



Kaleida Health

**BYLAWS OF THE
MEDICAL AND DENTAL STAFF
OF
KALEIDA HEALTH**

TABLE OF CONTENTS

		<u>Page</u>
ARTICLE 1	DEFINITIONS.....	1
ARTICLE 2	MEMBERSHIP AND RIGHTS OF MEMBERS.....	2
ARTICLE 3	CATEGORIES OF STAFF.....	5
ARTICLE 4	APPOINTMENT AND REAPPOINTMENT PROCEDURE.....	9
ARTICLE 5	PRIVILEGES.....	15
ARTICLE 6	OFFICERS.....	16
ARTICLE 7	CLINICAL SERVICES.....	19
ARTICLE 8	COMMITTEES.....	22
ARTICLE 9	STAFF MEETINGS AND PROCEDURES.....	27
ARTICLE 10	ADOPTION AND AMENDMENT OF BYLAWS, RULES AND REGULATIONS AND POLICIES.....	28
ARTICLE 11	AUTOMATIC RELINQUISHMENT/VOLUNTARY RESIGNATION.....	29
ARTICLE 12	CORRECTIVE ACTIONS.....	31
ARTICLE 13	INITIATION AND NOTICE OF HEARING.....	35
ARTICLE 14	HEARING PANEL AND PRESIDING OFFICER OR HEARING OFFICER.....	38
ARTICLE 15	PRE-HEARING AND HEARING PROCEDURE.....	40
ARTICLE 16	APPEAL TO THE HOSPITAL BOARD.....	43

ARTICLE 1 DEFINITIONS

- 1.1 "Board of Directors" or "Board" shall mean the Board of Directors of Kaleida Health.
- 1.2 "Bylaws" shall mean the Bylaws of the Medical and Dental Staff of Kaleida Health.
- 1.3 "Kaleida Health" is the name of a domestic not-for-profit corporation licensed as a hospital under Article 28 of the Public Health Law.
- 1.4 "Chief Executive Officer" or "CEO" shall mean the Chief Executive Officer of Kaleida Health.
- 1.5 "Chief Medical Officer" shall mean the Executive Vice President for Medical Affairs and Chief Medical Officer of Kaleida Health.
- 1.6 "Chief of Service" shall mean the leader of a Clinical Service whose responsibilities include the clinical direction of the Clinical Service and such other duties or responsibilities as are specified in the Bylaws and the Rules and Regulations and Policies of the Staff.
- 1.7 "Dentist" shall mean a doctor of dental surgery or dental medicine.
- 1.8 "Hearing Procedure" shall mean the procedures set forth in Article 13 of the Bylaws.
- 1.9 "Hospital" shall refer to all hospitals, as defined in the New York State Public Health Law, including for example, general hospitals, long-term care facilities and diagnostic and treatment centers, operated solely by Kaleida Health.
- 1.10 "Medical Executive Committee" shall mean the Executive Committee of the Medical and Dental Staff.
- 1.11 "Member" shall mean a physician, dentist, podiatrist, advanced practice provider or other individuals who have been duly appointed to the Staff.
- 1.12 "NYCRR" shall mean the Official Compilation of Codes, Rules and Regulations of the State of New York.
- 1.13 "Physician" shall mean a doctor of medicine or a doctor of osteopathy.
- 1.14 "Rules and Regulations" shall mean the Rules and Regulations of the Medical and Dental Staff of Kaleida Health which are adopted by the Medical Executive Committee and approved by the Board of Directors pursuant to the provisions of Article 9 of the Bylaws.
- 1.15 "Staff" shall mean the Medical and Dental Staff of Kaleida Health.
- 1.16 "University" shall mean the State University of New York at Buffalo School of Medicine and Biomedical Sciences and School of Dental Medicine.

ARTICLE 2 MEMBERSHIP AND RIGHTS OF MEMBERS

- 2.1 Nature of Staff Membership. Membership on the Staff is a privilege which will be conferred by the Board after receipt of the Medical Executive Committee's recommendation, only upon professionally competent physicians, dentists, podiatrists, and other specified individuals, who continuously meet the qualifications, standards, and requirements set forth in the Bylaws, Rules and Regulations, and Policies of the Staff and Kaleida Health, consistent with the needs of Kaleida Health and its patients. Appointment to the Staff does not in itself confer clinical privileges. Both Staff Membership and specific clinical privileges are subject to approval by the Board of Directors in accordance with the Bylaws. The Bylaws, Rules and Regulations and Policies of the Staff do not create any contractual right on the part of a Member of the Staff in relationship to Kaleida Health.
- 2.2 Qualifications and Criteria for Membership.
 Only physicians, dentists, podiatrists and other specified individuals holding a license to practice in the State of New York who can sufficiently document their background, experience, training, physical and mental ability, present appropriate evidence of good judgment, individual character, clinical competence, adherence to the ethics of their profession, and ability to work with others to assure the Staff and the Board of Directors that any patient treated by them will receive care of a quality acceptable to the Hospital, shall be qualified for membership on the Staff. No individual is entitled to membership on the Staff or to the exercise of particular clinical privileges merely by virtue of licensure to practice in this or any other State or of Staff membership and/or privileges at another health care facility, or of membership in any professional organization. Current specialty Board certification by Boards approved by the American Board of Medical Specialties, the Royal College of Physicians and Surgeons of Canada, the Osteopathic Boards of the American Osteopathic Association and/or the American Dental Association is required for physicians, dentist and podiatrists. Certification by the appropriate specialty Board is required for other specified individuals holding a license to practice in the State of New York. The Board Certification requirement may be waived at the request of the practitioner, Clinical Service Chief or Chief Medical Officer to the Credentials Committee. If approved by the Credentials Committee, the waiver request will be sent to the Medical Executive Committee for final approval.
- 2.2.1 Satisfactory completion of residency training requirements in a recognized training program approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA), the American Podiatric Medical Association (APMA) or the American Dental Association is required for physicians, podiatric surgeons and dental specialists (including oral surgeons).
- 2.2.2 Applicants for membership on the Staff must agree to accept the responsibilities of membership as set forth in the Bylaws, Rules and Regulations, and Policies of the Staff and Kaleida Health.
- 2.3 Responsibilities of Staff Membership. Every Member of the Staff will:
- a. Provide his or her patient with continuous and appropriate care; arrange for suitable alternative coverage for his or her patients by a Member of the Staff when necessary; seek consultation when necessary or required by the rules of the Hospital or Clinical Service; and supervise the work of any Health Professional Affiliate under his or her direction.
 - b. Abide by the Bylaws, Rules and Regulations, Policies, and lawful standards of the Staff and Kaleida Health.
 - c. Accept assignments relating to Staff and Hospital activities and functions and conscientiously discharge any and all Staff, clinical service, committee, and Hospital functions for which he or she is responsible by virtue of appointment, election, or otherwise.

- d. Assist the Hospital in fulfilling its mission and responsibility to provide emergency and uncompensated care.
 - e. Act in a lawful, ethical and professional manner, including adherence to the ethical standards and principles set forth in the Codes of Ethics and Principles adopted by his or her profession or specialty and the laws of the State of New York and the United States of America.
- 2.4 Nondiscrimination. Staff membership or particular clinical privileges shall not be denied on the basis of age, sex, sexual orientation, gender identity or expression, physical appearance, race, color, creed, national origin, a disability unrelated to the ability to fulfill patient care and Staff responsibilities or any other criterion unrelated to the efficient delivery of quality patient care, to professional qualifications or to the needs of the community or to the purposes, needs, and capabilities of Kaleida Health.
- 2.5 Exemption from Liability. No Member of the Staff will incur any liability to Kaleida Health for informing a patient that he or she refuses to give advice with respect to, or participate in, any induced termination of pregnancy.
- 2.6 Application and Approval Process. The form, content and method of processing applications for appointment and reappointment to the Staff and requests for clinical privileges shall be prescribed in Article 5 of the Bylaws.
- 2.7 Duration of Appointment. Initial appointment to the Staff shall be to the Active Provisional Staff and shall be provisional and for a period of not more than two (2) years. Reappointment to any category of the Staff shall be for a period of not more than two (2) years.
- 2.8 Waiver of Qualifications. Any qualification for Staff membership may be waived at the discretion of the Medical Executive Committee upon consultation with the appropriate Chief of Service and with the approval of the Board of Directors upon determination that such waiver shall serve the best interests of the Kaleida Health and its patients.
- 2.9 Leave of Absence from Staff Membership.
- 2.9.1 Procedure. A Staff Member may request a leave of absence for a period not to exceed two (2) years, by written application stating the purpose of the request, accompanied by the written recommendation of the Chief of Service, to the Medical Executive Committee which will promptly notify the Board of Directors of its action on the request. Extension of a leave of absence shall be requested only once in the same manner. A Staff Member will not be required to pay dues during an approved leave of absence.
 - 2.9.2 Reinstatement. A Staff Member may be reinstated as follows:
 - a. The Staff Member shall request reinstatement of membership in the following manner: (i) if the period of absence did not exceed the unexpired duration of the Member's term of appointment, by forwarding a request on the prescribed reinstatement application form approved by the Medical Executive Committee, accompanied by written recommendation of the Chief of Service, to the Medical Executive Committee which will promptly notify the Board of Directors of its action on the request; or (ii) if the period of absence exceeded the unexpired duration of the Member's term of appointment, by applying for reappointment to the Staff.
 - b. Provided that the proper request for reinstatement has been made pursuant to the Bylaws, denial of a request for reinstatement will be considered an adverse action and will afford the Member the procedural rights set forth in the Fair Hearing Procedure.

- 2.10 Each Member has the right to request a meeting with the Medical Executive Committee by sending a written notice to the Medical Executive Committee requesting the meeting and stating the reason for the request. The Medical Executive Committee shall respond to such a request within ten (10) days following the next regularly scheduled meeting of the Medical Executive Committee, and shall inform the Member who made the request of the meeting date, time and place. Prior to making such a request, the Member will meet with his or her Chief of Service in an attempt to resolve the pertinent issues.
- 2.11 Any Member with voting rights has the right to initiate a recall election of a Medical Staff Officer by submitting a petition to the Medical Executive Committee signed by at least twenty percent (20%) of the Members of the Active Staff. Upon presentation of such a petition, the Medical Executive Committee will schedule a Special Staff Meeting for purposes of discussing the issue and (if appropriate) entertain a motion to recall the officer, which shall be effective only upon the affirmative vote of two-thirds (2/3) of the voting Members present or participating by teleconference at the Special Meeting called and held for that purpose in accordance with the procedures set forth in these Bylaws.
- 2.12 Any Member with voting rights may initiate the scheduling of a special Staff meeting. Upon presentation of a petition signed by at least five percent (5%) of the Members of the Active Staff, the Medical Executive Committee will schedule a special Staff meeting for the specific purpose addressed by the petition. No business other than as stated in the petition may be transacted.
- 2.13 An applicant or Member, as appropriate, has the right to a hearing/appeal pursuant to the Hearing Procedure, subject to the provisions, limitations and exceptions set forth in the Bylaws, Rules and Regulations and Policies of the Staff, in the event any of the following actions are taken or recommended:
- a. Denial of initial Staff appointment;
 - b. Denial of reappointment to the Staff;
 - c. Denial, upon application for reappointment, of requested appointment to Active Staff status;
 - d. Denial of reinstatement as a Staff Member;
 - e. Denial or restriction of requested privileges, except as provided in Section 4.7;
 - f. Involuntary reduction or limitation of privileges;
 - g. Revocation of privileges;
 - h. Imposition of conditions on membership or privileges;
 - i. Revocation of Staff appointment, except as provided in Section 13.2;
 - j. Suspension of Staff appointment or privileges, except as otherwise proved in these Bylaws.
- 2.14 Affirmative Duty to Report. An individual provider must promptly report in writing to the Credentials Committee Chairperson and the Chief Medical Officer any action taken by an licensing Board, third party payer, licensed or certified health system or facility (i.e., other hospitals), professional liability insurance company, court or government agency regarding any action that impairs, adversely affects, limits or restricts the individual's ability to practice, including without limitation, any limitation, restriction, suspension or revocation of the individual's license to practice, Drug Enforcement Agency (DEA) certification (if applicable), and/or participation in any federal and/or state healthcare program. As a result, the individual's appointment and clinical privileges may be the subject of a precautionary suspension or restriction under Section 12.2 of the Bylaws.

ARTICLE 3 CATEGORIES OF STAFF

3.1 Categories. The Staff shall consist of an Active Staff, Associate Staff, Courtesy Staff, Emeritus Staff and Advanced Practice Provider Staff.

