



Mercy Medical Center  
Medical Staff Services  
P.O. Box 496009  
Redding, CA 96049-6009  
(530) 225-6127 Telephone  
(530) 225-7283 FAX

## **MERCY MEDICAL CENTER REDDING**

### ***MEDICAL STAFF BYLAWS***

**Edition: September 2009  
July 2010 Amendments**

**Mercy Medical Center Redding  
Medical Staff Bylaws**

**TABLE OF CONTENTS**

	Page #
<b>PREAMBLE</b>	
Name .....	5
Purpose .....	5
<b>Article I      MEMBERSHIP</b> .....	5
A.    Categories of Membership .....	5
B.    Leave of Absence .....	6
C.    Division of Fees .....	6
<b>Article II     BILL OF RIGHTS</b> .....	6
A.    Right of Notification .....	6
B.    Access to Committees .....	6
C.    Right to Information .....	6
D.    Fair Hearing .....	6
E.    Access to Credentials File .....	6
F.    Physician Health and Well-Being .....	6
G.    Confidentiality .....	7
H.    Medical Staff Role in Exclusive Contracting .....	7
I.    Retaliation/Discrimination .....	7
<b>Article III    PRIVILEGES</b> .....	7
<b>Article IV    ORGANIZATION</b> .....	7
<b>Section 1     Officers</b> .....	7
<b>Section 2     Medical and Surgical Divisions</b> .....	12
<b>Section 3     Committees</b> .....	12
A.    Committee of the Membership .....	12
B.    Medical Staff Executive Committee (MEC) .....	13
C.    Credentials Committee .....	13
D.    Quality Assessment & Improvement Committee .....	13
E.    Special Care Committee .....	13
F.    Pharmacy and Therapeutics Committee .....	14
G.    Nominating Committee .....	14
H.    Administrator (Ex-officio at meetings) .....	14
I.    Quorum .....	14
J.    Attendance Requirements .....	15
<b>Article V     CREDENTIALING PROCEDURE</b> .....	15
<b>Section 1     Terms and Conditions of Appointment</b> .....	15
A.    Appointments .....	15
B.    E.R. Call Roster .....	15
C.    Dues .....	15
D.    Nondiscrimination .....	15
<b>Section 2     Procedure for Appointment</b> .....	15
A.    Pre-application Form .....	15
B.    Burden of Proof .....	17
C.    Verification of Information .....	17

D.	Time Limited .....	17
E.	Applicant Interview .....	18
F.	Application Categories (Definition & Processing) .....	18
G.	Provisional Appointments.....	19
H.	Advancements.....	19
I.	Statement Affirming Ability to Practice .....	19
J.	Statement on Requiring Continuous Care.....	19
K.	Statement on Applicant's Liability Release .....	19
L.	Temporary Appointment & Privileges.....	20
<b>Section 3</b>	<b>Procedure for Reappointment</b> .....	20
A.	Procedure .....	20
B.	Reappointment Categories (Definition & Processing).....	21
<b>Section 4</b>	<b>Inactive Members</b> .....	22
<b>Section 5</b>	<b>Termination of Medical Staff Membership</b> .....	22
A.	Failure to Pay Dues.....	22
B.	Failure to File Reappointment .....	22
<b>Section 6</b>	<b>Allied Health Personnel</b> .....	22
A.	Definition.....	22
B.	Appointment/Reappointment.....	23
C.	Due Process .....	23
	a. Grounds for Corrective Action.....	23
	b. Review Hearing .....	24
	c. Appeal.....	25
	d. Error in Procedure.....	25
<b>Section 7</b>	<b>Extent of Privileges</b> .....	25
A.	Evaluation (Professional Criteria).....	25
B.	Re-determination of Privileges .....	25
C.	Reinstatement of Clinical Privileges.....	25
D.	Emergency Privileges .....	26
E.	One Time Use Privileges .....	27
F.	Administrative Positions.....	27
G.	Resident Staff .....	27
<b>Section 8</b>	<b>Proctoring/Monitoring</b> .....	28
<b>Section 9</b>	<b>Telemedicine Services &amp; Practitioner Privileges</b> .....	28
<b>Section 10</b>	<b>Locum Tenens Privileges</b> .....	29
<b>Section 11</b>	<b>Credentials File</b> .....	30
A.	Content.....	30
B.	Adverse Action .....	30
C.	Maintenance.....	31
<b>Article VI</b>	<b>FAIR HEARING PROCEDURE</b> .....	31
<b>Section 1</b>	<b>Corrective Action</b> .....	31
A.	Criteria for Initiation.....	31
B.	Initiation.....	31
C.	Investigation .....	31
D.	Medical Staff Executive Committee Action .....	32
E.	Subsequent Action .....	32
F.	Initiation by Board of Directors.....	33
<b>Section 2</b>	<b>Summary Restrictions or Suspension</b> .....	33
A.	Criteria for Initiation .....	33
B.	Hospital President's Role.....	33
C.	Written Notice of Summary Suspension.....	33
D.	Medical Staff Executive Committee Action .....	33
E.	Procedural Rights.....	34
F.	Initiation by Board of Directors.....	34

<b>Section 3</b>	<b>Automatic Suspension or Limitation</b> .....	35
A.	Licensure .....	35
B.	Controlled Substances .....	35
C.	Other Reasons.....	35
	a. Failure to complete medical records .....	35
	b. Failure to maintain malpractice insurance .....	35
	c. Exclusion from Federal Programs.....	35
	d. Criminal Conviction .....	36
	e. PPD Testing .....	36
<b>Section 4</b>	<b>Hearings and Appellate Reviews</b> .....	36
<b>Section 5</b>	<b>Grounds for Hearings</b> .....	36
<b>Section 6</b>	<b>Requests for Hearing</b> .....	37
A.	Notice of Action or Proposed Action.....	37
B.	Request for Hearing .....	37
C.	Time and Place for Hearing .....	37
D.	Notice of Hearing .....	37
E.	Judicial Review Committee .....	37
F.	Failure to Appear or Proceed.....	38
G.	Postponements and Extension .....	38
<b>Section 7</b>	<b>Hearing Procedure</b> .....	38
A.	Prehearing Procedure .....	38
B.	Representation .....	39
C.	The Hearing Officer.....	39
D.	Record of the Hearing.....	39
E.	Rights of the Parties.....	39
F.	Miscellaneous Rules .....	40
G.	Burdens of Presenting Evidence and Proof.....	40
H.	Adjournment and Conclusion .....	40
I.	Basis for Decision.....	40
J.	Decision of the Judicial Review Committee.....	40
<b>Section 8</b>	<b>Appeal</b> .....	41
A.	Time for Appeal.....	41
B.	Grounds for Appeal .....	41
C.	Time, Place, and Notice.....	41
D.	Appeal Board.....	41
E.	Appeal Procedure.....	41
F.	Decision.....	42
G.	Right to One Hearing.....	42
<b>Section 9</b>	<b>National Practitioner Data Bank Reporting</b> .....	42
<b>Section 10</b>	<b>Reapplication After Adverse Appointment Decision</b> .....	42
<b>Article VII</b>	<b>ASSESSORY DOCUMENTS</b> (Rules & Regulations and MEC Policies) .....	42
<b>Article VII</b>	<b>AMENDMENTS</b>	
A.	Bylaws .....	43
B.	Accessory Documents .....	43
<b>Article IX</b>	<b>ADOPTION</b> .....	43

