORUM**

### **11.3-1 STAFF MEETINGS**

The presence of, in person or by proxy, fifty percent (50%) of the total members of the active medical staff at any regular or special meeting in person shall constitute a quorum for the purpose of amending these bylaws or the rules and regulations of the medical staff or for the election or removal of medical staff officers. The presence of twenty five (25) percent of such members shall constitute a quorum for all other actions.

### **11.3-2 DEPARTMENT AND COMMITTEE MEETINGS**

A quorum of thirty (30) percent of the voting members shall be required for medical executive committee meetings. For other committees, a quorum shall consist of twenty five (25) percent of the voting members of a committee but in no event less than 3 voting members. For department and section meetings, a quorum shall consist of twenty five (25) percent of the voting members but in no event less than 3 voting members.

## **11.4 VOTING AND MANNER OF ACTION**

### **11.4-1 VOTING**

Unless otherwise specified in these bylaws, only members of the medical staff may vote in medical staff departmental or staff elections, and at department and medical staff meetings and all duly appointed members of medical staff committees are entitled to vote on committee matters, except as may otherwise be specified in these bylaws.

### **11.4-2 MANNER OF ACTION**

Except as otherwise specified, the action of a majority of the members present and voting at a meeting at which a quorum is present shall be the action of the group. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of members, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as may be specifically required by these bylaws. Committee action may be conducted by telephone conference, which shall be deemed to constitute a meeting for the matters discussed in that telephone conference. Valid action may be taken without a meeting by a committee if it is acknowledged by a writing setting forth the action so taken which is signed by at least two-thirds of the members entitled to vote.

## **11.5 MINUTES**

Except as otherwise specified herein, minutes of meetings shall be prepared and retained. They shall include, at a minimum, a record of the attendance of members and the vote taken on significant matters. A copy of the minutes shall be signed by the presiding officer of the meeting and forwarded to the medical executive committee.

## **11.6 ATTENDANCE REQUIREMENTS**

### **11.6-1 SPECIAL ATTENDANCE**

At the discretion of the chair or presiding officer, when a member's practice or conduct is scheduled for discussion at a regular department, division, or committee meeting, the member may be requested to attend. If a suspected deviation from standard clinical practice is involved, the notice shall be given at least 7 days prior to the meeting and shall include the time and place of the meeting and a general indication of the issue involved. Failure of a member to appear at any meeting to which notice was given, unless excused by the medical executive committee upon a showing of good cause, shall be a basis for corrective action.

## **11.7 CONDUCT OF MEETINGS**

Unless otherwise specified, meetings shall be conducted according to Robert's Rules of Order; however, technical or non-substantive departures from such rules shall not invalidate action taken at such a meeting.

## **11.8 EXECUTIVE SESSION**

Executive session is a meeting of a medical staff committee which only voting medical staff committee members may attend, unless others are expressly requested by the committee to attend. Executive session may be called by the presiding officer at the request of any medical staff committee member, and shall be called by the presiding officer pursuant to a duly adopted motion. Executive session may be called to discuss peer review issues, personnel issues, or any other sensitive issues requiring confidentiality.

# **ARTICLE XII CONFIDENTIALITY, IMMUNITY AND RELEASES**

## **12.1 AUTHORIZATION AND CONDITIONS**

By applying for or exercising clinical privileges within this hospital, an applicant:

- (a) authorizes representatives of the hospital and the medical staff to solicit, provide, and act upon information bearing upon, or reasonably believed to bear upon, the applicant's professional ability and qualifications;
- (b) authorizes persons and organizations to provide information concerning such practitioner to the medical staff;
- (c) agrees to be bound by the provisions of this Article and to waive all legal claims against any representative of the medical staff or the hospital who acts in accordance with the provisions of this Article; and
- (d) acknowledges that the provisions of this Article are express conditions to an application for medical staff membership, the continuation of such membership, and to the exercise of clinical privileges at this hospital.

## **12.2 CONFIDENTIALITY OF INFORMATION**

### **12.2-1 GENERAL**

Records and proceedings of all medical staff committees having the responsibility of evaluation and improvement of quality of care rendered in this hospital, including, but not limited to, meetings of the medical staff meeting as a committee of the whole, meetings of departments and divisions, meetings of committees established under

Article X, and meetings of special or ad hoc committees created by the medical executive committee or by departments and including information regarding any member or applicant to this medical staff shall, to the fullest extent permitted by law, be confidential.