3.1.1 Active Staff.

3.1.1.1 Qualifications. The Active Staff shall consist of practitioners, each of whom have completed at least two (2) years of satisfactory performance as an Associate Staff Member and who actively participate in patient care at Kaleida Health, or other activities of Kaleida Health:

- a. Meets the qualifications stated in these Bylaws;
- b. Demonstrates an interest in and commitment to Kaleida Health through patient care activities, providing his or her primary practice at Kaleida Health and/or the provision of services to Kaleida Health Medical and Dental Staff activities and functions and performs such other obligation and duties as are assigned to him or her by the President of the Medical and Dental Staff, the Medical Executive Committee or his or her Clinical Director;
- c. Actively participate in Performance Improvement/Risk Management activities at Kaleida Health;
- d. Contributes to the organizational and administrative activities of the Kaleida Health Medical and Dental Staff, including department or committee duties as elected or appointed; and
- e. Fulfills obligations of monitoring, on-call emergency care and back up coverage.

3.1.1.2 Prerogative of Active Staff. An Active Staff member may:

- a. Admit patient to the Hospital if the practitioners delineation of privileges provides admitting privileges, and exercise such privileges as are granted pursuant to these Bylaws;
- b. Vote on all matters presented at general and/or special meetings of the Staff and of the clinical services and committee to which he or she is appointed; and
- c. Is eligible to hold Staff Office.

3.1.1.3 Obligations and Responsibilities. In order to remain on the Active Staff, an individual must:

- a. Assume and carry out obligations and responsibilities within his or her area of professional competence for the daily care and supervision of each patient in Kaleida Health for whom he or she is providing service. Each Active Staff member is responsible for completion of all necessary medical records in a timely fashion, and arrangement for a suitable alternative appointee on the Kaleida Health Medical and Dental Staff to provide such care and supervision during any absence or unavailability;
- b. Assume service for emergency care and care for unreferral patients, in accordance with applicable laws and regulations, including Federal Emergency Medical Treatment and Active Labor Act, Medical and Dental Staff committees and departmental responsibilities at the discretion of the President of the Medical and Dental Staff and the Chief of Service. It is expected that each member of the Active Staff will be required to be "on-call" unless excused from such duty by the Chief Medical Officer, the President of the Medical and Dental Staff, or the Medical Executive Committee. The "on call" schedule is service specific and the creation of the schedule is the responsibility of the Chief of Service.

- c. Actively participate in recognized functions of the Staff appointment process, including quality-performance improvement, risk management and monitoring activities, including monitoring of new appointees during the provisions period and in discharging other Staff functions as may be required from time to time; and
- d. Pay fees and/or dues in an amount established by the Medical Executive Committee.

3.1.2 Associate Staff.

3.1.2.1 Qualifications. Associate Staff shall consist of Staff Members who have not completed their initial appointment to the Staff of not more than two (2) years as well as Staff Members who have completed the above, but who either do not actively and regularly participate in patient care at Kaleida Health, or do not participate in other activities of Kaleida Health. "Actively and regularly participate in patient care at Kaleida Health" shall mean to be involved in more than twenty (20) patient contacts, defined as admissions, patient evaluations or procedures, at the Hospital, per year. An Associate Staff Member will be moved to membership on the Active Staff when the physician has more than twenty (20) patient contacts in a calendar year.

3.1.2.2 Prerogatives of Associate Staff. An Associate Staff Member may:

- a. Admit patient to the Hospital if the practitioners delineation of privileges provides admitting privileges, and exercise such privileges as are granted pursuant to these Bylaws;
- b. May attend Staff and Clinical Service meetings.
- c. Associate Staff Members are eligible to vote and hold Staff office.

3.1.2.3 Obligations and Responsibilities. Each Member of the Associate Staff shall:

- a. Discharge the basic responsibilities of membership on the Staff;
- b. Pay any dues assessed by the Staff;
- c. Participate, if asked, as a member of a Staff committee; and
- d. If required, attend Clinical Service meetings.

3.1.3 Courtesy Staff.

3.1.3.1 Qualifications. Courtesy Staff shall consist of Staff members who are qualified for membership on the Staff pursuant to the provisions of Section 2.2 of the Bylaws but who do not request membership in the Active or Associate Staff categories or who have had no patient contacts since the date of last reappointment. A Courtesy Staff Member is required to establish an arrangement or relationship with an Active or Associate Member who shall admit, manage, and attend to patients referred by the Courtesy Staff Member to the Hospital.

3.1.3.2 Prerogatives of Courtesy Staff:

- a. May not admit patients to the Hospital but it is expected that he or she will discuss the patient's admission and patient management with the Active or Associate Staff Member who is to attend to hospitalized patients referred by the Affiliate Staff Member. No procedural, consultative, or other clinical privileges are available to Courtesy Staff Members.
- b. May attend Staff and Clinical Service meetings, serve on committees but are not eligible to vote or to hold Staff Office.

3.1.3.3 Obligations and Responsibilities. Members of the Courtesy Staff shall pay any fees and/or dues established by the Medical Executive Committee.

3.1.4 Emeritus Staff.

3.1.4.1 Qualifications. Emeritus Staff membership shall be conferred by the Board upon individuals who are recognized and recommended by the Medical Executive Committee for their outstanding reputations, their distinguished contributions to the health and medical sciences and/or their previous long-standing exemplary service to the Staff.

3.1.4.2 Prerogatives. Unless otherwise determined by the Medical Executive Committee, an Emeritus Staff Member:

- a. Is not eligible to admit patients to the Hospital or to exercise clinical privileges in the Hospital.
- b. May attend Staff and Clinical Service meetings, but is not eligible to vote or to hold a Staff office and are not required to attend meetings or to pay dues or assessments.
- c. May be appointed to medical staff committees or Ad Hoc committees of the Medical and Dental Staff.

3.1.5 Advanced Practice Providers.

3.1.5.1 Qualifications. An Advanced Practice Provider is an individual, who is a voting Member of the Staff, who is licensed by the State of New York and trained in some aspect of health care and who may be allowed pursuant to contract, employment, or otherwise, to perform specified services to patients. Recognizing the responsibility of the Staff to monitor and account to the Board for the quality of patient care services at the Hospital, the Medical Executive Committee shall recommend to the Board, for its approval, an Advanced Practice Provider Policy which will identify: (i) categories of Advanced Practice Providers who may perform patient care services; (ii) the criteria and procedures to be utilized in authorizing Advanced Practice Providers to perform patient care services; (iii) the responsibilities and prerogatives of Advanced Practice Providers; (iv) the criteria and procedures for taking disciplinary action against Advanced Practice Providers; and (v) the procedural rights of Advanced Practice Providers against whom disciplinary action has been taken. No Advanced Practice Provider shall be permitted to perform patient care services without supervision in the Hospital except as authorized by the Advanced Practice Provider Policy. Advanced Practice Providers will be represented on the Medical Executive Committee by one (1) voting member chosen by a vote from the members of the Advanced Practice Provider medical staff.

3.1.5.2 Prerogatives. Advanced Practice Providers may:

- a. Provide specified safe patient care, treatment and services under the supervisions and direction of an Active Medical Staff Member and consistent with the standardized procedures or protocols granted to the Advanced Practice Provider and within the scope of practice of the Advanced Practice Provider's licensure or certification; and
- b. Attend Staff and Clinical Service meetings, serve on committees and are eligible to vote for Advanced Practice Provider Medical Executive Committee representation. They are not eligible to hold Staff Office.
- c. Nurse Practitioners and Physician Assistants have limited admitting privileges for patients in ambulatory surgery status or observation status.

3.1.5.3 Obligations and Responsibilities. Members of the Advanced Practice Provider Staff shall:

- a. Abide by the Advanced Practice Providers Policy, Rules and Regulations of the Kaleida Health Medical and Dental Staff, the Policies, Rules and Regulations of the Department in which he or she participates, and other policies of the Kaleida Health Medical and Dental Staff and Hospital adopted by the Medical Executive Committee and Board of Directors; and
- b. Pay any fees and/or dues established by the Medical Executive Committee.

ARTICLE 4 APPOINTMENT AND REAPPOINTMENT PROCEDURE

- 4.1 Procedure. This procedure shall apply to all: (a) applications for appointment and reappointment to the Staff; (b) requests for reinstatement after a leave of absence from the Staff; and (c) requests for privileges.
- 4.2 Application for Initial Appointment and Reappointment. Each application for appointment or reappointment to the Staff shall be in writing and submitted on the prescribed form as established by the Medical Executive Committee and approved by the Board of Directors. Each application shall include at least the following information:
- a. Nature of request;
 - b. Qualifications, including licensure, education and training;
 - c. Experience, including present and prior affiliations;
 - d. Requested delineation of privileges and supporting documentation;
 - e. Documentation of current health status and any additional training as required by New York State and other regulatory agencies;
 - f. Professional Liability coverage and detailed professional liability history (Kaleida Health should be listed on the Certificate of Insurance cover sheet as the Certificate Holder.);
 - g. Professional sanctions, misconduct proceedings, and criminal actions;
 - h. Professional references that can attest to current competence. References are colleagues within the provider's scope of understanding/responsibility. (Advanced Practice Professionals references can be another APP or a Physician);
 - i. Acknowledgment, agreement, authorization and verification statements;
 - j. Application processing fee
 - k. All other information sought on the prescribed form approved by the Board of Directors.
- 4.3 Application Process.
- 4.3.1 Definitions.
- 4.3.1.1 Expedited Application. This is an application or reapplication that does not raise concerns as identified in the criteria for Non-expedited Applications below.
- 4.3.1.2 Non-expedited Application. This is an application or reapplication for which one or more of the following criteria was identified during the review of a completed and verified application. Criteria for making an application non-expedited include but are not limited to:
- a. The applicant is found to have experienced an involuntary termination of medical staff membership or involuntary limitation, reduction, denial or loss of clinical privileges at another organization or has a current challenge or a previously successful challenge to licensure or registration;
 - b. Applicant is or has been, under investigation by a state medical Board or has prior disciplinary actions or legal citations;
 - c. Applicant has had more than two or an unusual pattern of malpractice cases filed or one final adverse judgment or settlement in a professional liability action within the past five (5) years;
 - d. Applicant changed medical schools or residency program or has gaps in training or practice;
 - e. Applicant has changed practice location more than three times in the past year;

- f. Applicant has practiced or been licensed in three (3) or more states;
- g. Applicant has one or more reference responses that raise questions or concerns;
- h. Discrepancy is found between information received from the applicant and references on verified information;
- i. Applicant has an adverse National Practitioner Data Bank report;
- j. The request for privileges is not reasonable based upon applicant's experience, training, and demonstrated current competence, and/or is not in compliance with applicable criteria;
- k. Applicant has been removed from a managed care panel for reasons of professional quality or conduct;
- l. Applicant has potentially relevant physical, mental, and/or emotional health problems; or
- m. Other reasons as determined by the medical staff leadership that raise questions about the qualifications, competency, professionalism, or appropriateness of the applicant for membership or privileges.

- 4.3.2 Applicant's Burden. Each applicant will have the burden of producing adequate information for complete evaluation of his or her application and proving that the applicant meets the qualifications for membership under Section 2.2 of these Bylaws.
- 4.3.3 Verification of Information. The applicant will deliver a completed application to the Staff Office. Staff administrators will, in timely fashion, seek to verify information from the primary source(s), whenever feasible and required, and will request information from the National Practitioner Data Bank. The Medical Staff Office (MSO) will promptly notify an applicant of any problems in obtaining required information. An initial determination of Expedited or Non-expedited will be made by the MSO staff. When the collection and verification process is complete, the MSO shall submit the application and supporting materials to the appropriate Chief of Service for review and recommendation.
- 4.3.4 Chief of Service Action. The appropriate Chief of Service shall submit his or her written recommendation and the reasons for that recommendation to the Credentials Committee. If the application was initially reviewed as Expedited, the Chief of Service can disagree and the application becomes Non-expedited. Expedited New Appointments, Expedited Reappointments and Privileges are activated upon review and approval by the Chief of Service. If the MSO determines that the application meets the criteria for Non-Expedited, the Chief of Service will review the file and make recommendations. The Chief of Service is not permitted to change a file from Non-Expedited to Expedited without the approval of the Credentials Committee.
- 4.3.5 Credentials Committee Action. The Chairman of the Credentials Committee will review the application, supporting documentation, Chief of Service recommendation, and any other relevant information. The Chairman reviews the check list completed by the MSO and verifies the privileges requested are appropriate. If the Chairman determines there are no Non-Expedited issues and concludes that the application continues to meet expedited criteria, he or she will approve for the full Credential Committee and send it on to the Medical Executive Committee directly. If the Chairman determines any discrepancy or issue, the file will be returned to the MSO to research and rectify. The Expedited New Appointment, Reappointment or privilege(s) will be inactivated until the file is reviewed again by the appropriate Chief of Service. The provider is immediately notified if their application and/or privileges are inactivated. A change to Non-Expedited status may also be recommended by the Chairman. If the application is designated as Non-Expedited, a member of the Credentials Committee will review the application and present the provider to the full Credentials Committee. The Credentials Committee will make a recommendation to the Medical Executive Committee.
- 4.3.6 Medical Executive Committee Action. The Medical Executive Committee will consider the Credentials Committee's recommendations and such other information available to it and will submit its recommendation and reasons for their recommendation in writing to the Board of Directors. If the Medical Executive Committee action is an unfavorable recommendation as defined in Article 12 of these Bylaws, a Notice of Reasonable Cause shall be sent to the applicant in accordance with the Hearing Procedure.
- 4.3.7 Action by Board of Directors. The Board of Directors shall consider the Medical Executive Committee's recommendation and take such action as it deems appropriate. If the Board action approves an unfavorable recommendation as defined in Article 13 of these Bylaws, a Notice of Reasonable Cause shall be sent to the applicant in accordance with the Hearing Procedure. All applications will be reviewed by either the Full Board or a two-person subcommittee of the Board. If the subcommittee or the full Board approves the Medical Executive Committee's recommendation to approve an application, the application is approved and requested membership is confirmed.