**MERCY MEDICAL CENTER REDDING**  
**MEDICAL STAFF BYLAWS**

*Edition: September 2009*  
July 2010 Amendments

**PREAMBLE**

**NAME**

The name of this organization is the "Medical Staff of Mercy Medical Center Redding" and shall be referred to herein as the "Medical Staff".

**Purpose**

These Bylaws construct a framework for the medical staff to provide an efficient, democratic structure for evaluating and processing qualified new and reappointed members. The medical staff endeavors to improve performance by participating in the organizations performance improvement activities while promoting collegial and professional relationships among members, the institution, patients, and the community of its service area. The medical staff has overall responsibility to approve and amend medical staff bylaws and to provide oversight for the quality of the professional services provided by individuals with clinical privileges, as well as the responsibility of accounting therefore to the Board of Directors.

All medical staff members, allied health professionals, and others providing professional services to patients are subject to medical staff and departmental bylaws, rules and regulations, and policies and are subject to review as a part of the organization's performance-improvement activities.

Mercy Medical Center Redding is a Catholic Health Facility organized as a nonprofit corporation under the Laws of the State of California. As a Catholic institution it is recognized that these Bylaws must conform to the Ethical and Religious Directive for Catholic Health Facilities, as approved by the National Conference of Catholic Bishops.

**Article I MEMBERSHIP**

The core values of this hospital and medical staff organization are *Dignity, Collaboration, Justice, Stewardship, and Excellence*. Treatment of all employees, volunteers, allied health personnel and physicians with great respect and as valued members of the health care team is an expectation of membership.

- A. Membership** is a privilege applied for by individuals fully licensed to practice in the State of California holding degrees in medicine, osteopathy, dentistry, and podiatry. Practitioners meeting the requirements of these Bylaws and associated policies may be granted membership in one of three categories: Active, Courtesy, Honorary.
- Active Staff members may vote, hold positions of leadership, and exercise privileges. Qualifications for membership in this category include annual involvement with a minimum of 15 patient contacts at Mercy Medical Center Redding and satisfactory performance for one year as a provisional member of the medical staff (exceptions to the 15 patient contact requirement may be made by the MEC at its discretion).
  - Courtesy Staff members are other licensed practitioners whose activities in the affairs at Mercy Medical Center are less than 15 patient contacts per year or who are attempting to meet the requirements of becoming an active staff member and satisfactory performance for one year as a provisional member of the medical staff. Members must be on the active staff of another Joint Commission accredited hospital. Individuals who hold privileges to assist at surgery only or for telemedicine services will be members of the Courtesy Staff regardless of the number of patient contacts per year. Courtesy members may attend meetings but may not hold positions of leadership and are without voting privileges.

- Honorary Staff members are those members the medical staff wishes to honor. Such members shall have no admitting or clinical privileges. They pay no dues and they may attend medical staff meetings without vote.
  - \* Allied Health Personnel are not eligible for Medical Staff membership but may be authorized to provide certain professional services in the hospital as described in Article V Section 6, Allied Health Personnel.
- B. Leave of Absence** - Any member may apply by giving written notice to the Credentials Committee for a voluntary leave of absence not to exceed 6 months. Reinstatement of privileges may be requested from the Credentials Committee without formal reapplication. Absence for a period longer than 6 months will require formal reapplication. A leave of absence may be requested for military services, personal or family illness, or additional training. A staff member who has been inactive due to any acute or chronic illness or injury for a period of greater than 90-days will be deemed to be on leave of absence.
- To request reinstatement a staff member on leave of absence must send a written notice to the Medical Staff Services Department. Evidence of current licensure, DEA, registration, liability insurance coverage and a written summary of relevant activities during the leave are required. For those who have taken leave due to illness, documentation from a treating physician of ability to perform privileges may be required as well. At the discretion of the Division, Credentials Committee, or the Medical Staff Executive Committee, a period of supervision may be required prior to restoration of privileges. A recommendation from the Physician Health & Well-Being Committee may be required as well.
- C. Division of Fees** - Any division of fees by members of the medical staff is forbidden and any such division of fees shall be cause for exclusion or expulsion from the medical staff.

**Article II**

**BILL OF RIGHTS**

Members of the medical staff are afforded the following rights:

- A.** Right of Notification - Any matter of performance or conduct which could result in denial, suspension, or reduction of privileges will cause the Division Chief to notify the affected member before formal activity commences.
- B.** Access to Committees - Members of the medical staff are entitled to be present at any committee meeting except during peer review proceedings. Members present for a specific agenda item shall be recognized by the chair as time permits.
- C.** Right to Information - Activities of the various committees (with the exception of peer review proceedings) may be reviewed by the medical staff members in the medical staff office. The MEC will publish to the active membership all changes to the Rules & Regulations and MEC Policy Manual before consideration by the Board of Directors.
- D.** Fair Hearing - Members are entitled to a fair hearing as described in Article VI, Fair Hearing Procedure.
- E.** Access to Credentials File - Each member shall be afforded an opportunity to review his/her own credentials file before submission for approval. This review will occur at the time of initial appointment and at the time of reappointment as specified in Article V, Credentialing Procedure.
- F.** Physician Health and Well-Being - Any member may call upon the resources of the medical staff in personal, professional, and peer matters to seek help and improvement.

- G. Confidentiality - Matters discussed in committee and otherwise undertaken in the performance of medical staff duties and privileges are strictly confidential. Violation of this provision is grounds for expulsion from the medical staff. State Law Evidence Code 1157 protects any and all documents created by peer review and quality assurance committees.
- H. Medical Staff Role in Exclusive Contracting – The medical staff shall review and make recommendations to the Board of Directors regarding quality of care issues related to exclusive arrangements for physician and/or professional services, prior to any decision being made, in the following situations:
  1. the decision to execute an exclusive contract in a previously open department or service;
  2. the decision to renew or modify an exclusive contract in a particular department or service;
  3. the decision to terminate an exclusive contract in a particular department or service.
- I. Retaliation/Discrimination – Medical staff members have the same legal protections against retaliation/discrimination that hospital employees received when they complain about quality to the hospital or a government entity.

