

**COMMUNITY HOSPITAL EAST AND
COMMUNITY HOSPITAL NORTH
MEDICAL STAFF BYLAWS**

VOLUME II

**ADDRESSING CONCERNS THAT ARE
OPPORTUNITIES FOR PERFORMANCE
IMPROVEMENT AND FAIR HEARING AND
APPEAL**

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ARTICLE I.

COLLEGIAL INTERVENTION

Section 1.1. Opportunities to Improve. The Medical Staff strives to continuously improve the performance of the entire Medical Staff. Whenever concerns about the professional performance and conduct of an individual Member are raised, the Medical Staff leadership will work collegially with its Members to address these concerns expeditiously so long as patient safety is not jeopardized and the Member demonstrates an improvement in performance or conduct. Such collegial intervention may include letters of concern, reprimand, monitoring, and voluntary agreements to attend meetings, CME courses, obtain consultations, or other appropriate action. When appropriate, nothing in these Bylaws, the Medical Staff Rules and Regulations, or Hospital Policies shall prohibit initial informal efforts by Department chairpersons, Medical Staff leadership, or the Regional SVP Physician Executive to address concerns related to performance or conduct prior to or instead of proceeding through a formal Peer Review process

Section 1.2. No Hearing Rights. All collegial interventions are not disciplinary and shall not entitle a Member to a hearing and appeal.

Section 1.3. Documentation. All collegial interventions will be documented. The Quality Assurance Committee shall maintain the documentation consistent with other Peer Review information.

Section 1.4. No Improvement. When collegial interventions fail or are insufficient to protect the well-being of patients, staff, colleagues, or the orderly operations of the facility or its programs, the Board or appropriate Medical Staff committee may commence more formal Peer Review activities as warranted by the facts.

ARTICLE II.

INVESTIGATIONS

Section 2.1. Criteria for Initiation. Any person may provide information to any member of the Medical Executive Committee, Quality Assurance Council, or other Medical Staff leader about the conduct, performance, or competence of 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 or illegal; (3) contrary to the Medical Staff Bylaws, associated procedures, Hospital or Medical Staff Policies and/or any Rules and Regulations; (4) harassing or intimidating to Hospital employees, Medical Staff colleagues, patients or their families; (5) disruptive of Hospital or Medical Staff operations; (6) below applicable professional standards for competency or standards established by the Medical Staff; or (7) harmful to the reputation of the Hospital and/or Medical Staff, a request for an investigation or collegial intervention may be initiated by the President, Medical Executive Committee, Quality Assurance Council, Regional SVP Physician Executive or the Hospital CEO or designee. The purpose of an Investigation is to gather information related to the concern so that the appropriate Peer Review body can make a recommendation warranted by the facts. Routine Peer Review and performance monitoring (e.g. focused and ongoing

professional practice evaluation, or collegial interventions described in Article I) are not "investigations" as described in this Article.

Section 2.2. Initiation. A request for an investigation must be submitted by one of the above parties to the Quality Assurance Council and supported by reference to the specific activities, concerns, or conduct alleged to warrant the investigation. If the Quality Assurance Council authorizes the investigation it shall make a record of this action in its official minutes.

Section 2.3. Procedure. If the Quality Assurance Council concludes an investigation is warranted, it shall direct an investigation to be undertaken by its designated subcommittee or Medical Staff committee. In the event the Hospital Board believes the Quality Assurance Council has incorrectly determined an investigation unnecessary, it may request the Credentials Committee to undertake an investigation. The Quality Assurance Council or the Credentials Committee may ask the Hospital to undertake external Peer Review if it believes such a step is warranted to conclude its investigation. Strong consideration should be given to use of external Peer Review if any of the following circumstances is present:

(a) The Quality Assurance Council and the Credentials Committee are presented with ambiguous or conflicting recommendations from Medical Staff reviewers or committees, or where there does not appear to be a strong consensus for a particular recommendation.

(b) There is a reasonable probability that litigation may result in response to a Quality Assurance Council recommendation regarding the Member under review.

(c) There is no Member with expertise in the subject under review, or when the only Members on the Medical Staff with the requisite expertise are direct competitors, partners, or associates of the Member under review.

The investigation shall be initiated within ten (10) Days following the date the Quality Assurance Council determined that the investigation is warranted. A written report of the investigation findings will be submitted to the Medical Executive Committee as soon as practicable. The report may include recommendations to handle the concerns. The Member shall be notified that the investigation is being conducted prior to the writing of the report, and shall be given an opportunity to provide information in a manner and upon such terms as the Quality Assurance Council deems appropriate. The Member shall also be informed that any resignation during the investigation triggers a report to the National Practitioner Data Bank. If the QAC decides that notifying the Member is not in the best interest of other patients or any other individual safety, it may wait for the appropriate time to notify except that any resignation of Privileges by the Member shall not be acted upon until Member is informed that it will trigger a NPDB report. This committee may, but is not obligated to, conduct interviews with persons knowledgeable about the Member under review, however, such investigation shall not constitute a "hearing," nor shall the procedural rules with respect to hearings or appeals apply. The committee may delegate the interviewing task to the personnel of the committee. Despite the status of any investigation, at all times the Quality Assurance Council shall retain authority and discretion to take whatever action it reasonably believes may be warranted by the circumstances to protect the Hospital, its staff, and its patients, including suspension or limitations on the exercise of Privileges.

Section 2.4. Completion of Investigation. The Quality Assurance Council shall strive to conclude investigations within sixty (60) Days of a referral for an investigation. Where the committee believes it is necessary, an investigation can be extended for an additional sixty (60) day period or longer.

When the Quality Assurance Council submits a report of its investigation the Medical Executive Committee will determine if it is complete and sufficient for the Medical Executive Committee to make a determination whether Corrective Action should be recommended. When it makes this decision the Medical Executive Committee will indicate in its minutes that the investigation is completed and so notify the Member involved.