#### **12.2-2 BREACH OF CONFIDENTIALITY**

As effective peer review and consideration of the qualifications of medical staff members and applicants to perform specific procedures must be based on free and candid discussions, any breach of confidentiality of the discussions or deliberations of medical staff departments, divisions, or committees, except in conjunction with other hospital, professional society, or licensing authority, is outside appropriate standards of conduct for this medical staff, violates the medical staff bylaws, and will be deemed disruptive to the operations of the hospital. If it is determined that such a breach has occurred, the medical executive committee may undertake such corrective action as it deems appropriate.

### **12.3 IMMUNITY FROM LIABILITY**

#### **12.3-1 FOR ACTION TAKEN**

Each representative of the medical staff and hospital shall be immune, to the fullest extent provided by law, from liability to an applicant or member for damages or other relief for any action taken or statements or recommendations made within the scope of duties exercised as a representative of the medical staff or hospital.

#### **12.3-2 FOR PROVIDING INFORMATION**

Each representative of the medical staff and hospital and all third parties shall be immune, to the fullest extent provided by law, from liability to an applicant or member for damages or other relief by reason of providing information to a representative of the medical staff or hospital concerning such person who is, or has been, an applicant to or member of the staff or who did, or does, exercise clinical privileges or provide services at this hospital.

### **12.4 ACTIVITIES AND INFORMATION COVERED**

The confidentiality and immunity provided by this Article shall apply to all acts, communications, reports, recommendations or disclosures performed or made in connection with this or any other health care facility's or organization's activities concerning, but not limited to:

- (a) application for appointment, reappointment, or clinical privileges;
- (b) corrective action;
- (c) hearings and appellate reviews;
- (d) utilization reviews;

- (e) other department, or division, committee, or medical staff activities related to monitoring and maintaining quality patient care and appropriate professional conduct; and
- (f) queries and reports concerning the National Practitioner Data Bank, peer review organization, the Medical Board of California, and similar queries and reports.

## **12.5 RELEASES**

Each applicant or member shall, upon request of the medical staff or hospital, execute general and specific releases in accordance with the express provisions and general intent of this Article. Execution of such releases shall not be deemed a prerequisite to the effectiveness of this Article

## **12.6 INDEMNIFICATION**

The hospital shall indemnify, defend and hold harmless the medical staff and its individual members from and against losses and expenses (including attorneys' fees, judgments, settlements, and all other costs, direct or indirect) incurred or suffered by reason of or based upon any threatened, pending or completed action, suit, proceeding, investigation, or other dispute relating or pertaining to any alleged act or failure to act within the scope of peer review or quality assessment activities including, but not limited to, (1) as a member of or witness for a medical staff department, service, committee or hearing panel, (2) as a member of or witness for the hospital board or any hospital task force, group, or committee, and (3) as a person providing information to any medical staff or hospital group, officer, board member or employee for the purpose of aiding in the evaluation of the qualifications, fitness or character of a medical staff member or applicant. The medical staff or member may seek indemnification for such losses and expenses under this bylaws provision, statutory and case law, any available liability insurance or otherwise as the medical staff or member sees fit, and concurrently or in such sequence as the medical staff or member may choose. Payment of any losses or expenses by the medical staff or member is not a condition precedent to the hospital's indemnification obligations hereunder.

## **12.7 LEGAL REPRESENTATION**

The Medical Executive Committee has the ability to retrain and be represented by independent legal counsel at the expense of the medical staff.

## **ARTICLE XIII GENERAL PROVISIONS**

### **13.1 RULES AND REGULATIONS**

The medical staff shall initiate and adopt such rules and regulations and policies as it may deem necessary for the proper conduct of its work and shall periodically review and revise its rules and regulations to comply with current medical staff practice. Recommended changes to the rules and regulations and policies shall be submitted to the medical executive committee for review and evaluation prior to presentation for consideration by the medical staff as a whole under such review or approval mechanism as the medical staff shall establish. Following adoption, such rules and regulations and policies shall become effective following approval of the board of directors, which approval shall not be withheld unreasonably – or automatically after 10 days if no action is taken by the board of directors. In the event, the board of directors shall be deemed to have approved the rule(s) and regulation(s) adopted by the medical staff. Rules and regulations shall be reviewed and/or revised every 2 years. Applicants and members of the medical staff shall be governed by such rules and regulations and policies as are properly initiated, and adopted. If there is a conflict between the bylaws and the rules and regulations and policies, the bylaws shall prevail. The mechanism described herein shall be the sole method for the initiation, adoption, amendment, or repeal of the medical staff rules and regulations and policies.

### **13.2 DUES OR ASSESSMENTS**

The medical executive committee shall have the power to recommend the amount of annual dues or assessments, if any, for each category of medical staff membership, subject to the approval of the medical staff, and to determine the manner of expenditure of such funds received.

### **13.3 AUTHORITY TO ACT**

Any member or members who act in the name of this medical staff without proper authority shall be subject to such disciplinary action as the medical executive committee may deem appropriate.