- 4.4 Time Periods for Processing Application. Upon receipt of a completed application, the review and appointment process shall not exceed 180 days, except for good cause.
- 4.5 Length of Appointment/Reappointment. Initial appointments will be provisional and will be for no more than two years. Reappointments will be for no more than two years and will occur during the month of the applicant's birth date.
- 4.6 Provisional Appointment. When an application is complete without any negative or adverse information as listed in 4.3.1.2 Non-Expedited Application and meets the criteria for Expedited Processing as outlined in 4.3.1.1 Expedited Application, provisional privileges may be granted for a defined period of time not to exceed 120 days upon approval of the Chief of Service. Upon approval from the Medical Executive Committee and the Board, the provisional designation will end and the applicant will be considered a member of the Medical Staff.
- 4.7 One-Time Emergent Privileges. A request for emergency privileges may be made by an applicant or her or his Chief of Service. Emergency privileges may be granted by the Chief of Service of the department in which the privileges will be exercised provided that there is primary verification of the applicant's current licensure and current competence. The site Chief Medical Officer will be responsible for the final approval. If the applicant's application has been determined to meet the definition of non-expedited, Emergency Privileges are not permitted unless approved by both the Kaleida Health CMO and President of the Kaleida Health Medical Staff. The applicant will pay fees in an amount established by the Medical Executive Committee.
- 4.7.1 Important patient care need. Emergency privileges may be granted on a case-by-case basis when an important patient care need exists that mandates an immediate authorization to practice, for a limited period of time. For the purposes of granting emergency privileges, an important patient care need is defined as including the following:
- a. A circumstance in which one or more individual patients will experience care that does not adequately meet their clinical needs if the emergency privileges under consideration are not granted (e.g., a patient scheduled for urgent surgery would not be able to undergo the surgery in a timely manner); or
 - b. A circumstance in which the Hospital will be placed at risk of not adequately meeting the needs of patients who seek care from the Hospital if the emergency privileges under consideration are not granted (e.g., the Hospital will not be able to provide adequate emergency room coverage in the practitioner's specialty, or the Board has granted privileges involving new technology to a physician on staff with the provision that the physician is precepted for a specific number of initial cases and that the precepting physician, who is not seeking medical staff membership, requires temporary privileges to serve as a preceptor); or
 - c. A circumstance in which a group of patients in the community will be placed at risk of not receiving patient care that meets their clinical needs if the emergency privileges under consideration are not granted (e.g., urgent coverage for a physician who has a large practice in the community for which adequate coverage of hospital care for its patients cannot otherwise be arranged).
- 4.7.2 Criteria for granting emergency privileges in these circumstances include the applicant providing evidence of the following information, which has been verified by the hospital:
- a. A written request indicating what procedure the applicant will be performing to include the date of procedure, location and patient's initials
 - b. Copy of CV
 - c. NYS State License

- d. Current Professional Liability coverage and detailed professional liability history. (Kaleida Health should be listed on the Certificate of Insurance cover sheet as the Certificate Holder.)
- e. ECFMG Certificate (if applicable)
- f. Copy of primary hospital current privileges
- g. Complete history & physical, including Rubella, Rubeola, & PPD
- h. Database profiles from OMIG, OIG, and OPMC.
- i. NPI Number
- j. American Board Verification
- k. National Practitioners Data Bank
- l. Background Check

4.7.3 Emergency privileges at reappointment. Emergency privileges are not to be used at reappointment and may not be used in the following situations:

- a. The applicant fails to provide all information necessary to the processing of his or her reappointment in a timely manner.
- b. The MSO fails to verify performance data and information in a timely manner.
- c. The applicant meets the criteria for Non-Expedited.

4.7.4 Rights of the practitioner with emergency privileges. An applicant is not entitled to the procedural rights afforded by the Kaleida Health Medical and Dental Staff Bylaws if his or her request for emergency privileges is refused.

4.7.5 Emergency Situations. In the case of an emergency, any practitioner, to the degree permitted by his or her license, and regardless of Clinical Service or Staff status or privileges, will be permitted to do, and will be assisted by Hospital personnel in doing, everything possible to save the life of a patient or to save a patient from serious harm. For the purposes of this section, an emergency is defined as a condition in which serious or permanent harm could result to a patient, or in which the life of a patient is in immediate danger and any delay in administering treatment, could add to that harm or danger.

4.8 Telemedicine.

4.8.1 Definitions.

- a. "Telemedicine" shall mean the use of electronic communication or other communication technologies to provide or support clinical care from a distance.
- b. "Telemedicine Practitioner" shall mean the licensed independent practitioner(s) who has either total or shared responsibility for patient care, treatment, and services (as evidence by having the authority to write orders and direct care, treatment and services) through a telemedicine link.
- c. "Interpretive Services" shall mean the site where the patient is located at the time service is provided.
- d. "Originating Site" shall mean the site where the practitioner providing the professional service is located.
- e. "Distant Site" shall mean the site where the practitioner providing the professional service is located.

4.8.2 Credentialing and Privileging Telemedicine Practitioners.

The originating site has the responsibility to credential and privilege telemedicine practitioners through one of the following mechanisms:

- a. Kaleida Health may fully credential and privilege the practitioner according to the process outlined in its credentialing procedures; OR

- b. Kaleida Health may privilege telemedicine practitioners by using the credentialing information from a distant site provided the site (hospital or ambulatory care organization) is accredited by an appropriate accrediting authority which made its decision using a process comparable to the standards of the Kaleida Health Medical Staff, and if the distant site is a Medicare-participating hospital:
 - i. Kaleida Health may use a copy of the distant site's credentialing packet. The distant site's credentialing packet must include a list of all privileges granted; and
 - ii. The distant site must sign an attestation that the credentialing packet is complete, accurate and up to date

4.9 Training Clinical Privileges.

- 4.9.1 A request for Training Clinical Privileges to receive training must be made in writing by the appropriate Clinical Service Chief. Such privileges will be granted upon the written concurrence of the President of the Medical and Dental Staff and the Chief Medical Officer, who shall review and consider the clinical competency of the applicant. The granting of training privileges does not confer any rights or privileges of Membership on the Medical and Dental Staff. In the event the applicant's request for Training Clinical Privileges is denied or the privileges are terminated, such an action would not constitute facts or circumstances which would be considered a limitation of privileges resulting in a report to the Office of Professional Medical Conduct (OPMC) or the equivalent regulatory body of the state in which the applicant is licensed.
- 4.9.2 The request must include a copy of the practitioner's current NYS license (or other state license as allowed by the New York State Education Department), as well as satisfactory evidence of adequate professional liability insurance coverage, a copy of the practitioner's CV, documentation of the practitioner's current privileges and verification of a recent health review with PPD test and results.
- 4.9.3 On a case-by-case basis, in the event a non-Member physician is granted a Training Clinical Privilege to assist a physician Staff Member in a patient procedure, the patient must be informed that a non-Member physician will be assisting in patient's procedure. The physician Staff Member must obtain the informed consent signed by the patient before the procedure, and provide the signed informed consent to the Chief of Service for the Clinical Service to attest the patient has been properly informed that a training non-Member physician will assist in the patient procedure. Physician Staff Member's failure to obtain the patient's signed informed consent will prohibit the non-Member physician from assisting in patient's procedure.
- 4.10 Organ Procurement. Those practitioners from outside organ procurement organizations designated by the Secretary, U.S. Department of Health and Human Services, engaged solely at the hospital in the harvesting of tissues and/or other body parts for transplantation, therapy, research or educational purposes pursuant to the Federal Anatomical Gift Act and the requirements of section 405.25 of this part, are exempt from the requirement to obtain Staff privileges.

ARTICLE 5 PRIVILEGES

- 5.1 Procedure. This procedure shall apply to all: (a) applications for appointment and reappointment to the Staff and requests for new/additional privileges
- 5.1.1 Requests for privileges shall be in writing. Each request shall include at the least the following information:
- a. Nature of request
 - b. Qualifications, including education and training
 - c. Supporting documentation
 - d. All other information as needed.
- 5.2 Chief of Service Action. The appropriate Chief of Service shall submit his or her written recommendation and the reasons for that recommendation to the Credentials Committee Chairman. The privilege will be added to the applicant's delineation of privileges upon the Chief of Service approval. If the Chief of Service denies the request for privileges due to inadequate qualifications, the applicant will be notified in writing to submit the appropriate qualifications or the request will be considered voluntarily withdrawn.
- 5.3 Credentials Committee Action. The Credentials Committee Chairman will consider the Chief of Service recommendation and such other information available and will approve the privileges for the full Credential Committee and send it on to the Medical Executive Committee directly. If the Chairman of the Credentials Committee denies the request for privileges, the Chief of Service will be notified along with the applicant.
- 5.4 Medical Executive Committee Action. The Medical Executive Committee will consider the Credentials Committee's recommendation and such other information available to it and will submit its recommendation in writing to the Board of Directors. If the Medical Executive Committee action is an unfavorable recommendation as defined in Article 12 of these Bylaws, a Notice of Reasonable Cause shall be sent to the applicant in accordance with the Hearing Procedure.
- 5.5 Board of Directors Action. The Board of Directors shall consider the Medical Executive Committee's recommendation and take such action as it deems appropriate. If the Board action is an unfavorable recommendation as defined in Article 12 of these Bylaws, a Notice of Reasonable Cause shall be sent to the applicant in accordance with the Hearing Procedure.

ARTICLE 6 OFFICERS.

- 6.1 Identification. The Officers of the Staff will be the President, President Elect, Treasurer, Secretary, and Immediate Past President.
- 6.2 Qualifications of Officers. Officers must be Members of the Active or Associate Staff at the time of nomination and election and must remain so in good standing during their terms of office. They may not presently be serving as a Medical and Dental Staff officer or corporate officer at another medical center or be employed full-time by another hospital. Failure to maintain such status will immediately create a vacancy in the office involved.
- 6.3 Nomination and Election of Officers and At-Large Members of the Medical Executive Committee.
- 6.3.1 Nomination Process. At least three (3) months prior to an election, the Medical Executive Committee, upon recommendation of the President of the Medical and Dental Staff, shall appoint a Nominating Committee to identify and recommend to the Staff, qualified individuals to nominate for service as Officers and at-large members of the Medical Executive Committee.
- 6.3.2 Nominating Committee. The Nominating Committee shall consist of at least five (5) Members of the Active Staff. No more than two (2) members of the Medical Executive Committee may serve on the Nominating Committee at one time. Additional qualifications for members of the Nominating Committee may be established by the Medical Executive Committee. The Nominating Committee shall offer one or more nominees for each of the offices of President Elect, Secretary and Treasurer and two (2) or more nominees for each position of at-large member of the Medical Executive Committee to be filled, and shall publish the names of nominees at least twenty (20) days before written ballots are mailed to the Members of the Active Staff. At least forty-five (45) days prior to publishing the names of nominees, the Nominating Committee shall receive the names of the Chief of Services selected to serve on the Medical Executive Committee pursuant to Section 8.1.1.1. The Nominating Committee shall also provide advice and recommendations to the President of the Medical and Dental Staff with respect to his or her appointment of members of the Credentials Committee.
- 6.3.3 Election. Officers and at-large members of the Medical Executive Committee shall be elected by the Members of the Active Staff. Voting shall be conducted by written ballot by mail pursuant to procedures adopted by the Medical Executive Committee. Write-in candidates shall be permitted. A nominee will be elected to office upon receiving a plurality of the valid votes cast.
- 6.4 Term of Office. Each Officer will serve a term of two (2) years and no Member may serve more than two (2) consecutive terms in a particular office. Each Officer will serve until the end of his or her term and until a successor is elected. The President Elect will automatically become President of the Medical and Dental Staff. 6.5 Vacancies. Vacancies in office other than the President shall be filled by the Medical Executive Committee from one or more nominees selected by the Nominating Committee. If there is a vacancy in the office of President, the President Elect will serve the remainder of the term.