Section 2.5. Quality Assurance Council Action. As soon as practicable after the conclusion of the investigation, the Quality Assurance Council shall take action that may include, without limitation:

2.5.1 Determining no further action is warranted. If the committee determines no credible evidence or substantiated concern in the first instance. The request for investigation and the concern will be maintained in the Member's file in a Peer Review protected manner.

2.5.2 Deferring action if it believes more information is needed. However, such deferral should not be longer than 120 Days from the formal recommendation for an investigation.

2.5.3 Issuing letters of admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude Department chairs from issuing informal written or oral warnings outside of the mechanism for Corrective Action. In the event such letters are issued, the affected Member may make a written response, which shall be placed in the Member's file.

2.5.4 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-admissions and co-management of patients, mandatory consultation, or monitoring (e.g. proctoring).

2.5.5 Recommending denial, restriction, modification, reduction, suspension or revocation of clinical Privileges.

2.5.6 Recommending reductions of membership status or limitation of any prerogatives directly related to the member's delivery of patient care.

2.5.7 Recommending suspension, revocation, or probation of Medical Staff membership.

2.5.8 Taking other actions deemed appropriate under the circumstances.

ARTICLE III.

IMPOSITION OF PRECAUTIONARY SUSPENSION OR DISCIPLINARY RESTRICTION OF PRIVILEGES OR MEMBERSHIP

Section 3.1. Authority to Temporarily Suspend Privileges. The President, (or designee), the Regional SVP Physician Executive, and/or the Board chair are authorized to temporarily suspend all or any portion of the clinical Privileges of a Member or Practitioner holding Privileges whenever they perceive a reasonable possibility that failure to do so may pose danger to the health and/or safety of any individual or to the orderly operations of the Hospital; provided that such action shall require the agreement of no less than two (2) or the above listed authorized people or by an action initiated and approved by the Board. Unless otherwise indicated, this suspension will take place immediately and the President, Regional SVP Physician Executive,, the Board chair, and the affected Member will be promptly informed. The imposition of the suspension will be reviewed by the Quality Assurance Council as soon as practicable, but in no more than fourteen (14) Days.

Suspensions undertaken to protect the well-being of patients are considered precautionary in nature and will be described as 'precautionary suspensions'. The term 'precautionary suspension' should be considered synonymous with the term 'summary suspension' as this terminology is used in state and federal statutes and regulations.

Section 3.2. Assignment of Patients. Where any or all of the Privileges of a Member or Practitioner are terminated, revoked, or restricted, such that he can no longer treat all or some of his patients at the Hospital for any period of time, such patients who are then in the Hospital shall be assigned for the period of such termination, revocation, or restriction to another Member or Practitioner, whichever is appropriate, by the President or, in his absence, by the Chair of the affected Member's Department. Where feasible, the wishes of the patient shall be considered in choosing a substitute Practitioner.

Section 3.3. Interview. When a Member has had Privileges or membership status suspended, the Member will be afforded an interview with the Quality Assurance Council if so requested. The interview shall not constitute a hearing, shall be informal in nature, and shall not be conducted according to the procedural rules provided with respect to hearings. Request to meet with the Quality Assurance Council must be made within five (5) business days of notification of the precautionary suspension of Privileges or membership. Request must be made in writing and delivered to the President or designee within the designated timeframe. Meeting with the Quality Assurance Council will be scheduled as soon as practicable after imposition of the suspension.

Section 3.4. Quality Assurance Council Action. No more than fourteen (14) Days after the imposition of a precautionary suspension, the Quality Assurance Council shall recommend to the Board whether the suspension should be modified, continued or terminated, including whether further Corrective Action should be taken or whether there is a need for an investigation by the Medical Executive Committee or the Credentials Committee. Unless the precautionary suspension was imposed by action of the Board, such recommended action by the Quality Assurance Council shall take immediate effect and remain in effect pending a final decision by the Board. The Quality Assurance Council shall give written Notice to the affected

Member its recommendations as soon as possible or within five (5) Days of the adoption of such recommendation.

Section 3.5. Procedural Rights for Precautionary Suspension. Whenever a Member has been suspended for more than fourteen (14) Days or when the Quality Assurance Council makes a recommendation to extend the suspension beyond fourteen (14) Days, the Member will be entitled to request a fair hearing as described below in Article 6 of Volume II of the Bylaws.

Section 3.6. Disciplinary Suspension. The Quality Assurance Council may, with approval of the Hospital CEO and/or the chair of the Board or designees, institute one or more disciplinary restrictions of a Member as described below. Each restriction may be imposed for a cumulative period not to exceed fourteen (14) consecutive Days, but there is no limit to the number of restrictions that may be imposed in a calendar year. While on disciplinary suspension all clinical activity in the Hospital and related facilities is suspended. A disciplinary restriction may be instituted only:

(a) When the action that has given rise to the restriction relates to non-compliance with a Medical Staff and Hospital Policies on professional conduct, completion of medical records, or on-call coverage requirements;

(b) When the Member has received at least two written warnings within the last twenty-four (24) months regarding the policy violation in question. Such warnings must state the conduct or behavior, or policy violation that is questioned and specify or refer to the applicable policy, and state the consequence(s) of repeat violations of the policy, including the possibility of a disciplinary restriction, or;

(c) When the affected Member has been offered an opportunity to meet with the Quality Assurance Council or a designated subcommittee prior to the imposition of the disciplinary restriction. Failure on the part of the Member to accept the Quality Assurance Council offer of a meeting will constitute a violation of the Medical Staff Bylaws regarding "Mandatory Special Appearance Requirements" described in Volume I, Article IX, of the Medical Staff Bylaws in the Mandatory Special Appearance Requirement subsection 9.9.

ARTICLE IV.