### **13.4 DIVISION OF FEES**

Any division of fees by members of the medical staff is forbidden and any such division of fees shall be cause for exclusion or expulsion from the medical staff.

### **13.5 NOTICES**

Except where specific notice provisions are otherwise provided in these bylaws, any and all notices, demands, requests required or permitted to be mailed shall be in writing properly sealed, and shall be sent through United States Postal Service, first-

class postage prepaid. An alternative delivery mechanism may be used if it is reliable, as expeditious, and if evidence of its use is obtained. Notice to the medical staff or officers or committees thereof, shall be addressed as follows:

Name and proper title of addressee, if known or applicable  
Name of department, division or committee  
c/o Medical Staff Director, Chief of Staff  
Pacific Hospital of Long Beach  
2776 Pacific Avenue  
Long Beach, California 90806

Mailed notices to a member, applicant or other party, shall be to the addressee at the address as it last appears in the official records of the medical staff or the hospital.

### **13.6 DISCLOSURE OF INTEREST**

All nominees for election or appointment to medical staff offices, department chairships, or the medical executive committee shall, at least 20 days prior to the date of election or appointment, disclose in writing to the medical executive committee those personal, professional, or financial affiliations or relationships of which they are reasonably aware which could foreseeably result in a conflict of interest with their activities or responsibilities on behalf of the medical staff.

### **13.7 NOMINATION OF MEDICAL STAFF REPRESENTATIVES**

Candidates for positions as medical staff representatives to local, state and national hospital medical staff sections should be filled by such selection process as the medical staff may determine. Nominations for such positions shall be made by a nominating committee appointed by the medical executive committee.

### **13.8 MEDICAL STAFF CREDENTIALS FILES**

#### **13.8-1 INSERTION OF ADVERSE INFORMATION**

The following applies to actions relating to requests for insertion of adverse information into the medical staff member's credentials file:

- (a) As stated previously, in Section 6.1-1, any person may provide information to the medical staff about the conduct, performance or competence of its members.
- (b) When a request is made for insertion of adverse information into the medical staff member's credentials file, the respective department chair and chief of staff shall review such a request.

- (c) After such a review a decision will be made by the respective department chair and chief of staff to:
  - (1) not insert the information;
  - (2) notify the member of the adverse information by a written summary and offer the opportunity to rebut this assertion before it is entered into the member's file; or
  - (3) insert the information along with a notation that a request has been made to the medical executive committee for an investigation as outlined in Section 6.1-2 of these bylaws.
- (d) This decision shall be reported to the medical executive committee. The medical executive committee, when so informed, may either ratify or initiate contrary actions to this decision by a majority vote.

#### **13.8-2 REVIEW OF ADVERSE INFORMATION AT THE TIME OF REAPPRAISAL AND REAPPOINTMENT**

The following applies to the review of adverse information in the medical staff member's credentials file at the time of reappraisal and reappointment.

- (a) Prior to recommendation on reappointment, the department, as part of its reappraisal function, shall review any adverse information in the credentials file pertaining to a member.
- (b) Following this review, the member's department shall determine whether documentation in the file warrants further action.
- (c) With respect to such adverse information, if it does not appear that an investigation and/or adverse action on reappointment is warranted, the department chairman shall so inform the medical executive committee.
- (d) However, if an investigation and/or adverse action on reappointment is warranted, the department shall so inform the medical executive committee.
- (e) No later than 60 days following final action on reappointment, the medical executive committee shall, except as provided in (g):
  - (1) initiate a request for corrective action, based on such adverse information and on the department's recommendation relating thereto,  
or

- (2) cause the substance of such adverse information to be summarized and disclosed to the member.
- (f) The member shall have the right to respond thereto in writing, and the medical executive committee may elect to remove such adverse information on the basis of such response.
- (g) In the event that adverse information is not utilized as the basis for a request for corrective action, or disclosed to the member as provided herein, it shall be removed from the file and discarded, unless the medical executive committee, by a majority vote, determines that such information is required for continuing evaluation of the member's:
  - (1) character;
  - (2) competence; or
  - (3) professional performance.

### **13.8-3 CONFIDENTIALITY**

The following applies to records of the medical staff and its departments and committees responsible for the evaluation and improvement of patient care:

- (a) The records of the medical staff and its departments and committees responsible for the evaluation and improvement of the quality of patient care rendered in the hospital shall be maintained as confidential.
- (b) Access to such records shall be limited to duly appointed officers and committees of the medical staff for the sole purpose of discharging medical staff responsibilities and subject to the requirement that confidentiality be maintained.
- (c) Information which is disclosed to the governing body of the hospital or its appointed representatives—in order that the governing body may discharge its lawful obligations and responsibilities—shall be maintained by that body as confidential.
- (d) Information contained in the credentials file of any member may be disclosed with the member's consent, or to any medical staff or professional licensing board, or as required by law. However, any disclosure outside of the medical staff shall require the authorization of the chief of staff and the concerned department chair and notice to the member.