**Comment:** Joint Commission standard APR 17 re: Assembly Bill 632 signed 10/14/07 Whistleblower Protections for Medical Staff Members

**Article III PRIVILEGES**

Initial requests for privileges are made simultaneously with the filing of the application for medical staff membership. Following procedures stated in Article V, Credentialing Procedure, the medical staff organization will evaluate and make recommendations to the Board of Directors. For new procedures and at the time of reappointment, member's requests for privileges will be subject again to the procedures outlined in the Credential Procedures.

The attending physician shall be responsible for the preparation of a complete medical record for his/her patient. This shall include a history and physical, appropriate progress notes, and an appropriate discharge summary (discharge summary not required for uncomplicated admission of less than 48 hours or normal OB deliveries).

**Article IV ORGANIZATION**

**Section 1: Officers**

The officers of the medical staff are the Chief of Staff, Chief of Staff Elect, Secretary/Treasurer, the Division Chiefs of Medicine and Surgery, and the Vice Chiefs of Medicine and Surgery. These officers are elected by a process contained in Article IV, Section 3 H. Duties are as follows:

**A. Chief of Staff**

Qualifications:

The Chief of Staff must be a member of the Active Medical Staff in good standing. Term is for one year commencing January 1st.

Duties:

The Chief of Staff of the Medical Staff is the individual in charge of the Medical Staff Organization, and with the assistance of the Medical Staff Executive Committee, is responsible for the effective discharge of the functions of the Medical Staff as set forth in the Medical Staff Bylaws and Accessory Documents. The Chief of Staff shall:

1. Be Chairperson of the Medical Staff Executive Committee.
2. Be responsible for preparation of the agenda with the assistance of the Medical Staff Coordinator.
3. Serve as the presiding officer at Medical Staff meetings and shall be an ex-officio member of all Medical Staff committees.
4. Report regularly to the Board of Directors on the performance of all Medical Staff functions and communicate to the Medical Staff any concerns expressed by the Board with respect to the quality of care.
5. Appoint the chairs and members of the Medical Staff committees as set forth in the Medical Staff Bylaws and Accessory Documents.
6. Be reasonably available to address patient care problems, complaints about physician behavior, or other problem areas involving the Medical Staff at the request of division Chairpersons, Directors of special care units, Chief of Staff Elect, the Vice President of Medical Affairs, and/or Hospital President or delegate.
7. The Chief of Staff shall keep the Chief of Staff Elect, Vice President of Medical Affairs, and Hospital President informed of all violations of Medical Staff Bylaws and Accessory Documents or of hospital policies which put patient welfare in jeopardy and shall report on what action is being taken to prevent such incidents from recurring.
8. The Chief of Staff may contact medical/hospital legal counsel for assistance or guidance.

**B. Chief of Staff Elect (Vice Chief of Staff)**

Qualifications:

The Chief of Staff Elect must be a member of the Active Medical Staff in good standing. Term is for one year commencing January 1st.

Duties:

1. Be Vice-Chairperson of the Medical Staff Executive Committee.
2. In the absence of the Chief of Staff, the Chief of Staff Elect shall assume all of duties of the Chief of Staff and have the same authority.
3. Shall serve as Chairperson of the Quality Assessment & Improvement Committee.
4. May be an ex-officio member of all Medical Staff committees and may attend all Medical Staff committees, as time permits.

**C. Secretary/Treasurer**

Qualifications:

The Secretary/Treasurer must be a member of the Active Medical Staff in good standing. Term is for one year commencing January 1st.

Duties:

1. Be a member of the Medical Staff Executive Committee.
2. In the absence of the Chief of Staff & the Chief of Staff Elect, the Secretary/Treasurer shall assume all of duties of the Chief of Staff and have the same authority.
3. Collect staff dues, application processing fees, and dispense funds from the Medical Staff's account as appropriate with the assistance of the Medical Staff Coordinator.

**D. Immediate Past Chief of Staff**

Qualifications:

The Immediate Past Chief of Staff must be a member of the Active Medical Staff in good standing. Term is for one year commencing January 1st.

Duties:

The immediate past chief of staff shall be act as Chairperson of the Credentials Committee and perform such other duties as may be assigned by the chief of staff or delegated by these bylaws, or the Medical Staff Executive Committee.

**E. Medical Division Chief**

Qualifications:

The Medical Division Chief must be a member of the Active Medical Staff in good standing and a member of one of the following sections; Emergency Medicine, Family Practice, Internal Medicine, or Pediatrics. Term is for one year commencing January 1st.

Duties:

The Medical Division Chief of the Medical Staff is the individual in charge of the above mentioned sections, and with the assistance of the Medical Division Committee, is responsible for:

1. Acting as Chairperson of the Medical Division Committee.
2. Responsible for preparation of the agenda with the assistance of the Medical Staff Coordinator.
3. Review intra-departmental problems.
4. Participates on and reports to the Medical Staff Executive Committee.
5. Receive and act upon suggestions from the Medical Staff, the Medical Staff Executive Committee, and other committees; preparing correspondence to division members relative to follow-up on division and/or committee activities.
6. Be reasonably available to address patient care problems, complaints about physician behavior, or other problem areas involving the Medical Division at the request of Directors of special care units, Chief of Staff, Chief of Staff Elect, Vice President of Medical Affairs, and/or Chief Operating Officer or delegate.
7. Investigate the qualifications of applicants for Medical Staff membership, interview staff applicants, make recommendations for staff appointment, reappointment, and privileges to the Credentials and Medical Staff Executive Committees, and oversee a proctoring program for all new members.
8. The Medical Division Chief shall keep the Chief of Staff informed of all violations of Medical Staff Bylaws and Accessory Documents or of Hospital policies which put patient welfare in jeopardy and shall report on what action is being taken to prevent such incidents from recurring.
9. Regularly report to the Chief of Staff and the Medical Staff Executive Committee regarding:
  - a. The discharge of the functions of the Medical Staff Organization as they pertain to the division.
  - b. The quality of medical care rendered within the division as reflected by ongoing quality assessment programs.
  - c. All disciplinary action in progress or being contemplated regarding any member of the division.
10. Oversees the continuous review to maintain the quality of the patient care in the division in accordance with the requirements for accreditation by the Joint Commission on Accreditation of Healthcare Organizations. The duties of the Medical Division Executive Committee shall include review, supervision, and appraisal of the quality of medical records as well as appraisal of the quality and timeliness of completion of medical records to achieve compliance with the established standards in accordance with the Medical Staff Bylaws and Accessory Documents.
11. Appoint the Chairperson and members of special and ad hoc committees within his/her division.
12. Participate in the ongoing development/revision of criteria for clinical privileges within the division.