6.6 Duties.

- 6.6.1 President. The President shall serve as the chief administrative officer of the Staff and will perform the following duties:
- a. Serve as a member of the Board of Directors and represent the Staff through attendance and voice at meetings of the Board.
 - b. Serve as a voting member of the Medical Executive Committee; preside at all meetings of the Staff and of the Medical Executive Committee and schedule Special Meetings of the Staff and the Medical Executive Committee, as necessary.
 - c. Appoint the membership of committees of the Staff other than the Medical Executive Committee and serve as ex officio member of all Staff committees.
 - d. Enforce the Bylaws, Rules and Regulations and Policies of the Staff.
 - e. Receive and communicate the policies of the Board of Directors to the Staff.
 - f. Report to the Staff at the annual meeting of the Staff and as necessary on the status of Staff activities and issues.
 - g. Communicate and present the opinions, policies, concerns and needs of the Staff to the Board.
- 6.6.2 President Elect. The President Elect will be a voting member of the Medical Executive Committee.
- a. In the absence of the President, will assume the duties and have the authority of the President.
 - b. Shall perform such additional duties as the Medical Executive Committee or President shall assign.
 - c. Shall attend Peer Review Committee meetings as a voting member.
- 6.6.3 Treasurer. The Treasurer will be a voting member of the Medical Executive Committee and will perform the following duties:
- a. Oversee the collection annual dues and special assessments as authorized by the Staff.
 - b. Pay all bills and invoices properly incurred by the Staff and maintain adequate books and records of all financial transactions of the Staff.
 - c. Present an audit of the funds of the Staff at the Spring meeting of the Staff.
 - d. Submits quarterly reports to the Medical Executive Committee.
 - e. Shall attend Credentials Committee meetings as a voting member.
- 6.6.4 Secretary. The Secretary will be a voting member of the Medical Executive Committee and will perform the following duties:
- a. Supervise the preparation of accurate and complete minutes of meetings of the Staff and the Medical Executive Committee.
 - b. Supervise the correspondence of the Staff and the Medical Executive Committee and maintain adequate records, correspondence, reports, minutes and related documents of the Staff and its committees.
 - c. Shall attend the APP Committee Meetings as a voting member.
 - d. Give proper notice of all Staff meetings.
 - e. Oversee the maintenance of a correct list of all Staff Members.

6.7 Removal from Office.

6.7.1 Grounds. Removal of an Officer shall be for any one (1) or more of the following reasons, without limitation:

- a. Failure to perform the duties or fulfill the responsibilities assigned to the office in a timely and appropriate manner;
- b. Failure to continuously satisfy the qualifications of the office;
- c. Incapacity by reason of physical or mental infirmity;
- d. Conducting oneself in a manner which is damaging to the best interests of the Staff or Kaleida Health or their respective goals, programs or public image.

6.7.2 Procedure. A Staff Officer may be removed by:

- a. The Staff through a two-thirds (2/3) majority vote by secret ballot of those present, or participating by teleconference, at a meeting of the Staff called for that purpose; or
- b. The Board, but only after the Board has referred the matter to a special committee and received that committee's report recommending removal of the Staff Officer. The special committee shall be composed of the Chief Medical Officer and three (3) representatives each of the Board and the Staff. The Chair of the Board shall choose the representatives of the Board and Medical Executive Committee shall choose the representatives of the Staff.

ARTICLE 7 CLINICAL SERVICES.

- 7.1 Organization of Staff. The Staff shall be organized into Clinical Services which will each be directed by a Chief of Service who shall be responsible to the Chief Medical Officer for administration of the Clinical Service and the general supervision of clinical practice and teaching activities within the Clinical Service. Each Member of the Staff will be assigned membership in at least one Clinical Service, but may be granted clinical privileges in more than one Clinical Service. The exercise of clinical privileges within the Clinical Service shall be subject to the rules and regulations of that Clinical Service and to the authority of the Chief of Service, as provided in the Bylaws.
- 7.2 Delineation of Clinical Services. The Staff shall be divided into the following Clinical Services:
- Anesthesiology
 - Dentistry and Oral and Maxillofacial Surgery
 - Dermatology
 - Emergency Medicine
 - Family Medicine
 - Gynecology and Obstetrics
 - Internal Medicine and Radiation Oncology
 - Neurology
 - Neurosurgery
 - Ophthalmology
 - Orthopedics
 - Otolaryngology
 - Pathology
 - Pediatric Surgical Services (Cardiovascular, General, Neurosurgery, Ophthalmology, Orthopedics, Otolaryngology, Plastic and Urology)
 - Pediatrics
 - Psychiatry and Behavioral Medicine
 - Radiology and Nuclear Medicine
 - Rehabilitation Medicine
 - Surgery
 - Thoracic/Cardiovascular Surgery
 - Urology
- 7.3 Responsibilities of the Clinical Services. The primary responsibility delegated to each Clinical Service is to review and evaluate the provision of patient care in order to preserve and continuously improve the quality and efficiency of patient care provided in the Clinical Service. To carry out this responsibility, each Clinical Service will: (a) account to the Chief Medical Officer for all professional and administrative activities of the Clinical Service; (b) formulate and recommend guidelines and criteria for the granting of clinical privileges within the Clinical Service to the Credentials Committee; (c) submit recommendations pursuant to the Bylaws, regarding the specific privileges each Staff Member or applicant may exercise; (d) conduct continuing review of the clinical care and professional performance of all Members of the Clinical Service and Advanced Practice Providers having privileges in the Clinical Service; (e) formulate rules, regulations, policies and procedures regarding the operations and membership of the Clinical Service, subject to approval by the Medical Executive Committee and the Board of Directors; (f) encourage and supervise teaching and research programs; (g) meet, as often as necessary, to provide a forum for discussion of the needs and concerns of the Members of the Clinical Service; and (h) formulate guidelines for covering emergency room and unreferred patients and in-patient consults in a timely fashion.

7.4 Chief of Service.

- 7.4.1 Qualifications. Each Chief of Service shall be a Member of the Active Staff, willing and able to discharge the functions of the office, and shall either be certified by an appropriate specialty Board or possess equivalent qualifications as determined by the Medical Executive Committee.
- 7.4.2 Selection and Appointment. A Chief of Service shall be selected and appointed for each Clinical Service by the Chief Medical Officer with advice from the Medical Executive Committee pursuant to the procedures set forth in this Section and shall serve until such time as a successor Chief of Service is appointed or until discharged by the Chief Medical Officer. The appointment of a Chief of Service for a Clinical Service that has a University residency program shall be made in accordance with the applicable provisions of the affiliation agreement between Kaleida Health and the University.
- 7.4.2.1 Selection Committee. A Selection Committee composed of the Chief Medical Officer, the President of the Medical and Dental Staff and the Site Chief Medical Officers shall supervise and facilitate the nomination for appointment of Chiefs of Service, and the evaluation of Chiefs of Service for reappointment. The Selection Committee shall be responsible for obtaining appropriate input from the Clinical Service prior to appointment or reappointment of a Chief of Services.
- 7.4.2.2 Medical Executive Committee Action. The Medical Executive Committee shall receive and review the nomination for Chief of Service from the Selection Committee and shall transmit its comments and confirmation of its concurrence and, if it does not concur, its reasons and recommendations to the Selection Committee.
- 7.4.3 Duties and Responsibilities. The Chief of Service is responsible for the following duties and responsibilities to be performed in accordance with the Bylaws, Rules and Regulations and Policies of the Staff:
- a. all clinical and administrative activities of the Clinical Service;
 - b. the integration and coordination of programs with the other Clinical Services and with Kaleida Health;
 - c. the development and implementation of policies and procedures that guide and support the provision of care;
 - d. continuing surveillance of the professional performance of all individuals who have delineated clinical privileges in the Clinical Service;
 - e. recommending to the Credentials Committee the criteria for granting clinical privileges in the Clinical Service;
 - f. submitting recommendations concerning clinical privileges for each Member or applicant;
 - g. determining the qualifications and competence of personnel who are not licensed independent practitioners and who provide patient care services;
 - h. continuously assessing and improving the quality of care and services provided and maintaining quality control programs, as appropriate;
 - i. providing for the orientation and continuing education of all persons in the Clinical Service;
 - j. making recommendations for space and other resources, including personnel, needed by the Clinical Service and assessing and recommending off-site sources for necessary patient care services,

- k. encouraging and facilitating the establishment of educational and research programs and the participation of Members of the Clinical Service in such programs; and
 - l. developing and distributing an on-call schedule to cover emergency room patients, in-patient consults and unreferred patients.
- 7.4.4 Review of Chief of Service. Each Chief of Service shall be subject to review by the Chief Medical Officer, which review will include an evaluation by the Medical Executive Committee of his or her performance in carrying out the duties and responsibilities of the position. The review of a Chief of Service for a Clinical Service which has a University residency program shall be made in accordance with the applicable provisions of the affiliation agreement between Kaleida Health and the University.
- 7.4.4.1 Special Review. The President of the Medical and Dental Staff, the Chief Executive Officer, a majority of the Medical Executive Committee, or a majority of the Members of the Active Staff in the relevant Clinical Service may, for good cause, request that the Chief Medical Officer review a Chief of Service prior to the expiration of his or her term of appointment. Any such request must be in writing and supported by reference to the specific activities or conduct which constitutes the grounds for the request. A copy of the request shall be sent to the Chief of Service and to the President of the Medical and Dental Staff and the Chief Medical Officer. The Chief Medical Officer shall conduct a special review. The Chief Medical Officer shall formulate a recommendation which will be reviewed with the Medical Executive Committee. The Medical Executive Committee will confirm its concurrence or, if it does not concur, shall state its reasons and recommendations concerning the Chief of Service under review. After consideration of the Medical Executive Committee's reasons and recommendations, the Chief Medical Officer shall make a final determination. In the event that the Chief Medical Officer and Medical Executive Committee recommendations differ, both recommendations and reasons therein shall be sent to the Chief Executive Officer for final determination.
- 7.4.5 Vacancies. In the event of a vacancy in the position of Chief of Service for a Clinical Service, an Interim Director shall be designated by the Chief Medical Officer with advice from the President of the Medical and Dental Staff to perform the duties and responsibilities of the Chief of Service until such time as a Chief of Service is selected and appointed pursuant to Section 7.4.2.
- 7.4.6 Removal from Office. The Chief Medical Officer may remove a Chief of Service for any one (1) or more of the following reasons, without limitation:
- a. Failure to perform the duties or fulfill the responsibilities assigned in a timely and effective manner;
 - b. Failure to continuously satisfy the qualifications of the office;
 - c. Incapacity by reason of physical or mental infirmity;
 - d. Conducting oneself in a manner that is damaging to the best interest of the Kaleida Health Medical and Dental Staff and its goals, programs, or public image.

ARTICLE 8 COMMITTEES.

8.1 Medical Executive Committee.8.1.1 Composition and Selection.

- 8.1.1.1 Voting Members. The Medical Executive Committee shall have twenty-two (22) voting members consisting of the following:
- a. each of the Officers of the Staff;
 - b. eight (8) Chiefs of Service elected by majority vote of the Chiefs of Service (election to be held concurrently with the Medical Executive Committee election); and
 - c. nine (9) at-large members elected by the Staff (election to be held concurrently with the Medical Executive Committee election)
 - d. one (1) Advanced Practice Provider member elected by the Advanced Practice Provider members of the Medical Staff (election to be held concurrently with the Medical Executive Committee election)

- 8.1.1.2 Non-voting Members. The Chief Executive Officer, the Chief Medical Officer, the Chief Nurse Executive, the immediate past President of the Staff, the Vice President for Health Sciences for the State University of New York at Buffalo and the Chairperson of the Credentials Committee, and the Chairperson of the Peer Review Committee shall be non-voting ex officio members of the Medical Executive Committee. Additional non-voting members will be determined by the President of the Medical and Dental Staff *and* the Kaleida Health Chief Medical Officer.

- 8.1.2 Term. Each voting member of the Medical Executive Committee shall serve a term of two (2) years, except that in the first election of at-large members by the Staff, the terms of four (4) of the initial nine (9) at-large members shall be three (3) years and the terms of the remaining five (5) at-large members shall be two (2) years. Each at-large member shall serve until the end of his or her term and until a successor is chosen and shall serve no more than two (2) consecutive terms.