AUTOMATIC SUSPENSION, LIMITATION, OR VOLUNTARY RELINQUISHMENT OR RESIGNATION OF MEDICAL STAFF MEMBERSHIP AND/OR PRIVILEGES

Automatic suspensions and limitations on membership and Privileges and voluntary resignations/relinquishments of membership and Privileges become effective immediately by operation of these Bylaws for administrative reasons relating to failure to meet eligibility requirements of membership or comply with additional requirements for membership or Privileges found in the Medical Staff Bylaws and Medical Staff procedures, Rules & Regulations and Policies. Automatic actions are not considered professional review actions, are not based on determinations of competence or unprofessional conduct, and are not entitled to the hearing or appeal procedures provided under these Bylaws and described in this procedure.

Section 4.1. Revocation or Suspension or Failure To Renew License. The membership and Privileges of any Member with Privileges, whose license, certification, or other legal credential authorizing practice in this or another state is suspended, shall be immediately suspended pending final resolution by the licensing agency. During this time, the Member is ineligible for Medical Staff membership or Privileges and not entitled to any procedural due process rights in these Bylaws. If a Member's license, certification, or other legal credential authorizing practice in another state is suspended, membership and Privileges of that member shall be suspended while the Credentials Committee completes an investigation and makes a recommendation to the Medical Executive Committee that is acted upon by the Medical Executive Committee and Board. If the licensing agency in this or another state reinstates the Member without any limitations or conditions, the suspension of membership or Privileges may be lifted pending an investigation and recommendations by the Credentials Committee. If a licensing agency reinstates the Member's license with limitations or conditions, the suspension will remain in effect pending an interview with the Credentials Committee and recommendation from the Medical Executive Committee for action by the Board.

If license, certification, or other legal credential authorizing clinical practice in this or another state is revoked, the affected Practitioner shall immediately and automatically lose Medical Staff membership and/or Privileges. This will not be considered a professional review action, but an administrative action for noncompliance with the Medical Staff eligibility requirements for membership and/or Privileges. The Member shall not be entitled to the procedural due process rights outlined in this procedure.

Section 4.2. Conviction of a Felony. A Member who has been convicted of, or pled "guilty" or "no contest" or its equivalent to a felony or to a misdemeanor involving a charge of wrongful conduct in any jurisdiction shall automatically relinquish Medical Staff Membership and Privileges. Such relinquishment shall become effective immediately upon such conviction, or plea, regardless of whether an appeal is filed. Such relinquishment shall remain in effect until the matter is resolved by subsequent action of the Board or through corrective action, if necessary.

Section 4.3. Suspension for Failure to Complete Medical Records. An administrative suspension of Privileges to admit new patients or to schedule new procedures shall be imposed for failure to complete medical records within the time periods established by the Medical Executive Committee and reflected in Medical Staff or Hospital Policies. Such suspension shall not apply to patients already admitted or scheduled at the time of the suspension, to emergency patients, or to attendance at imminent deliveries. The suspension shall be lifted upon completion of the delinquent records. The administrative suspension shall become an automatic permanent suspension for failure to complete all medical records within sixty (60) Days. However, affected Members may request reinstatement during a period of thirty (30) Days following permanent suspension if all delinquent records have been completed. Thereafter, such Members shall be deemed to have voluntarily resigned from the Medical Staff and must reapply for membership and Privileges.

Section 4.4. Failure to Attend Specially Noticed Committee or Department Meeting When Requested. A Member who fails to appear at a meeting where Special Notice is provided stating appearance is required, shall automatically be suspended from exercising all clinical Privileges unless the Member can establish good cause to the satisfaction of the President for

missing the meeting. Failure to appear for a rescheduled meeting on more than one occasion shall be considered a voluntary resignation from the Medical Staff and reapplication for membership and Privileges is required. If the Member was under formal investigation at time of this voluntary resignation, a report may be required to the National Practitioner Data Bank. Any right the Member had accrued to the fair hearing and appeals procedures may be exercised by the Member after the voluntary resignation triggered by the Member's failure to appear described in this section.

Section 4.5. Revocation or Suspension of DEA Number or State Controlled Substance Registration. A Member whose Drug Enforcement Administration (DEA) registration or State Substance Registration (CSR) is relinquished, revoked or suspended shall immediately and automatically be divested of his Privilege to prescribe drugs covered by such number/licenses within the Hospital. This is not a professional review action and the Member shall not be entitled to procedural due process as described in this procedure. As soon as possible, the Credentials Committee shall investigate the facts under which the Staff member's DEA registration was relinquished, revoked or suspended, and may recommend to the Medical Executive Committee or to the Quality Assurance Council, as appropriate, further Corrective Action if indicated.

Section 4.6. Failure to Maintain Liability Insurance. A Member's Medical Staff appointment and/or Privileges shall be immediately suspended for failure to maintain the minimum amount of professional liability insurance required by the Board and these Bylaws. Affected Members may request reinstatement during a period of ninety (90) Days following suspension upon presentation of proof of adequate insurance. Thereafter, such Members shall be deemed to have voluntarily resigned from the Medical Staff and must reapply for Membership and/or Privileges.

Section 4.7. Non-Voluntary Exclusion From Federal or State Insurance Programs or Conviction for Insurance Fraud. If a Member appears on the list of "Excluded Individuals/Entities" maintained by the HHS Office of Inspector General, or is excluded from any federal insurance programs, the Member shall be considered to have voluntarily resigned from Medical Staff membership and all Privileges. Similarly, any Member convicted of violations of any criminal statutes related to the provision of health care services, such as intentionally defrauding private insurance, Medicare, Medicaid or federally funded programs shall be considered to have voluntarily resigned from Medical Staff membership and all Privileges.