- (e) A medical staff member shall be granted access to the individual's credentials file, subject to the following provisions:
  - (1) timely notice of such shall be made by the member to the chief of staff or the chief of staff's designee;
  - (2) the member may review, and receive a copy of, only those documents provided by or addressed personally to the member. A summary of all other information—including peer review committee findings, letters of reference, proctoring reports, complaints, etc.—shall be provided to the member, in writing, by the designated officer of the medical staff, (at the time the member reviews the credentials file)/(within a reasonable period of time, as determined by the medical staff). Such summary shall disclose the substance, but not the source, of the information summarized;
  - (3) the review by the member shall take place in the medical staff office, during normal work hours, with an officer or designee of the medical staff present.
- (f) In the event a notice of action or proposed action is filed against a member, access to that member's credentials file shall be governed by Section 7.4-1.

#### **13.8-4 MEMBER'S OPPORTUNITY TO REQUEST CORRECTION/DELETION OF AND TO MAKE ADDITION TO INFORMATION IN FILE**

- (a) After review of the file as provided under Section 13.8-3(e) the member may address to the Chief of Staff a written request for correction or deletion of information in the credentials file. Such request shall include a statement of the basis for the action requested.
- (b) The Chief of Staff shall review such a request within a reasonable time and shall recommend to the medical executive committee, after such review, whether or not to make the correction or deletion requested. The medical executive committee, when so informed, shall either ratify or initiate action contrary to this recommendation, by a majority vote.
- (c) The member shall be notified promptly, in writing, of the decision of the medical executive committee.
- (d) In any case, a member shall have the right to add to the individual's credentials file, upon written request to the medical executive committee, a statement responding to any information contained in the file.

## **ARTICLE XIV ADOPTION AND AMENDMENT OF BYLAWS**

### **14.1 PROCEDURE**

Upon the request of (1) the medical executive committee, or the chief of staff or the bylaws committee after approval by the medical executive committee, or (2) upon timely written petition signed by at least 10% of the members of the medical staff in good standing who are entitled to vote, consideration shall be given to the adoption, amendment, or repeal of these bylaws. Such action shall be taken at a regular or special meeting of the medical staff, provided (1) written notice of the proposed change was sent to all members on or before the last regular or special meeting of the medical staff, and such changes were offered at such prior meeting and (2) notice of the next regular or special meeting at which action is to be taken included notice that a bylaw change would be considered. Both notices shall include the exact wording of the existing bylaw language, if any, and the proposed change(s).

### **14.2 ACTION ON BYLAW CHANGE**

If a quorum is present for the purpose of enacting a bylaw change, the change shall require an affirmative vote of greater than 50% of the members voting in person or by written ballot.

### **14.3 APPROVAL**

Bylaw changes adopted by the medical staff shall become effective following approval by the board of directors, which approval shall not be withheld unreasonably. Medical staff members are provided with copies of the revisions in the bylaws, rules and regulations and medical staff policies. If approval is withheld, the reasons for doing so shall be specified by the board of directors in writing, and shall be forwarded to the chief of staff, the medical executive and bylaws committee.

### **14.4 EXCLUSIVITY**

The mechanism described herein shall be the sole method for the initiation, adoption, amendment, or repeal of the medical staff bylaws.

### **14.5 SUCCESSOR IN INTEREST/AFFILIATIONS**

#### **14.5-1 SUCCESSOR IN INTEREST**

These bylaws, and privileges of individual members of the medical staff accorded under these bylaws, will be binding upon the medical staff, and the board of directors of any successor in interest in this hospital, except where hospital medical staffs are being combined. In the event that the staffs are being combined, the medical staffs shall work together to develop new bylaws, which will govern the combined medical staffs, subject to the approval of the hospital's board of directors or its successor in

interest. Until such time as the new bylaws are approved, the existing bylaws of each institution will remain in effect.

#### **14.5-2 AFFILIATIONS**

Affiliations between the hospital and other hospitals, health care systems or other entities shall not, in and of themselves, affect these bylaws.

#### **14.6 CONSTRUCTION OF TERMS AND HEADINGS**

The captions or headings in these bylaws are for convenience only and are not intended to limit or define the scope of or affect any of the substantive provisions of these bylaws. These bylaws apply with equal force to both genders wherever either term is used.

**ADOPTED by the medical staff on: February 28, 2006**