13. Establish, maintain, and enforce professional standards within the division and the continuing improvement of the quality of care rendered in the division.
14. In conjunction with the Continuing Medical Education Secretary and the division committee, develop and periodically evaluate programs for the continuing education of members of the division.
15. Ensure that records of performance are maintained and updated for all members of the division.
16. Contact medical/hospital legal counsel for assistance or guidance with the prior approval of the Chief of Staff.

**F. Medical Division Chief Elect**

Qualifications:

The Medical Division Chief Elect must be a member of the Active Medical Staff in good standing. Term is for one year commencing January 1st.

Duties:

1. Assist the Division Chief in the performance of his/her duties and, in the absence or disability of the Division Chief, be responsible to perform the duties of the Division Chief and have the same authority.
2. Be Vice-Chairperson of the Medical Division Committee.

**G. Surgical Division Chief**

Qualifications:

The Surgery Division Chief must be a member of the Active Medical Staff in good standing and a member of one of the following sections; Anesthesia, OB/GYN, Orthopedics, Pathology, Radiology or Surgery. Term is for one year commencing January 1st.

Duties:

The Surgery Division Chief of the Medical Staff is the individual in charge of the above mentioned sections, and with the assistance of the Surgical Division Committee, is responsible for:

1. Acting as Chairperson of the Surgical Division Committee.
2. Responsible for preparation of the agenda with the assistance of the Medical Staff Coordinator.
3. Review intra-departmental problems.
4. Participates on and reports to the Medical Staff Executive Committee.
5. Receive and act upon suggestions from the Medical Staff, the Medical Staff Executive Committee, and other committees; preparing correspondence to division members relative to follow-up on division and/or committee activities.
6. Be reasonably available to address patient care problems, complaints about physician behavior, or other problem areas involving the Surgical Division at the request of directors of special care units, Chief of Staff, Chief of Staff Elect, Vice President of Medical Affairs, and/or Hospital President or delegate.
7. Investigate the qualifications of applicants for Medical Staff membership, interview staff applicants, make recommendations for staff appointment, reappointment, and privileges to the Credentials and Medical Staff Executive Committees, and oversee a proctoring program for all new members.
8. The Surgical Division Chief shall keep the Chief of Staff informed of all violations of Medical Staff Bylaws and Accessory Documents or of Hospital policies which put patient welfare in jeopardy and shall report on what action is being taken to prevent such incidents from recurring.
9. Regularly report to the Chief of Staff and the Medical Staff Executive Committee regarding:

- a. The discharge of the functions of the Medical Staff Organization as they pertain to the division.
  - b. The quality of medical care rendered within the division as reflected by ongoing quality assessment programs.
  - c. All disciplinary action in progress or being contemplated regarding any member of the division.
10. Oversees the continuous review to maintain the quality of the patient care in the division in accordance with the requirements for accreditation by the Joint Commission on Accreditation of Healthcare Organizations. The duties of the Surgical Division Executive Committee shall include review, supervision, and appraisal of the quality of medical records as well as appraisal of the quality and timeliness of completion of medical records to achieve compliance with the established standards in accordance with the Medical Staff Bylaws and Accessory Documents.
  11. Appoint the Chairperson and members of special and ad hoc committees within his/her division.
  12. Participate in the ongoing development/revision of criteria for clinical privileges within the division.
  13. Establish, maintain, and enforce professional standards within the division and the continuing improvement of the quality of care rendered in the division.
  14. In conjunction with the Continuing Medical Education Secretary and the division committee, develop and periodically evaluate programs for the continuing education of members of the division.
  15. Ensure that records of performance are maintained and updated for all members of the division.
  16. Contact medical/hospital legal counsel for assistance or guidance with the prior approval of the Chief of Staff.

**H. Surgical Division Chief Elect**

Qualifications:

The Surgery Division Chief Elect must be a member of the Active Medical Staff in good standing. Term is for one year commencing January 1st.

Duties:

1. Assist the Division Chief in the performance of his/her duties and, in the absence or disability of the Division Chief, be responsible to perform the duties of the Division Chief and have the same authority.
2. Be Vice-Chairperson of the Surgical Division Committee.

**I. Removal from Office:**

Conditions for consideration of removal from office include any of the following: 1) Failure to faithfully discharge duties of the office; 2) Loss of license; 3) Proceedings before the Medical Board of California; or 4) Such other activities which may bring discredit to the medical staff before the public.

The mechanism for removal from office occurs with any of the following: 1) The officer is no longer a member of the active medical staff; 2) Four votes for removal are obtained from the MEC and supported by the Board; 3) A petition for removal, signed by 20% of the active medical staff. After receipt of the petition, a mail ballot will be sent to voting members within 5 business days. Members will be given 30 days to return the ballot. Removal will require confirmation by 2/3 of the membership who cast votes. The removal is effective immediately.

**Section 2: Medical and Surgical Divisions**

The Medical and Surgical Divisions exist to facilitate the exchange of information between various recognized specialties, to be a vehicle for the delivery of continuing education to the membership, and to serve any clinical duties which are granted from either the Committee of the Membership or the Medical Executive Committee. Each member may choose the division to which he/she shall belong for medical staff representation and voting purposes. The appropriate division will still address matters involving credentialing and privileges.

As needed, the divisions or any further sections deemed necessary by active staff members may meet, may choose topics to be discussed, and may offer suggestions to the MEC. Any such meetings will be called and chaired by the division or section chief or designee and held after notice to the affected segment of the membership.

Subcommittees: The medical staff organization also contains various Sections, which meet as needed and report directly to the appropriate Division. The duties and authority of the Sections are outlined in the MEC Policy Manual.

**Section 3: Committees**

**A. Committee of the Membership**

This committee is comprised of all members of the medical staff. The presiding officer is the Chief of Staff. Conduct of the meeting will conform to Sturgis Rules of Order. A majority of those voting members present may take action. Such a majority may inform or instruct the MEC or may communicate directly to the Board of Directors.