- 8.1.3 Vacancies. A vacancy in the position of an at-large member of the Medical Executive Committee shall be filled by the Medical Executive Committee from one or more nominees selected by the Nominating Committee. A vacancy in the position of a member of the Medical Executive Committee elected by the Chiefs of Service Committee shall be filled by majority vote of the Chiefs of Service.

- 8.1.4 Duties. The duties of the Medical Executive Committee shall be to:

- a. Act for the Staff in the intervals between Staff meetings and represent the Staff in all matters except as otherwise provided in the Bylaws.
- b. Receive and act on reports and recommendations from Staff committees, Clinical Services and special committees.
- c. Develop, review, approve and enforce Staff Rules and Regulations, Policies and procedures.
- d. Develop, review and recommend to the Staff and to the Board proposals for changes in the Bylaws, Rules and Regulations and Policies of the Staff.
- e. Participate with the Board and management in leading ongoing efforts to improve the overall quality and efficiency of patient care in Kaleida Health and carry out specific regulatory and accreditation requirements pertaining to Staff activities.

- f. Take reasonable steps to encourage professionally ethical conduct and competent clinical performance on the part of Staff appointees including initiating investigations and initiating and pursuing corrective action when warranted.
- g. Submit recommendations to the Board concerning all matters relating to appointments, re-appointments, privileges and corrective action.
- h. Inform the Staff of the results of reviews by accrediting and regulatory agencies.
- i. Make recommendations to the Board of Directors on any issue which in the judgment of the Medical Executive Committee impacts on patient care.
- j. Make recommendations to the Chief Executive Officer on medical/dental, administrative and planning matters.
- k. Act as liaison between the Staff and the Chief Executive Officer and Board of Directors.
- l. Conduct such other functions as are necessary for the effective operation of the Staff and to fulfill the Staff's responsibility to the Board for the medical care of patients in the Hospital.

8.1.5 Issue Resolution. The Medical Executive Committee shall have the right to make recommendations to the Board of Directors on any issue which, in the judgment of the Medical Executive Committee, impacts on patient care. If the Board determines not to follow a recommendation submitted to it by the Medical Executive Committee, the Medical Executive Committee may request a joint conference between the Officers of the Board and the Officers of the Staff to discuss the issue. The joint conference shall be scheduled by the Chief Executive Officer within two (2) weeks after receipt of a request for such a conference from the President of the Medical and Dental Staff.

8.1.6 Meetings. The Medical Executive Committee shall meet monthly and at such other times as necessary to perform its functions and shall maintain a permanent record of its proceedings and actions. Special Meetings of the Medical Executive Committee may be called at any time by the President of the Medical and Dental Staff. Written notice of a Special Meeting shall not be necessary but the President of the Medical and Dental Staff shall endeavor to give reasonable notice under the circumstances to each Member of the Committee. The presence of a majority of the voting members of the Medical Executive Committee at any regular or special meeting will constitute a quorum for the transaction of business. All members are required to attend at least seventy-five (75%) percent of the Medical Executive Committee meetings during the year. Failure to meet mandatory attendance requirements may be the basis for removal from the committee.

8.1.7 Medical Executive Committee Advisory (MEC Advisory) Committees. MEC Advisory Committees shall serve to facilitate communication and the exchange of information between the Medical Executive Committee and Staff at the Hospital sites. The number of MEC Advisory Committees, the size of each Committee, and the specific charge and responsibilities of the MEC Advisory Committees shall be determined by the Medical Executive Committee. The members of the MEC Advisory Committees shall be selected by the Staff Members who are active at the respective Hospital sites pursuant to procedures determined by the Medical Executive Committee. The Medical Executive Committee shall invite representatives of the administrative staff of each Hospital to participate as members of the appropriate MEC Advisory Committee.

8.1.8 Removal from Office.

8.1.8.1 Grounds. Removal of a member of the Medical Executive Committee shall be for any one (1) or more of the following reasons, without limitation:

- a. Failure to perform the duties or fulfill the responsibilities assigned in a timely and effective manner;

- b. Failure to continuously satisfy the qualifications of the office;
- c. Incapacity by reason of physical or mental infirmity;
- d. Conducting oneself in a manner that is damaging to the best interest of the Kaleida Health Medical and Dental Staff and its goals, programs or public image.

8.1.8.2 Procedure. A member of the Medical Executive Committee may be removed by:

- a. The Staff through a two-thirds (2/3) majority vote by secret ballot of those present or participating by teleconference, at a meeting of the Staff called for that purpose; or
- b. The Board, but only after the Board has referred the matter to a special committee and received that committee's report recommending removal of the member of the Medical Executive Committee. The special committee shall be composed of the Chief Medical Officer and three (3) representatives each of the Board and the Staff. The Chair of the Board will choose the representatives of the Board and the Medical Executive Committee will choose the representatives of the Staff

8.2 Credentials Committee.

8.2.1 Composition and Selection.

8.2.1.1 Voting Members. The Credentials Committee shall consist of one (1) Advanced Practice Provider member, the Treasurer of the Medical Staff and thirteen (13) other voting members who are Members of the Staff but not Chiefs of Service. The President of the Medical and Dental Staff shall appoint the voting members of the Committee with input from the Nominating Committee and shall designate the voting member who shall act as Chair of the Committee.

8.2.1.2 Non-voting Members. The President of the Medical and Dental Staff or his or her designee, the Chief Executive Officer, or his or her designee, and the Chief Medical Officer.

8.2.2 Term. Each member of the Credentials Committee shall be appointed for a minimum term of two (2) years. Continuance of appointment will be approved by the President of the Medical and Dental Staff.

8.2.3 Duties. The duties of the Credentials Committee shall include the following duties:

- a. To evaluate the qualifications of individuals applying for appointment or re-appointment to the Staff and privileges;
- b. To integrate quality review, risk management, and utilization review, findings and information into the process used to evaluate appointment and re-appointment applications and grant privileges;
- c. To make recommendations to the Medical Executive Committee as to the granting or denial of applications for appointment, re-appointment and privileges pursuant to the provisions of the Appointment and Reappointment Procedure;
- d. To periodically review the Appointment and Reappointment Procedure and make recommendations about the credentialing process, including but not limited to the criteria, procedures and forms used in the application and credentialing process;

- e. To recommend standards for maintenance of a credentials file for each Staff Member;
- f. To recommend, review and implement, as appropriate, the Health Professional Affiliate policy; and
- g. To perform such other duties as may be assigned to it by the Medical Executive Committee.

8.2.4 Meetings. The Credentials Committee shall meet monthly and a copy of the minutes of each meeting shall be submitted to the Medical Executive Committee.

8.3 Medical Staff Peer Review Committee. The Medical Staff is responsible to establish a centralized, multi-specialty approach for the evaluation of a practitioner's professional performance on an individual and aggregate level.

8.3.1 Composition and Selection.

8.3.1.1 Voting Members. The Medical Staff Peer Review Committee will be comprised of no fewer than ten (10) and no more than fifteen (15) voting members who are active members of the Staff with a balanced representation of the main specialties areas of Kaleida Health including a representative for Advanced Practice Providers. Practitioners from other specialties may be invited to the meeting as needed. No more than two (2) Chiefs of Service may serve on the Peer Review Committee. The Medical Staff President-Elect is a voting member. The voting members will be appointed by the President of the Medical and Dental Staff in consultation with and recommendations from the Chiefs of Service, site Chief Medical Officers, and the Peer Review Committee Chair and approved by the Medical Executive Committee.

8.3.1.2 Non-voting Members. The corporate Chief Medical Officer or his or her designee(s), site Chief Medical Officers, Chairman of the Credentials Committee, President of the Medical and Dental Staff, resident(s) and VP of Quality and Patient Safety.

8.3.2 Term. Voting members will be appointed for a three (3) year term. Voting members may be appointed for additional terms, up to an additional three (3) terms or twelve (12) years. The Medical Staff Peer Review Committee Chairman will be appointed by the President of the Medical and Dental Staff and approved by the Medical Executive Committee. The Chairman must be a current voting member and has served as a voting member at some point in time for at least one (1) year. The Chairman will serve for a term of two (2) years and may have an unlimited number of consecutive terms as long as the chairman is eligible to be a Medical Staff Peer Review Committee member. The Medical Staff Peer Review Committee Chairman may appoint a Vice Chair to serve if the chairman is not available or has a conflict of interest. The Medical Staff Peer Review Committee Chairman will be an ex-officio member of the Medical Executive Committee.

8.3.3 Duties. The Medical Staff Peer Review Committee in conjunction with the Chiefs of Service, the site Chief Medical Officers and the Medical Executive Committee will measure and evaluate all areas of practitioner competency for physicians and other practitioners with delineated privileges providing care within Hospital under the responsibilities of the Staff. The primary responsibilities of the Medical Staff Peer Review Committee are measurement system management, evaluation of practitioner performance, improvement opportunity accountability, oversight of other Medical Staff Practitioner Performance Evaluation committees and individual case review.

8.3.4 Meetings. The Medical Staff Peer Review Committee will meet at least ten (10) times per year.

- 8.3.5 Reporting. The Medical Staff Peer Review Committee will report to the Medical Executive Committee and to the Quality Committee of the Board. No changes can be made to the Medical Staff Peer Review Committee charter and policies without Medical Executive Committee approval. The Chairman or designee will provide a report to the Medical Executive Committee for each meeting held.
- 8.4 Advanced Practice Providers Committee.
- 8.4.1 Composition and Selection.
- 8.4.1.1 Voting Members. The Advanced Practice Providers Committee is a multidisciplinary committee consisting of at least nine (9) Advanced Practice Providers who shall be members of the Medical and Dental Staff. The Medical Staff Treasurer is a voting member.
- 8.4.1.2 Non-voting Members. The President of the Medical and Dental Staff or his/her designee, the Chief Executive Officer or his/her designee, the Chief Medical Officer or his/her designee.
- 8.4.2 Term. The chairman of the Advanced Practice Providers Committee will be elected to a two (2) year term by the Advanced Practice Providers Committee members and will have a two (2) term limit.
- 8.4.3 Duties. The Advanced Practice Providers Committee is responsible for evaluating the qualifications of Advanced Practice Providers applying for appointment or reappointment to the Staff and privileges and to make recommendations to the Kaleida Health Credentials Committee and the Medical Executive Committee as to the granting or denial of applications for appointment, re-appointment and privileges. The Advanced Practice Providers Committee Chairman shall meet with all new Advanced Practice Provider staff to orient them on the responsibilities of being on the Staff.
- 8.5 Other Committees. In addition to any committees specifically described in the Bylaws, the Medical Executive Committee may create and appoint standing committees and/or special committees or task forces. The size of each committee shall be determined by the Medical Executive Committee, provided that each committee shall have at least three (3) members.
- 8.5.1 Standing Committees. Standing committees shall be appointed by the Medical Executive Committee to fulfill continuous or regularly recurring functions of the Staff and the Medical Executive Committee. Members of standing committees shall serve for a term of two (2) years and until their successors are appointed.
- 8.5.2 Special Committees. Special committees shall be appointed by the Medical Executive Committee to fulfill special tasks as circumstances warrant. A special committee shall limit its activities to the accomplishment of the task for which it was formed, and it shall stand discharged upon the completion of such task.
- 8.5.3 Meetings. Each standing and special committee shall meet with such frequency as may be prescribed by the Medical Executive Committee, and at such additional times as the particular Committee Chair may determine. Unless otherwise specified, a majority of the Committee Members shall be considered a quorum and a vote by a majority of the Members present at a duly organized Committee meeting shall be the act of the Committee. Each Committee shall submit minutes of its proceedings to the Medical Executive Committee.

ARTICLE 9 STAFF MEETINGS AND PROCEDURES.

9.1 Meetings.

9.1.1 Regular Meetings. Regular meetings of the Staff shall be held no less than two (2) times per year at a time and place specified by the President of the Medical and Dental Staff with written notice to all Members at least ten (10) days prior to the date of the meeting. The first meeting of the year will be the annual meeting of the Staff.

9.1.1.1 Order of Business. The agenda at a regular meeting will be determined by the President and shall include, without limitation, the following:

- a. Acceptance of the minutes of the last regular and of all Special Meetings of the Staff and Medical Executive Committee held since the last regular meeting;
- b. Administrative reports from the Chief Executive Officer, the President of the Medical and Dental Staff and any communication from the Board of Directors;
- c. Unfinished business;
- d. New business.

9.1.2 Special Meetings. Special Meetings of the Staff may be called at any time by the Chair of the Board of Directors, the President of the Medical and Dental Staff, the Medical Executive Committee or as otherwise provided in the Bylaws, and will be held at the time and place designated in the meeting notice. No business will be transacted at any Special Meeting except that stated in the meeting notice. Notice of a Special Meeting shall be in writing, mailed by regular mail at least five (5) days prior to the date of the meeting to all Members of the Active Staff.