Section 4.8. Failure to Participate in an Evaluation or Assessment. A Member who fails or refuses to participate to the satisfaction of the Medical Executive Committee in an evaluation or assessment of the Physician's qualifications for Membership and/or Privileges as requested by the Department Chair, Credentials Committee Chair or the President as required under these Bylaws shall be automatically suspended. If, within thirty (30) Days of the suspension the Member agrees to and participates in the evaluation or assessment, the Member may be reinstated depending on the results of the evaluation. If the Member does not participate in the evaluation or assessment within thirty (30) Days of the Notice of suspension for failure to participate, the Member will be deemed to have voluntarily resigned from Medical Staff membership and all Privileges.

Section 4.9. Failure to Notify Hospital of Disciplinary or Final Malpractice Actions.

A Member who fails to notify the President and the CEO or Regional SVP Physician Executive in writing within ten (10) Days of any of the following may trigger suspension:

- 4.9.1 if privileges in any hospital or licensed healthcare facility have been revoked or limited in any way;
- 4.9.2 if Corrective Action has been taken to restrict or limit privileges in any way at another licensed health care facility or institution;
- 4.9.3 if a professional malpractice action has been settled or judgment entered;
- 4.9.4 if his license to practice medicine or prescribe drugs in any state is terminated;
- 4.9.5 if insurance coverage lapses or expires without renewal;
- 4.9.6 If a complaint is filed before the State Licensure Board against the Member.

The suspension may be lifted by the Quality Assurance Council when the Member provides adequate documentation to the Quality Assurance Council regarding the circumstances that triggered the suspension. After Notice of the cause for suspension, the Member's failure to provide the requested information within a reasonable amount of time not to exceed thirty (30) Days, will be considered a voluntary resignation from Medical Staff membership and all Privileges.

ARTICLE V.

ADDITIONAL EXCEPTIONS TO HEARING RIGHTS

Section 5.1. Exclusive Contracts. Privileges can be reduced or terminated as a result of a decision by the Board to limit the exercise of clinical Privileges to Members engaged by the Hospital under the terms of an exclusive contract consistent with Article III of the Rules and Regulations, Credentials Procedures. These actions are not considered professional review actions and are not based on a determination of professional competence or unprofessional conduct. There is no right to a hearing or appeal of the loss of Privileges or Membership resulting from implementation of an exclusive contract.

Section 5.2. Termination Members Under Contract. The process for appointment and reappointment to the Medical Staff provided in these Bylaws shall apply to any Medical Staff Member providing or seeking to provide services or medical administrative services through a contractual or employment arrangement with the Hospital or a Physician, Dentist or Practitioner group to which the Physician or Dentist belongs. The effect of expiration or other termination of a contract upon a Physician's, Dentist's or Practitioner's Staff appointment and clinical Privileges will be governed solely by the terms of the Physician's, Dentist's or Practitioner's contract with the Hospital or the contract with the Hospital pursuant to which the Physician, Dentist or Practitioner practices and provides services at the Hospital. In such event, the termination, limitation or alteration of said Medical Staff appointment and clinical Privileges shall be in the manner provided for in the contract. If the contract or the employment agreement is silent on the

matter, then contract expiration or other termination alone will not affect the Physician's, Dentist's or Practitioner's Staff appointment status or clinical Privileges.

ARTICLE VI.

HEARING AND APPEAL PROVISIONS

Section 6.1. Purpose. The purpose of these hearing and appeal provisions is to provide a process for resolving, on an intra-professional basis, matters bearing on professional competency and conduct. Because such proceedings use resources that could be used for providing and/or improving patient care, the Medical Staff and Hospital have decided to make available the hearing and appeal procedures set forth in these Bylaws to only eligible Members of the Medical Staff and Applicants. In order to be eligible, the Member or Applicant must be the subject of a significant proposed Adverse Action based on professional qualifications, competency or conduct, that if approved by the Board, must be reported to the National Practitioner Data Bank and the Indiana Medical Licensing Board. A Member or Applicant who is not eligible for the hearing and appeal procedures may request an opportunity for an audience before the Medical Executive Committee to discuss the action or recommendation and/or submit a written rebuttal to be placed in his Credentials File.

These provisions shall be governed by, and construed in accordance with the Health Care Quality Improvement Act of 1986 and, to the extent not inconsistent therewith, the Indiana Peer Review Statute, and to the extent not so governed, with the other laws of the State of Indiana.

Section 6.2. Exhaustion of Remedies. If any proposed "Adverse Action" is taken or recommended, the Applicant or Member must exhaust the remedies afforded by these Bylaws before resorting to any legal action or judicial review.

Section 6.3. Right To Hearing And Appellate Review.

6.3.1 **Actions Giving Rise to Hearing.** When an eligible Member or Applicant (hereinafter "Affected Practitioner") receives notice of a proposed Adverse Action as defined in these Bylaws based on the Affected Practitioner's professional qualifications, competency or conduct made by the Medical Executive Committee that, if ratified by decision of the Board of Directors, will adversely affect his appointment to or status as a Member, or his exercise of Privileges as a Member, he shall be entitled to one (1) evidentiary hearing as provided herein. If the recommendation of the Medical Executive Committee following such hearing is still adverse to the Affected Practitioner, then the Affected Practitioner shall be entitled to one (1) appellate review prior to the Board of Directors making a final decision on the matter.

6.3.2 When the Affected Practitioner receives notice of a Board of Directors' decision based on the Affected Practitioner's professional qualifications, competency or conduct that will adversely affect his appointment to or status as a Member of the Medical Staff or his exercise of clinical privileges, and such decision is not based on a prior proposed Adverse Action by the Medical Executive Committee with respect to which he would have been entitled to a hearing, the Affected Practitioner shall be entitled to a hearing as provided

in these provisions. If such hearing does not result in a favorable recommendation, the Affected Practitioner shall be entitled to an appellate review by the Board of Directors or a committee thereof before the Board of Directors makes a final decision on the matter.