Meetings of the committee will occur a minimum of three times per calendar year. The fall meeting will be the annual meeting at which the Nominating Committee report will be presented. A published agenda of the regular meeting prepared by the Chief of Staff will be available to the membership prior to the meeting. Each agenda will contain an item allowing for an individual to address the membership about matters of concern. The Chief of Staff may call special meetings, by a majority vote of the MEC, or by a petition signed by 15% of the active staff membership. Notification of such a special meeting will be sent by mail to the entire membership ten days in advance of the meeting. Notice will state the purpose, time, and location.

**B. Medical Executive Committee (MEC)**

The Medical Executive Committee is the administrative/executive instrument of the Committee of the Membership. The chairman is the Chief of Staff or Chief of Staff Elect if the former is absent. The MEC is composed of the following voting members: Chief of Staff, Chief of Staff Elect, Secretary/Treasurer, Division Chief of Medicine, Division Chief of Medicine Elect, Division Chief of Surgery, Division Chief of Surgery Elect. No active medical staff member is ineligible for membership on the Medical Staff Executive Committee solely because of his/her professional discipline or specialty.

The tenure for Division Chief is one year and is filled annually by the prior year's Division Chief Elect. No member may serve on the MEC longer than five consecutive years. The MEC meets monthly or more often on the call of the chairman. The MEC will adopt, publish to the members of the medical staff, and follow an outline of the committee's duties, responsibilities, and procedures (MEC Policy Manual).

To be adopted, matters submitted to the MEC for action must gain four favorable votes.

If the Board of Directors fails to accept an adopted motion of the Committee of the Membership or the MEC, the medical staff is entitled to a Joint Conference meeting. The Hospital President shall call this meeting within two weeks after a written request from the Chief of Staff. Officers of the Board and officers of the medical staff meet to discuss the Board's denial and to allow further exchange.

**C. Credentials Committee (C.C.)**

The Credentials Committee is composed of seven members: The immediate Past Chief of Staff who is the chairperson and three members from each division of the medical staff. Each division member will serve a two-year term. The medical staff will elect these members from candidates selected by the Nominating Committee as well as any offered from the Committee of the Membership in conformity with the nominating and election process contained in Article IV, Section 3 H. Members of the C.C. may not serve on the MEC simultaneously. The Vice President of Medical Affairs will serve on the committee as an ex-officio member without vote.

The C.C. will meet as needed to perform the functions contained in Article V, Credentialing Procedure. This committee is responsible for formulating, initiating amendment, and discharging the duties contained in the Credentials Policy Manual as they pertain to the medical staff, the resident staff, and allied health professionals.

**D. Quality Assessment & Improvement Committee**

The QA&I Committee is composed of the Chief of Staff Elect who is the chairperson, the Director of Quality Management, and three members of the active staff selected by the chair who may serve for two reappointments.

The committee meets at least quarterly to review compiled data and make recommendations to the Medical Executive Committee. Quality indicators derived by the medical staff, recognized benchmarks, written reports, utilization review criteria, and other data chosen by the committee shall form the basis for ensuring the medical staff and the Board that ongoing quality improvement is conscientiously sought. The Infection Control Office(s) will provide reports on infection prevention and control policies and activities. The committee shall have input to the Credentials Committee at the time of reappointment so that the Credentials Committee may receive information gathered by quality indicators chosen by the medical staff.

**E. Special Care Committee**

This committee is composed of the Chief of Staff or designee from the active staff who is chairperson and physician specialists involved in critical care appointed by the Chief of Staff. The committee meets as needed at the call of the chair to discuss relevant issues pertaining to interaction of the medical staff in special care areas, the requirements of various regulatory bodies and agencies (e.g. cancer center, trauma program, radiation safety, perinatal M&M, etc.), and to promote improvement of care by the consideration of needs assessment.

**F. Pharmacy and Therapeutics Committee**

This committee is composed of a chairperson selected by the Chief of Staff from the active staff, a registered pharmacist, the Infection Control Coordinator, and two members of the active medical staff appointed one each by the Division Chiefs of medicine and surgery. The committee meets as needed at the call of the chair to discuss matters related to drug usage and evaluation, the use of blood and blood products, in addition to infection control and other matters regarding therapies and medicines brought to it by the medical staff.

**G. Nominating Committee**

This committee is comprised of five members: The medical staff secretary/treasurer as chairperson, the medical staff past Chief of Staff, and three (3) members of the active staff chosen by the Secretary/Treasurer and past Chief of Staff. These chosen members will have no current elected, appointed, or paid leadership role in the medical staff.

The committee meets on the call of the chairperson no later than August. A list of board certified or otherwise qualified doctors of medicine or osteopathy candidates from the active staff for Chief of Staff-Elect, Secretary/Treasurer, appropriate Credentials Committee members and Division Chiefs elect for consideration will be mailed to all Active Staff members at least 2 weeks prior to the fall Committee of the Membership meeting. This list will be presented to the Committee of the Membership at its fall meeting annually. Additionally, the committee meets to supply candidates to the Medical Executive Committee for interim appointments in the event of a vacancy.

Nominations from the Committee of the Membership may be added to the list supplied by the Nominating Committee. Additional candidates must accept the nomination before their name will be added to the official ballot. The Medical Staff Office will mail ballot on or within five business days of 1 October to all active staff members. Voting shall be by secret written ballot, and only authenticated sealed mail ballots will be counted. Written ballots shall include handwritten signatures on the envelope for comparison with signatures on file, if necessary. Ballots will be received by the 31<sup>st</sup> of October and announcements of the election made to the medical staff by way of December Medical Staff Newsletter. The Nominating Committee will count all ballots received from the staff. At least two members of the Nominating Committee must be present for the ballots to be counted. Election will require a simple majority of the votes cast. In the case where 3 or more candidates are running for a single office, and no one person receives a simple majority of the votes cast, there will be a run-off between the two who receive the highest number of votes. In the case of a tie on the second ballot, the majority vote of the MEC shall decide the election by secret written ballot at its next meeting or a special meeting called for that purpose.

The medical staff year begins 1 January.

**H. Administrator**

The Hospital President, or his delegate, shall be a member ex-officio without vote of all committees of the Medical Staff.

**I. Quorum**

The quorum requirements for medical staff meetings shall be those present and voting, but in no event less than one voting member, except for those committees with requirements as mandated per these Bylaws or by State or Federal law (e.g. IRB, IDP, MEC).

**J. Attendance Requirements**

Members of the medical staff are encouraged to attend meetings of the medical staff. Meeting attendance will not be used by the Credentials Committee in evaluating members at the time of reappointment.

**Article V CREDENTIALING PROCEDURE**

**Section 1: Terms and Conditions of Appointment**

- A. Appointments: Appointments shall be made by the Board of Directors of Mercy Medical Center, and shall be for a period of no more than two years. The Board of Directors shall take action on any application, reappointment or revocation of an appointment only when there has been a recommendation from the MEC.
  