9.2 Quorum and Attendance Requirement. There shall be no minimum quorum requirement. The business of the Staff may be conducted by vote of the Active Staff. Members of the Staff are encouraged but not required to attend meetings of the Staff.

9.3 Manner of Action. The Staff shall conduct its affairs in accordance with the Bylaws and such Rules and Regulations, Policies and procedures as are adopted in accordance with the Bylaws and the Bylaws of Kaleida Health. Except as otherwise provided in the Bylaws, the action of a majority of the voting Members present at a meeting of the Staff, shall be the action of the Staff, unless the Medical Executive Committee determines, with respect to a specific matter, that the Staff may act by written ballot and/or may participate in a meeting by teleconference.

9.4 Rules of Procedures. The latest edition of Robert's Rules of Order shall govern parliamentary procedure in all meetings of the Staff.

9.5 Dues. A schedule of dues and assessments to be collected from each Member as provided in the Bylaws shall be developed by the Medical Executive Committee.

ARTICLE 10 ADOPTION AND AMENDMENT OF BYLAWS, RULES AND REGULATIONS AND POLICIES.

- 10.1 Staff Responsibility. The Staff has the responsibility and delegated authority to formulate, review, adopt, and recommend to the Board of Directors, Bylaws and amendments thereof which shall be effective when approved by the Board of Directors. In addition, the Staff will adopt and recommend to the Board of Directors such Rules and Regulations and Policies relating to the proper conduct of its activities and the level of practice required of its Members and other practitioners in the Hospital as may be necessary to implement more specifically the general principles found in the Bylaws. The Bylaws, Rules and Regulations and Policies of the Staff may be amended at any time and will be reviewed by the Staff no less than every two (2) years.
- 10.2 Adoption and Amendment Procedure. Proposed Bylaws, Rules and Regulations, and Policies or amendments thereof shall be submitted to the Medical Executive Committee for review and discussion. At the discretion of the Medical Executive Committee, the proposed By-Law, Rule and Regulation, Policy or amendment thereof, shall be considered for approval in accordance with the provisions of this Section. The adoption, amendment or repeal of Staff Bylaws, Rules and Regulations and Policies will be accomplished as follows:
- a. Approval of a proposed By-Law or amendment of any Article of the Bylaws shall require the affirmative vote of two-thirds (2/3) of the voting Staff members: (i) present at a meeting of the Staff, provided that a copy of the proposed By-Law or amendment shall be mailed by regular or electronic mail to each Member of the Active Staff at least fifteen (15) days prior to the date of the Staff meeting at which the vote is to be taken; or in the alternative, (ii) voting by written ballot in accordance with procedures established by the Medical Executive Committee. Upon adoption by the Staff, a proposed By-Law or amendment thereof, shall be effective upon approval by the Board of Directors.
 - b. Approval of a proposed Rule and Regulation or Policy or amendment thereof, shall require the affirmative vote of two-thirds (2/3) of the voting members of the Medical Executive Committee. Upon adoption by the Medical Executive Committee, a proposed amendment or Rule and Regulation or Policy shall be effective upon approval by the Board of Directors.

ARTICLE 11 AUTOMATIC RELINQUISHMENT/VOLUNTARY RESIGNATION

11.1 Initiation. In the following instances, the practitioner's privileges and/or membership will be considered relinquished, or limited as described, which action shall be final without a right to a hearing procedure. Where a bona fide dispute exists as to whether the circumstances have occurred, the relinquishment, suspension, or limitation will stand until the Medical Executive Committee determines it is not applicable. The Medical Executive Committee will make such a determination as soon as practicable. The President of the Medical and Dental Staff may reinstate the practitioner's privileges or membership if he or she determines the triggering circumstances have been rectified or are no longer present within sixty (60) days of the relinquishment. After sixty (60) days the practitioner will have to reapply for membership and/or privileges. In addition, further corrective action may be recommended in accordance with these Bylaws whenever any of the following actions occur:

11.1.1 Licensure.

11.1.1.1 Revocation and Suspension. Whenever a practitioner's license or other legal credential authorizing practice in New York State is revoked, suspended, expired, or voluntarily relinquished, Staff membership and clinical privileges shall be automatically relinquished by the practitioner as of the date such action becomes effective.

11.1.1.2 Restriction. Whenever a practitioner's license or other legal credential authorizing practice in New York State is limited or restricted by an applicable licensing or certifying authority, any clinical privileges that the practitioner has been granted at this hospital that 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.

11.1.1.3 Probation. Whenever a practitioner is placed on probation by the applicable licensing or certifying authority, his or her 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.

11.1.1.4 Medicare, Medicaid, Tricare (a managed-care program that replaced the former Civilian Health and Medical Program of the Uniformed Services), or other Federal programs. Whenever a practitioner is sanctioned or barred from Medicare, Medicaid, Tricare, or other federal programs, Staff membership and clinical privileges shall be considered automatically relinquished as of the date such action becomes effective. Any practitioner listed on the United States Department of Health and Human Services Office of the Inspector General's List of Excluded Individuals/Entities will be considered to have automatically relinquished his or her privileges.

11.1.2 Controlled Substances.

11.1.2.1 DEA Certificate. Whenever a practitioner's United States Drug Enforcement Agency (DEA) certificate is revoked, limited, or suspended, the practitioner will 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.

11.1.2.2 Probation. Whenever a practitioner's DEA certificate is subject to probation, the practitioner'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.

- 11.1.3 Professional Liability Insurance. Failure of a practitioner to maintain professional liability insurance in the amount required by state regulations and Staff and Board policies and sufficient to cover the clinical privileges granted shall result in immediate automatic relinquishment of a practitioner's clinical privileges. If within sixty (60) calendar days of the relinquishment the practitioner does not provide evidence of required professional liability insurance (including tail coverage for any period during which insurance was not maintained), the practitioner shall not be considered for reinstatement and shall be considered to have voluntarily resigned from the Staff. The practitioner must notify the MSO immediately of any change in professional liability insurance carrier or coverage.
- 11.1.4 Medical Staff Dues/Special Assessments. Failure to promptly pay Staff dues or any special assessment shall be considered an automatic relinquishment of a practitioner's appointment. If within sixty (60) calendar days after written warning of the delinquency the practitioner does not remit such payments, the practitioner shall be considered to have voluntarily resigned membership on the Staff.
- 11.1.5 Current History and Physical & PPD. Failure of a practitioner to maintain a current History and Physical & PPD shall result in immediate automatic relinquishment of a practitioner's clinical privileges. If within sixty (60) calendar days of the relinquishment the practitioner does not provide evidence of a current history and physical & PPD, the practitioner shall not be considered for reinstatement and shall be considered to have voluntarily resigned from the Staff.
- 11.1.6 Special Certifications. Failure of a practitioner to maintain a current certifications such as ACLS, PALS, ATLS, etc. shall result in immediate automatic relinquishment of the practitioner's clinical privilege(s) that require special certification. If within sixty (60) calendar days of the relinquishment the practitioner does not provide evidence of a current certification, the practitioner shall not be considered for reinstatement of the clinical privilege (s) and shall be considered to have voluntarily withdrawn the privilege. The practitioner will need to reapply for the clinical privilege.
- 11.1.7 Felony/Misdemeanor Indictment or Conviction. A practitioner who has been indicted, convicted of, or pled "guilty", "no contest", or its equivalent to a felony or to a misdemeanor involving a charge of moral turpitude in any jurisdiction shall automatically relinquish medical staff membership and privileges. Such relinquishment shall become effective immediately upon such indictment, 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.
- 11.1.8 Failure to Satisfy the Special Appearance Requirement. A practitioner who fails without good cause to appear at a meeting where his/her special appearance is required in accordance with these Bylaws shall be considered to have automatically relinquished all clinical privileges with the exception of emergencies and imminent deliveries. These privileges will be restored upon compliance with the special appearance requirement. Failure to comply within thirty (30) calendar days will be considered a voluntary resignation from the Staff.
- 11.1.9 Failure to Participate in an Evaluation. A practitioner who fails to participate in an evaluation of his/her qualifications for Staff membership or privileges as required under these Bylaws (whether an evaluation of physical or mental health or of clinical management skills), shall be considered to have automatically relinquished all privileges. These privileges will be restored upon compliance with the requirement for an evaluation. Failure to comply within thirty (30) calendar days will be considered a voluntary resignation from the Staff.

- 11.1.10 Failure to Execute Release and/or Provide Documents. A practitioner who fails to execute a general or specific release and/or provide documents when requested by the President of the Medical and Dental staff or designee in order to evaluate the competency and credentialing/privileging qualifications of the practitioner to assure patient safety shall be considered to have automatically relinquished all privileges. If the release is executed and/or documents provided within thirty (30) calendar days of notice of the automatic relinquishment, the practitioner may be reinstated. Thereafter, the Member will be deemed to have resigned voluntarily from the Staff and must reapply for Staff membership and privileges.
- 11.1.9 Medical record completion requirements: A practitioner will be considered to have voluntarily relinquished the privilege to admit new patients or schedule new procedures whenever he or she fails to complete medical records within time frames established by the Medical Executive Committee. This relinquishment of privileges shall not apply to patients admitted or already scheduled at the time of relinquishment, to emergency patients, or to imminent deliveries. The relinquished privileges will be automatically restored upon completion of the medical records and compliance with medical records policies.

ARTICLE 12 CORRECTIVE ACTION

12.1 Collegial, Education and/or Informal Proceedings.

12.1.1 Criteria for Initiation. These Bylaws encourage the use of progressive steps by Staff leaders and Hospital management, beginning with collegial and education efforts, to address questions relating to an individual's clinical practice and/or professional conduct. The goal of these efforts is to arrive at voluntary, responsive actions by the individual to resolve questions that have been raised. All collegial intervention efforts by Staff leaders and Hospital management shall be considered confidential and part of the hospital's performance improvement and professional and peer review activities. Collegial intervention efforts are encouraged, but are not mandatory, and shall be within the discretion of the appropriate Staff leaders and Hospital management. When any observations arise suggesting opportunities for a practitioner to improve, the matter should be referred for peer review in accordance with the peer review and performance improvement policies adopted by the Staff and Hospital. Collegial intervention efforts may include but are not limited to the following:

- a. Educating and advising colleagues of all applicable policies, such as policies regarding appropriate behavior, emergency call obligations, and the timely and adequate completion of medical records;
- b. Following up on any questions or concerns raised about the clinical practice and/or conduct of privileged practitioners and recommending such steps as proctoring, monitoring, consultation, and letters of guidance; and
- c. Sharing summary comparative quality, utilization, and other relevant information in order to assist individuals to conform their practices to appropriate norms.

Following efforts at collegial intervention, if it appears that the practitioner's performance places patients in danger or the quality of care is compromised, or in cases where it appears that patients may be placed in harm's way while collegial interventions are undertaken, the Medical Executive Committee will consider whether an investigation is indicated as per section 12.2 below.

12.2 Precautionary Restriction or Suspension.

12.2.1 Criteria for Initiation. Whenever a practitioner'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, and safety of any person or when medical staff leaders and/or the CEO determines that there is a need to carefully consider any event, concern, or issue that, if confirmed, has the potential to affect patient or employee safety or the effective operation of the institution, or to impair the reputation of the Staff or Hospital, then any two (2) of the following: President of the Medical and Dental Staff or designee, clinical Chief of Service, Chief Medical Officer, or the Medical Executive Committee, may restrict or suspend the Staff membership or clinical privileges of such practitioner as a precaution. A suspension of all or any portion of a practitioner's clinical privileges at another hospital may be grounds for a precautionary suspension of all or any of the practitioner's clinical privileges at this hospital.

Unless otherwise stated, such precautionary restriction or suspension shall become effective immediately upon imposition and the person or body responsible shall promptly give written notice to the practitioner, the Medical Executive Committee, the CEO, and the Board. The 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. The precautionary suspension is not a complete professional review action in and of itself, and it shall not imply any final finding regarding the circumstances that caused the suspension.

Unless otherwise indicated by the terms of the precautionary restriction or suspension, the practitioner's patients shall be promptly assigned to another medical staff member by the President of the Medical and Dental Staff or designee, considering, where feasible, the wishes of the affected practitioner and the patient in the choice of a substitute practitioner.