6.3.3 Actions Not Giving Rise to Hearing Right. A peer review committee shall not be deemed to have made a proposal for an Adverse Recommendation or action or to have made such a recommendation or taken such an action, and a hearing right under this Section shall not have arisen in any of the following:

- (a) the issuance of a letter of guidance, warning, or reprimand;
- (b) automatic suspension or limitation as provided in Article IV of this Volume;
- (c) the restriction or suspension of Privileges for a period of less than fourteen (14) days while an Investigation is pending;
- (d) the denial of a request for a leave of absence or for an extension of a leave of absence;
- (e) determination by the Hospital that an application for appointment or reappointment is untimely or incomplete;
- (f) a decision not to process an application under the available procedures for expedited review;
- (g) assignment to a particular Medical Staff Department or membership category;
- (h) imposition of a proctoring or monitoring requirement where such does not include a restriction on Privileges;
- (i) failure to process a request for Privileges when the Applicant does not meet the threshold eligibility requirements to seek that Privilege;
- (j) conduct of focused peer review including external peer review or focused professional practice evaluation or a formal Investigation;
- (k) the requirement to appear for a special meeting under the provisions of the Medical Staff Bylaws;
- (l) the termination or limitation of temporary Privileges;
- (m) the determination that an applicant for membership does not meet the requisite qualifications or criteria for membership;
- (n) ineligibility to request membership or Privileges or continue the exercise of Privileges because the Hospital enters into an exclusive agreement for the provision of certain services;

- (o) termination of any contract with or employment by the Hospital;
- (p) any non-Adverse Recommendation voluntarily accepted by the Member as a result of collegial intervention;
- (q) removal or limitation of emergency service call obligations;
- (r) any requirement to complete an educational assessment;
- (s) any requirement to undergo a mental, behavioral, or physical evaluation to determine fitness for practice;
- (t) appointment or reappointment for a duration of less than 24 months;
- (u) refusal of the Board to reinstate Medical Staff membership or clinical privileges following a leave of absence;
- (v) actions taken by the licensing agency or any other governmental agency or regulatory body; and
- (w) any recommendation or action not Adversely Affecting” as such term is defined in Section 431(1) of HCQIA the Privileges of an Applicant/Member.

Section 6.4. Expedited Hearing Rights. A hearing for an Affected Practitioner who is under suspension shall be held as soon as arrangements therefore may reasonably be made, if the Affected Practitioner requests in writing such an expedited hearing date and waives the usual deadlines as stated below in favor of an expedited process.

Section 6.5. Notice of Proposed Adverse Action

6.5.1 Whenever any proposed Adverse Action is made, the Hospital President shall be responsible for giving written notice within ten (10) days to the Affected Practitioner of the proposed Adverse Action and of the Affected Practitioner's rights to a hearing, by certified mail, return receipt requested, or by personal delivery. Such notice shall contain the following:

- (a) the Adverse Action proposed;
- (b) the reasons for the proposed Adverse Action including representative records and/or incident or committee reports if known at the time;
- (c) the statement that a hearing, if desired, must be requested within thirty (30) days; and
- (d) a summary of Affected Practitioner's hearing rights.

Section 6.6. Request for Hearing.

6.6.1 The Affected Practitioner shall have thirty (30) days from receipt of the notice in which to request a hearing.

6.6.2 The failure to request a hearing within the time and in the manner herein provided shall be deemed a waiver of the Affected Practitioner's right to such hearing and to any appellate review. A waiver of a hearing right as to a proposed Adverse Action also waives a hearing right to the final Adverse Action.

6.6.3 When the waived hearing or appellate review relates to an Adverse Recommendation of the Medical Executive Committee or Hearing Committee appointed by the Hospital President, the recommendation shall thereupon become and remain effective against the Affected Practitioner pending the Board of Directors' decision on the matter. When the waived hearing or appellate review relates to an adverse decision by the Board of Directors, the same shall thereupon become and remain effective against the Affected Practitioner until a final decision of the Board of Directors is made. In either of such events, the Hospital President shall promptly notify the Affected Practitioner of his status by certified mail, return receipt requested.

Section 6.7. Hearing Arrangements, Date and Notification.

6.7.1 Hearing Arrangements. Within fifteen (15) days after receipt of a request for hearing, the Hospital President shall select a hearing date.

6.7.2 Hearing Date. The hearing date shall not be fewer than thirty (30) days nor more than sixty (60) days from the date of receipt of the Affected Practitioner's request for hearing unless otherwise agreed.

6.7.3 Notification of Hearing Date. The President shall notify the Affected Practitioner of the time, place, and date so scheduled, by certified mail, return receipt requested. The written notification of the hearing shall also:

(a) list witnesses (if any) expected to testify and a brief summary of their expected testimony;

(b) identify specific or representative charts being questioned;

(c) inform the Affected Practitioner that he/she has the right to representation by an attorney licensed to practice law in Indiana or a Member in good standing. The notice shall also inform the Affected Practitioner that he/she must advise the President within seven (7) days after the hearing notice of the name and address of any such representative and whether such representative is an attorney; and

(d) inform the Affected Practitioner that he/she will be required to provide a list of a witnesses expected to testify with a brief summary of their expected testimony, any documents that counter the concerns, and shall have the right to present a written response to the proposed Adverse Action briefly outlining the position of the Affected Practitioner, within fourteen (14) days after the Notice of Hearing is given.

Section 6.8. Hearing Committee.

6.8.1 When a hearing relates to a proposed Adverse Action of the Medical Executive Committee, the Hearing Committee shall be appointed by the President and shall consist of at least three (3) Members of the Medical Staff. The Hearing Committee shall have no Members (i) who actively participated in initiating or investigating the underlying matter at issue or was responsible for making the proposal giving rise to the hearing unless it is otherwise impossible to select a representative group because of the size of the Medical Staff, or (ii) who are in "direct economic competition" with the Affected Practitioner for whom the hearing has been scheduled. "Direct economic competition" for the purposes of this section of the Bylaws means the "Member practices in the same specialty as the Affected Practitioner." Employment by or a contract with the Hospital, Community Health Network, or any affiliated hospital will not preclude any individual from serving on the Hearing Committee.