- B. E.R. Call Roster: Physicians newly appointed to the Provisional/Active Staff will participate in the Emergency Department call roster during their first twelve months of service as proportionate per the voluntary call group of specialty but no more often than 1 in 4. Said twelve months begins as follows:
  - 1. Medical Specialties – Upon appointment to the Provisional/Active Staff.
  - 2. Surgical Specialties – Upon satisfactory completion of the monitoring/proctoring program.This requirement may be fulfilled if physician is taking call at another hospital of the CHW North State Service Area, but the Medical Staff Executive Committee will consider this on a case-by-case basis at the time of appointment.
  
- C. Dues: Dues and assessments shall be paid as a condition to membership on the medical staff. The Medical Staff Executive Committee shall determine the annual dues. Any member who does not pay his/her dues within 90 days of receipt of the request for payment shall be notified by mail that he/she is no longer entitled to the rights and privileges of the Medical Staff (see Section 5 A of this Article). Request for dues will be sent in March, reminder sent in 30 days if payment has not been received. Certified letter sent after 60 days notifying the practitioner that his/her membership will be terminated if payment is not received within 30 days of that notice. Provision may be made by the MEC for excluding dues and assessments for some classes of membership or for excusing them in cases of hardship.
  
- D. Nondiscrimination: No aspect of medical staff membership or particular clinical privileges shall be granted or denied on the basis of gender ~~sex~~, race, age, creed, color, national origin, or physical or mental impairment that does not pose a threat to the quality of patient care. The medical staff shall not discriminate with respect to membership or clinical privileges against a licensed physician and surgeon or podiatrist on the basis of whether the physician and surgeon or podiatrist holds an MD, DO, or DPM degree. Discrimination is not part of the credentialing process.

**Comment:** Joint Commission MS.06.01.07 Effective 7/1/10.

**Section 2: Procedure for Appointment**

- A. The pre-application form, the medical staff application, and the allied health personnel application are hereby incorporated by reference and made part of this Credentialing Procedure. A pre-application form must be completed and an applicant must be deemed qualified for membership before an application for membership is given to the applicant. Qualifications for medical staff membership include:

1. Board certification by one of the ABMS (American Board of Medical Specialty) or one of the AOA (American Osteopathic Association) Specialty Boards is preferred. At a minimum, the applicant must have satisfactorily completed an ACGME (Accreditation Counsel of Graduate Medical Education) or AOA approved residency or can demonstrate clinical experience that is equivalent to the approved residency. Exceptions may be made by the MEC for physicians who wish to surgical assist only.
2. Actively practiced at least 18 months out of the last 24 months (residency or private practice). The Medical Staff Executive Committee may waive this requirement if the practitioner has maintained continuing education during his/her absence, which is pertinent to the privileges requested.
3. Actively practiced at a hospital at least two of the past five years. The Medical Staff Executive Committee may waive this requirement if the practitioner has maintained continuing education during his/her absence, which is pertinent to the privileges requested.
4. All members who hold hospital-admitting privileges must be able to respond to their patients in the hospital within an appropriate time frame for their specialty. In any case, a physician must be able to respond within 30 minutes or have an alternative care provider who can respond in the event of emergency.
5. Currently licensed to practice in the State of California and maintain a Federal DEA number where applicable. In instances where a full drug schedule is not listed on the DEA certificate, a written explanation is required and the member agrees not to prescribe any drugs not included in his/her schedule.
6. Malpractice Insurance Requirements: Each member of the medical staff, each allied health professional granted privileges to provide services at this facility (except for those who assist at surgery only), and any person providing professional services to patients within the facility on a temporary or other limited basis, shall maintain in full force and effect at all times professional liability (malpractice) insurance with a company licensed to sell insurance in the State of California and either admitted\* by the Insurance Commission of the State of California, covered by a California University or CHW Trust, or which has at least an A- Rating with a A.M. Best company.

\* *“Admitted” by the Insurance Commission of the State of California means a company that participates in the California Insurance Guarantee Association (CIGA) which is an insurance company that is licensed in California and pays a CIGA tax which offers coverage for certain insolvencies.*

The amounts and form of such insurance shall be set from time to time by action of the Board of Directors on recommendation from the Medical Staff Executive Committee. Minimum amounts will be not less than one million (\$1,000,000) per occurrence, and three million (\$3,000,000) aggregate claims per year. Allied Health Personnel Staff are required to maintain in force at all times professional liability insurance – minimum amounts will be not less than one million (\$1,000,000) per occurrence, and three million (\$3,000,000) aggregate claims per year.

Medical Staff members and allied health professionals must demonstrate continuous equivalent professional liability coverage (e.g. extended endorsement policy) that includes "nose" and "tail" coverage to relate back at least to the first coverage date (including any retroactive coverage) that was provided under the prior policy to cover their professional actions at all times during which they practiced at this facility if the provider changes insurers. It is the provider's responsibility to immediately notify the medical staff of any lapse in coverage.

7. No physician, dentist, or podiatrist may be granted nor may staff privileges be maintained if he/she is excluded, suspended or otherwise ineligible to participate in any state or federal health care program, including but not limited to Medicare or Medi-Cal or if he/she has been convicted of a criminal offense related to the provisions of health care items or services, but has not yet been excluded, suspended, or otherwise declared ineligible.

B. Burden of Proof:

- (1) Individuals seeking appointment and reappointment have the burden of producing information deemed adequate by the Hospital for proper evaluation of current competence, character, ethics and other qualifications and for resolving any doubts.
- (2) Individuals seeking appointment and reappointment have the burden of providing evidence that all the statements made and information given on the application are accurate. The making of a false statement in the application is grounds for denial of the application. The term "false statement" includes, without limitation, the making of a false statement of any material or the failure to state or disclose a material fact.
- (3) An application shall be complete when all questions on the application form have been answered, all supporting documentation has been supplied, and all information has been verified from primary sources. An application shall become incomplete if the need arises for new, additional, or clarifying information at any time. Any application that continues to be incomplete 30-days after the individual has been notified of the additional information required shall be deemed to be withdrawn.
- (4) The individual seeking appointment or reappointment is responsible for providing a complete application, including adequate responses from references. An incomplete application will not be processed.