- 12.2.2 Medical Executive Committee Action and Procedural Rights. As soon as practicable and within fourteen (14) calendar days after such precautionary suspension has been imposed, a meeting of the Medical Executive Committee or phone conference shall be convened to review and consider the action and if necessary begin the investigation process as noted in Section 12.2.3 below. Upon request and at the discretion of the Medical Executive Committee, the practitioner will be given the opportunity to address the Medical Executive Committee concerning the action, 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 practitioner, constitute a "hearing procedure" as defined in this hearing and appeal plan, nor shall any procedural rules with respect to hearing and appeal apply. The Medical Executive Committee may modify, continue, or terminate the precautionary restriction or suspension, but in any event it shall furnish the practitioner with notice of its decision. The Member shall be entitled to the procedural rights afforded by this hearing and appeal plan once the restrictions or suspension last more than thirty (30) calendar days.
- 12.2.3 Investigations. A request for an investigation must be submitted by a Staff officer, committee chair, department/clinical service chief, CEO, Chief Medical Officer or Hospital Board chair to the Medical Executive Committee and supported by reference to the specific activities or conduct of concern. If the Medical Executive Committee initiates the request, it shall make an appropriate record of its reasons.

If the Medical Executive Committee concludes an investigation is warranted, it shall direct an investigation to be undertaken through the adoption of a formal resolution. In the event the Board believes the Medical Executive Committee has incorrectly determined that an investigation is unnecessary, it may direct the Medical Executive Committee to proceed with an investigation.

The Medical Executive Committee may conduct the investigation itself or may assign the task to an appropriate standing or ad hoc committee of the Staff. If the investigation is delegated to a committee other than the Medical Executive Committee, such committee shall proceed with the investigation in a prompt manner and shall forward a written report of its findings, conclusions, and recommendations to the Medical Executive Committee as soon as practicable. The committee conducting the investigation shall have the authority to review all documents it considers relevant, to interview individuals, to consider appropriate clinical literature and practice guidelines, and to utilize the resources of an external consultant if it deems a consultant necessary and such use is approved by the Medical Executive Committee and the CEO. The investigating body may also require the practitioner under review to undergo a physical and/or mental examination and may access the results of such exams. The practitioner of concern shall be notified that the 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. This meeting (and meetings with any other individuals the investigating body chooses to interview) shall not constitute a "hearing procedure" as that term is used in the hearing and appeals sections of these Bylaws, nor shall the procedural rules with respect to hearings or appeals apply. The individual being investigated shall not have the right to be represented by legal counsel before the investigating body nor to compel the Staff to engage external consultation. 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 suspension, termination of the investigative process; or other action.

An external peer review consultant should be considered when:

- a. Litigation seems likely;
- b. The Hospital is faced with ambiguous or conflicting recommendations from Staff committees, or where there does not appear to be a strong consensus for a particular recommendation. In these circumstances consideration may be given by the Medical Executive Committee or the Board to retain an objective external reviewer; or
- c. There is no one on the Staff with expertise in the subject under review, or when the only physicians on the Staff with appropriate expertise are direct competitors, partners, or associates of the physician under review.

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

- a. Determining no corrective action is taken, and if the Medical Executive Committee determines there was not 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 when circumstances warrant;
- c. Issuing letters of admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude appropriate [committee/department/section] chairs from issuing informal written or oral warnings prior to an investigation. In the event such letters are issued, the affected practitioner may make a written response, which shall be placed in the practitioner's file;
- d. Recommending the imposition of terms of probation or special limitation upon continued Staff membership or exercise of clinical privileges, including, without limitation, requirements for co-admissions, mandatory consultation, or monitoring/proctoring;
- e. Recommending denial, restriction, modification, reduction, suspension, revocation, or probation 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 Staff membership;
- h. Taking other actions deemed appropriate under the circumstances.

12.2.5 Subsequent Action. If the Medical Executive Committee recommends any termination or restriction of the practitioner's membership or privileges, that recommendation shall be transmitted in writing to the Board. The recommendation of the Medical Executive Committee shall become final unless the Member requests a hearing procedure, in which case the final decision shall be determined as set forth in this Hearing and Appeal plan.

12.3 Administrative Time Out. The Medical Executive Committee may institute one (1) or more administrative time outs for a practitioner for a cumulative period not to exceed thirty (30) consecutive calendar days in a calendar year. During an administrative time out the practitioner may not exercise any clinical privileges except in an emergency situation or to address an imminent delivery. Circumstances for an Administrative Time Out may include:

- a. When the action that has given rise to the time out relates to one of the following policies of the Staff: Completion of 1. medical records, 2. practitioner behavior (or disruptive practitioner policy), 3. requirements for emergency department coverage, or 4. on-call coverage; and
- b. When the action(s) have been reviewed by the Medical Executive Committee and only when the Medical Executive Committee has determined that one or more of the above policies have been violated; and

- c. When the affected practitioner has been offered an opportunity to meet with the Medical Executive Committee prior to the imposition of the administrative time out. Failure on the part of the practitioner to accept the Medical Executive Committee offer of a meeting will constitute a violation of the Bylaws regarding special meetings and will not prevent the Medical Executive Committee from issuing the administrative time out.
- 12.3.1 An administrative time out will take effect after the practitioner has been given an opportunity to either arrange for his or her patients currently at the hospital to be cared for by another qualified practitioner or until he or she has had an opportunity to provide needed care prior to discharge. During this period, the practitioner will not be permitted to schedule any elective admissions, surgeries, or procedures. The President of the Medical and Dental Staff or designee will determine details of the extent to which the practitioner may continue to be involved with hospitalized patients prior to the effective date of the administrative time out.

ARTICLE 13 INITIATION AND NOTICE OF HEARING PROCEDURE

- 13.1 Initiation of Hearing Procedure. Any practitioner eligible for medical staff appointment shall be entitled to request a hearing whenever an unfavorable recommendation with regard to clinical competence or professional conduct has been made by the Medical Executive Committee or the Board following an investigation. Hearings will be triggered only by the following actions when the basis for such action is related to clinical competence or professional conduct:
- a. Denial of medical staff appointment or reappointment;
 - b. Revocation of medical staff appointment;
 - c. Denial or restriction of requested clinical privileges;
 - d. Involuntary reduction or revocation of clinical privileges;
 - e. Application of a mandatory concurring consultation requirement, or an increase in the stringency of a pre-existing mandatory concurring consultation requirement, when such requirement only applies to an individual Staff Member and is imposed for more than thirty (30) calendar days;
 - f. Suspension of staff appointment or clinical privileges, but only if such suspension is for more than thirty (30) calendar days and is not caused by the Member's failure to complete medical records or any other reason unrelated to clinical competence or professional conduct
- 13.2 Hearings Will Not Be Triggered by the Following Actions:
- a. Issuance of a letter of guidance, warning, or reprimand.
 - b. Imposition of a requirement for proctoring (i.e., observation of the practitioner's performance by a peer in order to provide information to a medical staff peer review committee) with no restriction on privileges.
 - c. Failure to process a request for a privilege when the applicant/member does not meet the eligibility criteria to hold that privilege.
 - d. Conducting an investigation into any matter or the appointment of an ad hoc investigation committee.
 - e. Requirement to appear for a special meeting under the provisions of these Bylaws.
 - f. Automatic relinquishment or voluntary resignation of appointment or privileges.
 - g. Imposition of a precautionary suspension or administrative time out that does not exceed thirty (30) consecutive calendar days.
 - h. Denial of a request for leave of absence, or for an extension of a leave.
 - i. Determination that an application is incomplete or untimely.
 - j. Determination that an application will not be processed due to misstatement or omission.
 - k. Decision not to expedite an application.
 - l. Termination or limitation of temporary privileges unless for demonstrated incompetence or unprofessional conduct.
 - m. Determination that an applicant for membership does not meet the requisite qualifications/criteria for membership.
 - n. Ineligibility to request membership or privileges or continue privileges because a relevant specialty is closed under a medical staff development plan or covered under an exclusive provider agreement.
 - o. Imposition of supervision pending completion of an investigation to determine whether corrective action is warranted.
 - p. Termination of any contract with or employment by Hospital.

- q. Any recommendation voluntarily accepted by the Member.
- r. Expiration of membership and privileges as a result of failure to submit an application for reappointment within the allowable time period.
- s. Change in assigned Staff category.
- t. Refusal of the Credentials Committee or Medical Executive Committee to consider a request for appointment, reappointment, or privileges within five (5) years of a final adverse decision regarding such request.
- u. Removal or limitations of emergency department call obligations.
- v. Any requirement to complete an educational assessment.
- w. Retrospective chart review.
- x. Any requirement to complete a health and/or psychiatric/psychological assessment required under these Bylaws.
- y. Grant of conditional appointment or appointment for a limited duration.
- z. Appointment or reappointment for duration of less than 24 months.

- 13.3 Notice of Recommendation. When a precautionary suspension lasts more than thirty (30) calendar days or when a recommendation is made, which, according to this plan entitles an individual to request a hearing prior to a final decision of the Board, the affected individual shall promptly (but no longer than five (5) calendar days) be given written notice by the President of the Medical and Dental Staff delivered either in person or by certified mail, return receipt requested. This notice shall contain:
- a. A statement of the recommendation made and the general reasons for it (Statement of Reasons);
 - b. Notice that the individual shall have thirty (30) calendar days following the date of the receipt of such notice within which to request a hearing on the recommendation.
 - c. Notice that the recommendation, if finally adopted by the Board, may result in a report to the state licensing authority (or other applicable state agencies) and the National Practitioner Data Bank;
 - d. The individual shall receive a copy of Article 15 of these Bylaws outlining procedural rights with regard to the hearing.
- 13.4 Such individual shall have thirty (30) calendar days following the date of the receipt of such notice within which to request the hearing. The request shall be made in writing to the President of the Medical and Dental Staff or designee. In the event the affected individual does not request a hearing within the time and in the manner required by this policy, the individual shall be deemed to have waived the right to such hearing and to have accepted the recommendation made, and such recommended action shall thereupon become effective immediately upon final Board action.
- 13.5 Notice of Hearing and Statement of Reasons. The CEO, in consultation with the President of the Medical and Dental Staff, shall schedule the hearing and shall give written notice to the person who requested the hearing. The notice shall include:
- a. The time, place and date of the hearing;
 - b. A proposed list of witnesses (as known at that time, but which may be modified) who will give testimony or evidence in support of the Medical Executive Committee, or the Board, at the hearing;
 - c. The names of the hearing panel members and presiding officer or hearing officer, if known;

- d. A statement of the specific reasons for the recommendation as well as the list of patient records and/or information supporting the recommendation. This statement, and the list of supporting patient record numbers and other information, may be amended or added to at any time, even during the hearing so long as the additional material is relevant to the continued appointment or clinical privileges of the individual requesting the hearing, and that individual and the individual's counsel have sufficient time to study this additional information and rebut it.
- e. The hearing shall begin as soon as practicable, but no sooner than thirty (30) calendar days after the notice of the hearing unless an earlier hearing date has been specifically agreed to in writing by the parties.

13.6 Witness List. At least fifteen (15) calendar days before the hearing, the individual requesting the hearing shall provide a written list of the names and addresses of the individuals expected to offer testimony or evidence on the affected individual's behalf. The list of witnesses who will testify in support of the recommendation of the Medical Executive Committee or the Board will include a brief summary of the nature of the anticipated testimony. The witness list of either party may, in the discretion of the presiding officer, be supplemented or amended at any time during the course of the hearing, provided that notice of the change is given to the other party. The presiding officer shall have the authority to limit the number of witnesses.

ARTICLE 14 HEARING PANEL AND PRESIDING OFFICER OR HEARING OFFICER

14.1 Hearing Panel.

- a. When a hearing is requested, the President of the Medical and Dental Staff shall appoint a hearing panel that shall be composed of not fewer than three individuals. No individual appointed to the hearing panel shall have actively participated in the consideration of the matter involved at any previous level. However, mere knowledge of the matter involved shall not preclude any individual from serving as a member of the hearing panel. Employment by, or a contract with, the Hospital or an affiliate shall not preclude any individual from serving on the hearing panel. Hearing panel members need not be Staff Members. When the issue before the panel is a question of clinical competence, all panel members shall be clinical practitioners. Panel members need not be clinicians in the same specialty as the member requesting the hearing.
- b. The hearing panel shall not include any individual who is in direct economic competition with the affected practitioner or any such individual who is professionally associated with or related to the affected practitioner. This restriction on appointment shall include any individual designated as the chair or the presiding officer.
- c. The President of the Medical and Dental Staff shall notify the practitioner requesting the hearing of the names of the panel members and the date by which the practitioner must object, if at all, to appointment of any member(s). Any objection to any member of the hearing panel or to the hearing officer or presiding officer shall be made in writing to the President of the Medical and Dental Staff, who, shall determine whether a replacement panel member should be identified. While the practitioner who is the subject of the hearing may object to a panel member, he or she is not entitled to veto that member's participation. Final authority to appoint panel members will rest with the President of the Medical and Dental Staff.