6.8.2 When a hearing relates to an adverse decision of the Board of Directors that is contrary to the recommendation of the Medical Executive Committee, the Board of Directors may appoint a Hearing Committee to conduct such hearing, and shall designate one Member as chairperson. At least two (2) representatives from the Medical Staff shall be included on this Hearing Committee. These representatives will meet the standard set forth in Section 6.8.1.

6.8.3 The Affected Practitioner and the Medical Executive Committee shall be notified of Members appointed to serve as the Hearing Committee. Within seven (7) days of such notification, either party may advise the President in writing that an appointed Member does not meet the criteria set forth in Section 6.8. The President shall consider the merits of such contention and if found correct, shall replace that Member. Failure to object in a timely manner to any appointed Hearing Committee Member constitutes a waiver of such objection.

Section 6.9. Hearing Officer.

6.9.1 The President shall select a Hearing Officer. The Hearing Officer shall act as presiding officer to maintain decorum and to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and written evidence. The Hearing Officer may be either a Member of the Hearing Committee, a retired judge or an attorney experienced in healthcare law who is not regularly employed or engaged by any of the parties to the hearing for duties other than acting as Hearing Officer.

6.9.2 If the Hearing Officer is not a Member of the Hearing Committee, then the Affected Practitioner may advise the President in writing within seven (7) days from the notice of the identity of the Hearing Officer that he/she does not believe the selected Hearing Officer satisfies the criteria; the President shall determine the merits of such contention, and if the contention is found to be correct shall select another Hearing Officer.

6.9.3 The Hearing Officer shall set a date, time, and place for the exchange of lists of witnesses (if any) expected to testify at the hearing and copies of exhibits by both sides.

Any witness not then listed and any exhibit not provided may in the discretion of the Hearing Officer be excluded.

6.9.4 There shall be no right to discovery. In advance of the hearing, the Affected Practitioner will be provided a copy of all materials gathered by the Medical Executive Committee in support of its proposed Adverse Action in advance of the hearing solely for the purpose of preparing for the hearing. These materials remain confidential and peer review privileged. The Affected Practitioner is prohibited from using the materials outside of the hearing and appeal provided in the Bylaws. There shall be no right to the discovery of any information concerning other Member or peer review minutes of any Medical Staff committee or activities unless specifically created and limited to portions of minutes addressing Affected Practitioner's competence or conduct..

6.9.5 The Hearing Officer shall be entitled to determine the order of proceeding during the hearing, to promulgate rules and procedures not inconsistent with the this Policy and the Bylaws, to exclude or remove any person who is disruptive to an orderly and professional hearing, and perform the other responsibilities assigned to the Hearing Officer.

6.9.6 The Hearing Officer shall set reasonable time limits on the hearing.

6.9.7 The Hearing Officer may participate in the deliberations, act as an advisor, and write the report and recommendation for the Committee, but he/she may not vote unless he is a Member. In other words, service by a Member of the Hearing Committee, as Hearing Officer, shall not in any way prevent such Member from full participation in the deliberations and actions of the Hearing Committee.

Section 6.10. Hearing.

6.10.1 Personal Appearance Requirement. The personal presence of the Affected Practitioner for whom the hearing has been scheduled shall be mandatory. An Affected Practitioner who fails, without good cause, to appear and proceed at such hearing shall be deemed to have waived his rights and to have accepted the Adverse Recommendation, and the same shall thereupon become and remain in effect until Board action.

6.10.2 Continuance. Postponement of the hearing beyond the time set forth in this Policy shall be made only with the approval of the Hearing Committee or Hearing Officer. Granting of such postponements shall only be for good cause shown and in the sole discretion of the Hearing Committee or Hearing Officer.

6.10.3 Representation. The Affected Practitioner shall be entitled to be accompanied by and represented at the hearing by a Member of the Medical Staff in good standing or by an attorney licensed to practice in Indiana at his own expense.

When the Medical Executive Committee's action has prompted the hearing, a Member of the Medical Executive Committee shall be appointed to represent the Committee's position at the hearing and to present the facts, documents and any witnesses in support of its proposed Adverse Action. The Board of Directors, when its action has prompted the hearing, shall appoint a director to represent it at the hearing, to present the facts,

documents and witnesses in support of its adverse decision. The representative of the Medical Executive Committee or Board of Directors may be represented by an attorney retained at the Hospital's expense. If the Affected Practitioner chooses to be represented by legal counsel, then the Medical Staff or Board of Directors must also be represented by legal counsel in the proceedings.

6.10.4 A majority of the Members of the Hearing Committee shall be present when the hearing takes place. No Member may vote by proxy.

6.10.5 An accurate record of the hearing must be kept. The Medical Executive **Committee** shall be established by the Hearing Officer. An accurate record may be accomplished by use of a court reporter, electronic recording unit, or detailed transcription.

6.10.6 The hearing shall not be conducted according to the rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be considered, regardless of the existence of any common law or statutory rule which might make evidence inadmissible over objection in any civil or criminal action.

6.10.7 The parties shall, prior, during, or within a time frame after the hearing established by the Hearing Officer or committee chairman, be entitled to submit memoranda concerning any issue of procedure or of fact, and such memoranda shall become a part of the hearing record.

Section 6.11. Standard Burden of Proof.

6.11.1 In cases challenging the proposed Adverse Action of the Medical Executive Committee, the Medical Executive Committee shall have the burden of initially producing evidence in support of the proposed Adverse Action. The Affected Practitioner bears the ultimate burden of providing, by a preponderance of the evidence that the proposed Adverse Action should be rejected.

6.11.2 In cases challenging denial or limitation of appointment or requested Privileges, the Affected Practitioner shall bear the burden to initially produce evidence and bear the ultimate burden of persuading the Hearing Committee. In all cases, the Affected Practitioner shall be required to prove, by a preponderance of the evidence presented, that the reasons for the proposed Adverse Action were (1) lacking foundation in fact or (2) that the recommended action or decision was arbitrary or unreasonable.