C. Verification of Information: The applicant shall deliver a completely filled-in, signed, and dated application and supporting documents to the medical staff office along with the application fee. Each applicant consents to the inspection of records and documents pertinent to his or her licensure, specific training, experience, current competence including the six areas of general competencies (patient care, medical/clinical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and system-based practice), and physical ability to perform the privileges requested and patient care responsibilities, and if requested, appears for an interview. The National Practitioner Data Bank shall be queried and the physician will report all settlements and final judgments of malpractice actions, any previously successful or currently pending challenges to any licensure or registration, and any involuntary or voluntary relinquishment, limitation reduction or loss of license, DEA, malpractice insurance, medical staff membership or privileges (time frames noted on application form). Attempt will be made to assure the individual requesting membership/privileges is the same individual identified in the credentialing documents. The medical staff office shall expeditiously seek to collect or verify from primary sources the references, licensure status, and other evidence submitted in support of the application. When collection and verification of information is accomplished, the application shall be considered complete, and all information shall be transmitted to the appropriate division(s), the Credentials Committee, MEC, and the Board of Directors for final approval.

The medical staff shall investigate the character, mental and physical health\*, professional competence, qualifications, and ethical standing of the applicant to exercise the privileges he/she requests, and shall verify, through references given by the applicant and other sources available to it, that he/she meets and has established all the necessary qualifications.

\* *In instances where there is doubt about an applicant's ability to perform privileges requested, an evaluation by an external and internal source may be required at the request of the medical staff.*

- D. Time Limited: Applications for appointment to the medical staff shall be considered in a timely manner by all persons and committees required by the Bylaws and related documents to act thereon. While special or unusual circumstances may constitute good cause and warrant exceptions (i.e. Category 2 applications), the following maximum time periods provide a guideline for routine processing of applications:
1. evaluation, review, and verification of application and all supporting documents by the medical staff office: 30 days from receipt of all necessary documentation.
  2. review and recommendation by divisions: 30 days after receipt of all necessary documentation from the medical staff office.
  3. review and recommendation by Credentials Committee: 30 days after receipt of all necessary documentation from the division.
  4. review and recommendation by MEC: 30 days after receipt of all necessary documentations from the Credentials Committee.
  5. final action: 180 days after receipt of all necessary documentation by the medical staff office.
- E. An MEC member and/or the VPMA will interview applicants to the Provisional/Active Staff. All applicants will be invited and encouraged to attend the division meeting to which they will belong.
- F. Application Categories: Applications will be categorized by the degree of time and complexity their application is likely to require.

Category One: A Category One application would be one in which there are no problems in verifying information on the application. All references contain no suggestion that the physician is anything other than a highly qualified physician capable of exercising good clinical judgment. There are no prior malpractice actions, no reports of disciplinary action, licensure restrictions or any type of investigation. Additionally, the physician requests privileges consistent with the specialty or the standards previously established by the medical staff.

Category Two: Applicants with one or more of the following:

- Negative letters of reference;
- The physician has requested privileges that vary from those generally requested by physicians in the specialty.
- A request for clinical privileges that vary substantially from those generally associated with the specialty, or are entirely at variance with the generally recognized criteria within the industry.
- The Medical Staff Executive Committee makes a final recommendation that is adverse or with limitation;
- There is a current challenge or a previously successful challenge to licensure or registration;
- The applicant has received an involuntary termination of medical staff membership at another organization;
- The applicant has received involuntary termination, limitation, reduction, denial, or loss of clinical privileges;
- There has been either an unusual pattern of, or an excessive number of, clinically relevant final judgment(s) adverse to the applicant in a professional liability action;
- There is a clinically relevant positive National Practitioner Data Bank Report.

Comment: MS.06.01.11, EP 6

**Processing Categories One & Two:**

Category One: Review and approval by the following:

- Division Chief
- Chairman of Credentials Committee (*empowered to act on behalf of and in the name of the Credentials Committee*)
- Chairman of Medical Staff Executive Committee (*empowered to act on behalf of and in the name of the MEC*)
- Board of Directors

A report will be made to the MEC at the next regularly scheduled meeting where the approvals will be ratified (if appropriate). If the Board's decision is adverse to an applicant, the matter is referred back to the Medical Staff Executive Committee for further evaluation.

If any of the above credentialing representatives feel uncomfortable signing for approval, the reappointment will automatically advance to Category Two.

Category Two: Review and approval by the following:

- Division Executive Committee
- Credentials Committee
- Medical Staff Executive Committee
- Board of Directors

Category Determinations: The VPMA, after consultation with the medical staff coordinator, will assign the category level. If any of the above credentialing representatives is uncomfortable with a category assignment, the assignment will automatically advance to the next category.

- G. Provisional Appointments: Each initial appointment of an applicant for Active or Courtesy medical staff membership shall be a provisional appointment for at least one (1) full year. The Board of Directors may extend the provisional status (after recommendation from MEC) if further evaluation is necessary -- up to a total of (but no more than) two years following appointment to the provisional staff.
- H. Advancement: The advancement process will be categorized by the degree of time and complexity the advancement is likely to require. Category One and Category Two will be processed in the same manner as Category One and Two applications and reappointments (see Section 2 G and Section 3 B of this Article).
- I. Statement affirming ability to practice: Practitioners shall immediately furnish to the MEC and Board of Directors, whenever applicable: information about significant change in health status; and/or any information reasonably required by the MEC or Board of Directors to adequately evaluate the staff member.
- J. Statement on requiring continuous care: Regardless of staff category, all staff members with clinical privileges must provide timely and continuous care to their patients.
- K. Statement on applicant's liability release: Each applicant for medical staff appointment or reappointment shall acknowledge: that he releases from liability all hospital and medical staff representatives who evaluate the applicant and his qualifications in good faith and without malice; and that he releases from liability all individuals and organizations who, in good faith and without malice, provide information relevant to the application/reapplication.

- L. Temporary Appointment & Privileges: Temporary privileges may be granted when:
1. An important patient care need requires immediate authorization to practice, not to exceed 120 days, while the medical staff office continues verifying the physician's full credentials. Examples include, but are not limited to, the following:
    - A situation exists where a physician becomes ill or takes a leave of absence and a licensed independent practitioner would need to cover the practice until he or she returns.
    - A specific independent practitioner has the necessary skills that a licensed independent practitioner currently privileged does not possess to care for a patient.
  2. A fully verified application awaits MEC and/or Board review and approval.

Procedure – The following items are needed before considering privileges:

- Completed application for membership.
- Current California license.
- Current DEA.
- Current Malpractice Certificate.
- National Practitioner Data Bank Query.
- Copy of privileges where the physician is currently or has been practicing. For physicians just coming out of training, a signed statement from the residency program director that the physician is competent to perform duties within his/her specialty will be required. It will be the physician's responsibility to obtain this statement.