14.2 Hearing Panel Chairperson or Presiding Officer.

- 14.2.1 In lieu of a hearing panel chair, the President of the Medical and Dental Staff may appoint an attorney at law or other individual experienced in legal proceedings as presiding officer. Such presiding officer will not act as a prosecuting officer, or as an advocate for either side at the hearing. The presiding officer may participate in the private deliberations of the hearing panel and may serve as a legal advisor to it, but shall not be entitled to vote on its recommendation.
- 14.2.2 If no presiding officer has been appointed, a chair of the hearing panel shall be appointed by the President of the Medical and Dental Staff to serve as the presiding officer and shall be entitled to one vote.
- 14.2.3 The presiding officer (or hearing panel chair) shall do the following:
 - a. Act to insure that all participants in the hearing have a reasonable opportunity to be heard and to present oral and documentary evidence subject to reasonable limits on the number of witnesses and duration of direct and cross examination, applicable to both sides, as may be necessary to avoid cumulative or irrelevant testimony or to prevent abuse of the hearing process;
 - b. Prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant, or abusive, or that causes undue delay. In general, it is expected that a hearing will last no more than fifteen (15) hours;
 - c. Maintain decorum throughout the hearing;
 - d. Determine the order of procedure throughout the hearing;
 - e. Have the authority and discretion, in accordance with this policy, to make rulings on all questions that pertain to matters of procedure and to the admissibility of evidence;

- f. Act in such a way that all information reasonably relevant to the continued appointment or clinical privileges of the individual requesting the hearing is considered by the hearing panel in formulating its recommendations;
- g. Conduct argument by counsel on procedural points and may do so outside the presence of the hearing panel;
- h. Seek legal counsel when s/he feels it is appropriate. Legal counsel to the Hospital may advise the presiding officer or panel chair.

14.3 Hearing Officer.

- a. As an alternative to the hearing panel described in Section 14.1 of these Bylaws, the President of the Medical and Dental Staff, may instead appoint a hearing officer to perform the functions that would otherwise be carried out by the hearing panel. The hearing officer may be an attorney.
- b. The hearing officer may not be any individual who is in direct economic competition with the individual requesting the hearing, and shall not act as a prosecuting officer or as an advocate to either side at the hearing. In the event a hearing officer is appointed instead of a hearing panel, all references to the "hearing panel" or "presiding officer" shall be deemed to refer instead to the hearing officer, unless the context would clearly require otherwise.

ARTICLE 15 PRE-HEARING AND HEARING PROCEDURE.

15.1 Provision of Relevant Information

- 15.1.1 There is no right to formal "discovery" in connection with the hearing. The presiding officer, hearing panel chair, or hearing officer shall rule on any dispute regarding discovery and may impose any safeguards, including denial or limitation of discovery to protect the peer review process and assure a reasonable and hearing. In general, the individual requesting the hearing shall be entitled, upon specific request, to the following, subject to a stipulation signed by both parties and the individual's counsel and any experts that such documents shall be maintained as confidential consistent with all applicable state and federal peer review and privacy statutes and shall not be disclosed or used for any purpose outside of the hearing:
- a. Copies of, or reasonable access to, all patient medical records referred to in the Statement of Reasons, at his or her expense;
 - b. Reports of experts relied upon by the Medical Executive Committee;
 - c. Copies of redacted relevant committee minutes;
 - d. Copies of any other documents relied upon by the Medical Executive Committee;
 - e. No information regarding other practitioners shall be requested, provided or considered;
 - f. Evidence unrelated to the reasons for the recommendation or to the individual's qualifications for appointment or the relevant clinical privileges shall be excluded.
- 15.1.2 Prior to the hearing, on dates set by the presiding officer or agreed upon by counsel for both sides, each party shall provide the other party with all proposed exhibits. All objections to documents or witnesses to the extent then reasonably known shall be submitted in writing in advance of the hearing. The presiding officer shall not entertain subsequent objections unless the party offering the objection demonstrates good cause.
- 15.1.3 Prior to the hearing, on dates set by the presiding officer, the individual requesting the hearing shall, upon specific request, provide the Credential Committee or Medical Executive Committee copies of any expert reports or other documents upon which the individual will rely at the hearing.
- 15.1.4 There shall be no contact by the individual who is the subject of the hearing with those individuals appearing on the hospital's witness list concerning the subject matter of the hearing; nor shall there be contact by the Hospital with individuals appearing on the affected individual's witness list concerning the subject matter of the hearing, unless specifically agreed upon by that individual or his or her counsel.
- 15.2 Pre-Hearing Conference. The presiding officer may require a representative for the individual and for the Medical Executive Committee to participate in a pre-hearing conference. At the pre-hearing conference, the presiding officer shall resolve all procedural questions, including any objections to exhibits or witnesses, and determine the time to be allotted to each witness's testimony and cross-examination.
- 15.3 Failure to Appear. Failure, without good cause, of the individual requesting the hearing to appear and proceed at such a hearing shall be deemed to constitute a waiver of all hearing and appeal rights and a voluntary acceptance of the recommendations or actions pending, which shall then be forwarded to the Board for final action. Good cause for failure to appear will be determined by the presiding officer, chair of the hearing panel, or hearing officer.

- 15.4 Record of Hearing. The hearing panel shall maintain a record of the hearing by a reporter present to make a record of the hearing or a recording of the proceedings. The cost of such reporter shall be borne by the Hospital, but copies of the transcript shall be provided to the individual requesting the hearing at that individual's expense. The hearing panel may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated to administer such oaths and entitled to notarize documents in the State of New York.
- 15.5 Rights of Both Sides.
- 15.5.1 At the hearing both sides shall have the following rights, subject to reasonable limits determined by the presiding officer:
- a. To call and examine witnesses to the extent available;
 - b. To introduce exhibits;
 - c. To cross-examine any witness on any matter relevant to the issues and to rebut any evidence;
 - d. To have representation by counsel who may be present at the hearing, advise his or her client, and participate in resolving procedural matters. Attorneys may call, examine, cross-examine witnesses and present the case. Both sides shall notify the other of the name of their counsel at least ten (10) calendar days prior to the date of the hearing;
 - e. To submit a written statement at the close of the hearing.
- 15.5.2 Any individuals requesting a hearing who do not testify in their own behalf may be called and examined as if under cross-examination.
- 15.5.3 The hearing panel may question the witnesses, call additional witnesses or request additional documentary evidence.
- 15.6 Admissibility of Evidence. The hearing shall not be conducted according to legal rules of evidence. Hearsay evidence shall not be excluded merely because it may constitute legal hearsay. Any relevant evidence 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.
- 15.7 Burden of Proof. The hearing panel shall recommend in favor of the Medical Executive Committee unless it finds that the individual who requested the hearing has proved with a preponderance of the evidence that the recommendation which prompted the hearing was arbitrary, capricious, or appears to be unfounded or not supported by credible evidence. It is the burden of the practitioner under review to demonstrate that he or she satisfies, on a continuing basis, all criteria for initial appointment, reappointment, and clinical privileges and fully complies with all Staff and Hospital policies.
- 15.8 Post-Hearing Memoranda. Each party shall have the right to submit a post-hearing memorandum, and the hearing panel may request such a memorandum to be filed within ten (10) days, following the close of the hearing.
- 15.9 Official Notice. The presiding officer shall have the discretion to take official notice of any matters, either technical or scientific, relating to the issues under consideration. Participants in the hearing shall be informed of the matters to be officially noticed and such matters shall be noted in the record of the hearing. Either party shall have the opportunity to request that a matter be officially noticed or to refute the noticed matter by evidence or by written or oral presentation of authority. Reasonable additional time shall be granted, if requested by either party, to present written rebuttal of any evidence admitted on official notice.
- 15.10 Postponements and Extensions. Postponements and extensions of time beyond any time limit set forth in this policy may be requested by anyone but shall be permitted only by the presiding officer on a showing of good cause.

- 15.11 Persons to be Present. The hearing shall be restricted to those individuals involved in the proceeding. Administrative personnel may be present as requested by the President of the Medical and Dental Staff or CEO.
- 15.12 Order of Presentation. The Medical Executive Committee shall first present evidence in support of its recommendation. Thereafter, the burden shall shift to the individual who requested the hearing to present evidence.
- 15.13 Basis of Recommendation. The hearing panel shall recommend in favor of the Medical Executive Committee or the Board unless it finds that the individual who requested the hearing has proved, by a preponderance of the evidence, that the recommendation that prompted the hearing was arbitrary, capricious, or not supported by credible evidence.
- 15.14 Adjournment and Conclusion. The presiding officer may adjourn the hearing and reconvene the same at the convenience and with the agreement of the participants. Upon conclusion of the presentation of evidence by the parties and questions by the hearing panel, the hearing shall be closed.
- 15.15 Deliberations and Recommendation of the Hearing Panel. Within twenty (20) calendar days after receipt of the post hearing memorandum, the hearing panel shall conduct its deliberations outside the presence of any other person (except the presiding officer, if one is appointed) and shall render a recommendation, accompanied by a report, signed by all the panel members, which shall contain a concise statement of the reasons for the recommendation.
- 15.16 Disposition of Hearing Panel Report. The hearing panel shall deliver its report and recommendation to the Medical Executive Committee. The Medical Executive Committee will consider the decision made by the hearing panel and makes its final recommendation, along with all supporting documentation, to the Board for further action. The Medical Executive Committee shall also send a copy of the hearing panel report and recommendation, certified mail, return receipt requested, to the individual who requested the hearing, and to the CEO for information.

ARTICLE 16 APPEAL TO THE HOSPITAL BOARD

- 16.1 Time for Appeal. Within ten (10) calendar days after receiving notice of the hearing panel's recommendation, the practitioner, subject to the hearing, must appeal the recommendation if that is their intent. The request for appellate review shall be in writing, and shall be delivered to the CEO or designee either in person or by certified mail, and shall include a brief statement of the reasons for appeal and the specific facts or circumstances which justify further review. If such appellate review is not requested within ten (10) calendar days as provided herein, both parties shall be deemed to have accepted the recommendation involved, and the hearing panel's report and recommendation shall be forwarded to the Board.
- 16.2 Grounds for Appeal. The grounds for appeal shall be limited to the following:
- a. There was substantial failure to comply with the Bylaws prior to or during the hearing so as to deny a hearing procedure; or
 - b. The recommendation of the hearing panel was made arbitrarily, capriciously or with prejudice; or
 - c. The recommendation of the hearing panel was not supported by substantial evidence based upon the hearing record.
- 16.3 Time, Place and Notice. Whenever an appeal is requested as set forth in the preceding sections, the chair of the Board shall schedule and arrange for an appellate review as soon as arrangements can be reasonably made, taking into account the schedules of all individuals involved. The affected individual shall be given notice of the time, place and date of the appellate review. The chair of the Board may extend the time for appellate review for good cause.
- 16.4 Nature of Appellate Review.
- a. The chair of the Board shall appoint a review panel composed of at least three (3) members of the Board to consider the information upon which the recommendation before the Board was made. Members of this review panel may not be direct competitors of the practitioner under review and should not have participated in any formal investigation leading to the recommendation for corrective action that is under consideration.
 - b. The review panel may, but is not required to, accept additional oral or written evidence subject to the same procedural constraints in effect for the hearing panel or hearing officer. Such additional evidence shall be accepted only if the party seeking to admit it can demonstrate that it is new, relevant evidence and that any opportunity to admit it at the hearing procedure was denied.
 - c. Each party shall have the right to present a written statement in support of its position on appeal. In its sole discretion, the review panel may allow each party or its representative to appear personally and make a time-limited thirty-minute (30) oral argument. The review panel shall recommend final action to the Board.
 - d. The Board may affirm, modify or reverse the recommendation of the review panel or, in its discretion, refer the matter for further review and recommendation, or make its own decision based upon the Board's ultimate legal responsibility to grant appointment and clinical privileges.
- 16.5 Final Decision of the Hospital Board. Within thirty (30) calendar days after receipt of the review panel's recommendation, the Board shall render a final decision in writing, including specific reasons for its action, and shall deliver copies thereof to the affected individual and to the chairs of the Credentials Committee and Medical Executive Committee, in person or by certified mail, return receipt requested.

- 16.6 Right to One Appeal Only. No applicant or medical staff member shall be entitled as a matter of right to more than one (1) hearing or appellate review on any single matter which may be the subject of an appeal. In the event that the Board ultimately determines to deny medical staff appointment or reappointment to an applicant, or to revoke or terminate the medical staff appointment and/or clinical privileges of a current Member, that individual may not apply within five (5) years for medical staff appointment or for those clinical privileges at this hospital unless the Board provides otherwise.