Section 6.12. Hearing Rights.

6.12.1 At the hearing, the Affected Practitioner and Medical Executive Committee shall have the right to:

- (a) to call and examine witnesses;
- (b) to introduce written evidence;

- (c) to cross-examine witnesses on any matter relevant to the issue of the hearing; to challenge any witnesses;
- (d) to rebut any evidence;
- (e) to submit a written statement at the close of evidence;
- (f) to have a copy of the record of the proceedings upon payment of any reasonable charge associated with the preparation thereof;
- (g) to receive a copy of the written findings and recommendation of the Hearing Committee or Hearing Officer; and
- (h) if the Affected Practitioner does not testify on his own behalf, he/she may be called and examined as if under cross-examination.

Section 6.13. Recess/Adjournment. The Hearing Committee may, without special notice, recess the hearing and reconvene the same for the convenience of the participants or for the purpose of obtaining new or additional evidence. Upon conclusion of all evidence, the hearing shall be closed. The Hearing Committee may thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the Affected Practitioner for whom the hearing was convened. The Hearing Committee may recess the hearing at its conclusion until a transcript can be provided. After receipt of all of the written and oral evidence; written statements of the parties, if submitted to the Hearing Committee; the transcript of the hearing, if submitted to the Hearing Committee; and after the completion of the deliberations of the Hearing Committee, the hearing shall be adjourned.

Section 6.14. Hearing Committee Report and Recommendation.

6.14.1 Within thirty (30) days after final adjournment of the hearing, the Hearing Committee shall make a written report and recommendation. This report and recommendation shall be forwarded with the record of proceedings to whichever committee's action triggered the hearing, the Medical Executive Committee or Board of Directors,

6.14.2 A copy of the Hearing Committee's report and recommendation shall also be sent by certified mail, return receipt requested, to the Affected Practitioner.

6.14.3 The report may recommend confirmation, modification, or rejection of the original Adverse Recommendation. The body receiving the report shall, at a special meeting called to consider the matter or at its next regularly scheduled meeting after its receipt, but in any event no longer than forty-five (45) days after receiving it, review it.

6.14.4 A majority vote of the body present is required to modify or reject the original Adverse Recommendation. Written notice of the action taken shall be sent by certified mail, return receipt requested, to the Affected Practitioner. The recommendation will not be forwarded to the Board of Directors for final action until the Affected Practitioner has exercised or been deemed to have waived his right to an appeal.

Section 6.15. Appeal to the Board of Directors.

6.15.1 Time Period to Request an Appeal. Within fifteen (15) days after receipt of a notice by an Affected Practitioner of an Adverse Recommendation or decision made or adhered to by the Medical Executive Committee or Board of Directors after a hearing as provided above, he/she may request an appeal to the Board of Directors by mailing a written request for appellate review to the Board of Directors delivered through the Hospital President by certified mail, return receipt requested.

6.15.2 Grounds for Appeal. Such request for appellate review must list briefly all grounds upon which the appeal is based. Any grounds not listed are waived, and only those grounds listed will be considered on appeal. Such notice may request that the appellate review be held only on the record on which the Adverse Recommendation or decision is based, as supported by the Affected Practitioner's written statement provided for below, or may also request that oral argument be permitted as part of the appellate review. Oral arguments may be permitted in the sole discretion of the Board of Directors as part of appellate review.

6.15.3 Waiver of Appeal. If appellate review is not requested within fifteen (15) days, the Affected Practitioner shall be deemed to have waived his right to the same, and to have accepted such Adverse Recommendation or decision, and the same shall become effective immediately when acted upon by the Board of Directors.

6.15.4 Notice of Appellate Review Date. Promptly after receipt of request for appellate review, the Board of Directors shall schedule a date for such review, including a time and place for oral argument, if such has been requested and granted and shall, through the Hospital President, by written notice sent by certified mail, return receipt requested, notify the Affected Practitioner and Medical Staff representative of the same. The date of the appellate review shall not be fewer than thirty (30) days, nor more than sixty (60) days from the date of receipt of request for appellate review, except that when the Affected Practitioner requesting the review is under a suspension which is then in effect, such review shall be scheduled as soon as the arrangements may reasonably be made, but not more than thirty (30) days from the date of receipt of such request.

6.15.5 Appellate Committee. The appellate review shall be conducted by the Board of Directors or a duly-appointed appellate review committee of the Board of Directors of not fewer than three (3) Members.

6.15.6 Appellate Rights. The Affected Practitioner shall have access to record of proceedings including the hearing transcript, but shall pay the costs of preparing the transcript. He/she may submit a written statement in his own behalf, in which those factual and procedural matters with which he/she disagrees, and his reasons for such disagreement shall be specified. This written statement may cover any matters raised at any step in the procedure to which the appeal is related, and legal counsel may assist in its preparation. This written statement shall be confined solely to those grounds listed in the Affected Practitioner's request for appellate review. Such written statement shall be submitted to the Board of Directors through the Hospital President by certified mail, return receipt requested, at least five (5) days prior to the scheduled date for the appellate review. Failure

to submit the written statement within either of the above-listed time limits waives the Affected Practitioner's right to file such a statement. A similar statement may be submitted on behalf of the Medical Executive Committee, or the Chairperson of the Hearing Committee appointed by the Board of Directors, at least five (5) days prior to the scheduled date for appellate review.

6.15.7 Conduct of the Appeal. The Board of Directors or its appointed review committee shall act as an appellate body. It shall review the record created in the proceedings, and shall consider the written statements submitted for the purpose of determining whether the Adverse Recommendation or decision against the Affected Practitioner was justified and not arbitrary or capricious. If oral argument is requested and permitted as part of the review procedure, the Affected Practitioner shall be present at such appellate review and shall be permitted to speak against the Adverse Recommendation or decision. The Affected Practitioner shall answer questions put to him by any Member of the appellate review body. The Medical Staff or the Board of Directors, whichever is appropriate, shall also be represented by an individual who shall be permitted to speak in favor of the Adverse Recommendation or decision, and who shall answer questions put to him by any Member of the appellate review body. Both sides may be represented by counsel if they were so represented at the hearing.

6.15.8 Handling New Evidence. New or additional matters not raised during the original hearing or in the Hearing Committee report, nor otherwise reflected in the record, shall be introduced at the appellate review only under unusual circumstances, and the Board of Directors or the committee thereof appointed to conduct the appellate review shall in its sole discretion determine whether such new matters will be accepted. [See East/South]

6.15.9 Decision. If the appellate review is conducted by the Board of Directors, it may affirm, modify, or reverse the prior decision, or in its discretion, refer the matter back to the Medical Executive Committee for further review and recommendation within fifteen (15) days. Such referral may include a request that the Medical Executive Committee arrange for a further hearing to resolve specified disputed issues.

6.15.10 If the appellate review is conducted by a committee of the Board of Directors, such committee shall, within thirty (30) days after the adjourned date of the appellate review, either make a written report recommending that the Board of Directors affirm, modify, or reverse the prior decision, or refer the matter back to the Medical Executive Committee for further review and recommendation within fifteen (15) days. Such referral may include a request that the Medical Executive Committee arrange for a further hearing to resolve disputed issues. Within thirty (30) days after receipt of such recommendation after referral, the committee shall make its recommendation to the Board of Directors as above provided.

6.15.11 Conclusion. The appellate review shall not be deemed to be concluded until all of the procedural steps provided in the Bylaws have been completed or waived. Upon completion of the procedural steps, the Chairman of the Board of Directors or the presiding chairman of a committee appointed by the Board of Directors may, through written notice to the parties, deem the appellate review to be concluded. If the Board of Directors or

committee takes no action to conclude the appellate review, the review shall be determined to be concluded no later than fifteen (15) days after the completion of the procedural steps required by these provisions.

Section 6.16. Final Decision by Board of Directors.

6.16.1 Within thirty (30) days after the conclusion of the appellate review, the Board of Directors shall make its decision in the matter and shall send notice thereof to the Affected Practitioner, by certified mail, return receipt requested. If this decision is contrary to the Medical Executive Committee's last such recommendation, the Board of Directors shall refer the matter to the Joint Conference Committee for further review and recommendation within fifteen (15) days, and shall include in such notice of its decision a statement that a final decision will not be made until the Joint Conference Committee's recommendation has been received. At its next meeting after receipt of the Joint Conference Committee's recommendation, the Board of Directors shall make its final decision with like effect and notice as first above provided.

6.16.2 Notwithstanding any other provision of these Bylaws, no Affected Practitioner shall be entitled as a right to more than one hearing and one appellate review on any matter which shall have been the subject of action by the Medical Executive Committee, or by the Board of Directors, or by a duly authorized committee of the Board of Directors, or by both.

6.16.3 The Hospital or its authorized representative shall report to the Indiana Medical Licensing Board and National Practitioner Data Bank all final Adverse Actions taken by the Board of Directors in compliance with the Indiana Hospital Statute and the Health Care Quality Improvement Act of 1986. The Board's adoption of such Adverse Action as a final action shall only occur after the hearing and appeal process set forth in these Bylaws has been completed or waived.

6.16.4 Fraudulent, False or Omitted Material Information. An Affected Practitioner who has been denied membership on the Medical Staff because of fraudulent information, falsification of information, or material omission presented in the application process must wait two (2) years from the final action before applying again.

6.16.5 Reapplication After Denial. An Affected Practitioner who has been denied Membership on the Medical Staff by the Board of Directors may not make further application for membership for a period of one (1) year from the date of the letter of final denial. An application received after that one (1) year period must include evidence of a change in the circumstances which resulted in the denial. If such an application is accepted as complete and privileges are denied or limited, the Affected Practitioner shall have hearing and appeal rights.

6.16.6 An Affected Practitioner who has been denied clinical privileges by the Board of Directors may request such clinical privileges only if that Affected Practitioner can provide adequate documentation of additional education, training, and experience to qualify for privileges previously denied. If such an application is accepted as complete and privileges

are denied or limited based on competency, the Affected Practitioner shall have hearing and appeal rights.

ARTICLE VII.

REPORTING REQUIREMENTS

Section 7.1. Reporting to the National Practitioner Data Bank. All final professional review actions based on reasons related to professional competence or conduct adversely affecting Privileges for longer than thirty (30) days or voluntary surrender or restriction of Privileges while under, or to avoid, Investigation must be reported to the National Practitioner Data Bank ("NPDB"). The report must be made to the NPDB within thirty (30) days of the final decision of the Board. Precautionary suspensions lasting longer than thirty (30) days must be reported to the NPDB within thirty (30) days of date when the suspension reached the thirty (30) day mark. A copy of the NPDB report will be forwarded to the State licensing authority, if required. If the Member under Investigation resigns membership or privileges while the Investigation is underway, a report will be made to the NPDB within thirty (30) days of the resignation.

Section 7.2. Reporting to State Agencies. Pursuant to State law any substantial actions affecting Privileges will be reported immediately to the appropriate State licensing board or other state regulatory agencies by the Physician Executive or his designee.

COMMUNITY HOSPITAL EAST AND COMMUNITY HOSPITAL NORTH

Reviewed, revised, and adopted by vote of the Active Medical Staff on December ____,
2017. Approved by the Board of Directors on December/January __ , 2017/18.

By: _____
President of the Medical Staff of
Community Hospital East and
Community Hospital North.

By: _____
Chair, Board of Directors of
Community Hospital. East and
Community Hospital North