The hospital president or VPMA are authorized to grant temporary appointment and privileges upon the recommendation of the Chief of Staff and chief of appropriate division.

### **Section 3: Procedure for Reappointment**

- A. Procedure for Reappointment - The medical staff application for reappointment and the allied health personnel application for reappointment are hereby incorporated by reference and made part of this Credentialing Procedure. Reappointment to the medical staff is for a period of no more than two years. Reappointment paperwork will be sent to the member at least 120 days prior to the expiration date. Specific consideration shall be given to each member with respect to compliance with medical staff bylaws and related documents. Each applicant for reappointment consents to the inspection of records and documents pertinent to his or her licensure, specific training, experience, current competence including the six areas of general competency (patient care, medical/clinical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and system-based practice) and CME, aggregate data from facility performance improvement activities as compared to peers and established benchmarks, ability to perform the privileges requested and mental and physical health\* to perform the privileges requested, and if requested, appears for an interview. The National Data Bank shall be queried and the physician will report all settlements and final judgments of malpractice actions, any previously successful or currently pending challenges to any licensure or registration, and any involuntary or voluntary relinquishment of license, DEA, malpractice insurance, medical staff membership or privileges since the last appointment or reappointment.

\* *In instances where there is doubt about an applicant's ability to perform privileges requested, an evaluation by an external and internal source may be required at the request of the medical staff.*

- B. Reappointment Categories: Reappointments will be categorized by the complexity their application is likely to require as summarized below:

Category One: A Category One application is one where the applicant is well known to the medical staff, has current license, DEA, malpractice insurance, does not wish a change in privileges.

Category Two: Applicants with one or more of the following:

- Negative letters of reference;
- A request for clinical privileges that vary from those generally associated with the specialty, or are entirely at variance with the generally recognized criteria within the industry.
- Negative quality review data or patient satisfaction issues.
- The Medical Staff Executive Committee makes a final recommendation that is adverse or with limitation;
- There is a current challenge or a previously successful challenge to licensure or registration;
- The applicant has received an involuntary termination of medical staff membership at another organization;
- The applicant has received involuntary termination, limitation, reduction, denial, or loss of clinical privileges;
- There has been either an unusual pattern of, or an excessive number of, clinically relevant final judgment(s) adverse to the applicant in a professional liability action;
- There is a clinically relevant positive National Practitioner Data Bank Report.

Comment: MS.06.01.11, EP 6

**Processing Categories One & Two:**

Category One: Review and approval by the following:

- Division Chief
- Chairman of Credentials Committee (*empowered to act on behalf of and in the name of the Credentials Committee*)
- Chairman of Medical Staff Executive Committee (*empowered to act on behalf of and in the name of the MEC*)
- Board of Directors

A report will be made to the MEC at the next regularly scheduled meeting where the approvals will be ratified (if appropriate). If the Board's decision is adverse to an applicant, the matter is referred back to the Medical Staff Executive Committee for further evaluation.

Category Two: Review and approval by the following:

- Division Executive Committee
- Credentials Committee
- Medical Staff Executive Committee
- Board of Directors

Category Determinations: The VPMA, after consultation with the medical staff coordinator, will assign the category level. If any of the above credentialing representatives is uncomfortable with a category assignment, the assignment will automatically advance to the next category.

The reappointment application will be presented to the MEC (or MEC Chair) at least 30 days prior to the expiration of the existing appointment and to the Board within the month of expiration.

#### **Section 4: Inactive Members**

- A. When, for a continuous period of six months, it appears that a member of the medical staff has ceased to reside within and no longer conducts an active professional practice within the service area of the hospital, and does not initiate leave of absence as provided in the Bylaws, or initiate an application in change of status, his membership on the medical staff may be terminated or reduced to a category commensurate with his current residence and practice. The Credentials Committee shall, upon request from the MEC, or upon its own initiative, investigate any circumstances that would authorize termination or reduction of medical staff membership or category under this paragraph and shall recommend to the MEC such action as it considers to be appropriate. Prior to making a recommendation, however, it shall notify the affected member of its investigation and request information as to the current status and intentions of the member. Said notice and request shall be in writing and mailed to the affected member, certified, return receipt requested, postage prepaid, at the current address maintained by the member in the medical staff office. Failure of the member to respond within sixty (60) days of mailing of said notice shall constitute sufficient basis for termination of membership or reduction of staff category and, in addition, shall constitute a waiver of any right to a judicial review hearing for action taken pursuant to the provisions of this paragraph.

#### **Section 5: Termination of Medical Staff Membership**

Membership on the medical staff shall be terminated unless otherwise provided, without right to a hearing under the provisions of the Bylaws, under the following circumstances:

- A. Failure to pay dues or assessments as required by the Bylaws or related documents, provided that termination shall not occur until thirty days written notice has been given to the affected member that his membership will terminate thirty days following the mailing or personal delivery of said notice unless the dues or assessments are paid within that time or an application is filed to excuse payment on grounds (if any) which are provided for in this Article. A hearing under the provision of the Bylaws shall be granted in those cases where the affected member claims, by written notice delivered within said thirty day period to the Medical staff Coordinator of the medical staff, to have paid the dues or assessments, provided however, that the hearing shall be limited to the question as to whether or not the dues or assessments have been paid.
- B. Failure to file a written and completed reapplication, in the form required by the Credentials Committee, when that committee is required to review the qualifications of the member for reappointment under the Bylaws, provided that termination shall not occur until thirty days written notice has been given to the affected members that his membership will terminate thirty days following the mailing or personal delivery of said notice unless the completed reapplication form is filed within that time. A hearing under the provisions of the Bylaws shall be granted in those cases where the affected member claims, by written notice within said thirty day period delivered to the medical staff coordinator of the medical staff, to have filed the completed reapplication form, provided however, that the hearing shall be limited to the question as to whether or not the completed reapplication form has been filed.

#### **Section 6: Allied Health Personnel**

Allied Health Personnel (AHP) are further described in the Interdisciplinary Practice Committee Procedure Manual on file in the Medical Staff Office.

- A. Definition: AHPs will consist of all persons who provide professional health care services within the hospital other than members of the medical staff and employees of the hospital.

B. Appointment/Reappointment: Initial appointment and subsequent reappointment for the AHP will be processed in the same manner as the medical staff applicant utilizing the Category classifications with the exception that the application/reappointment will be reviewed and approved/disapproved by the Chair of the Interdisciplinary Practice Committee. Appointments to the AHP staff are for a period of two years, renewable by the birth month of the applicant.

C. Due Process:

**Grounds for Corrective Action**

1. Corrective action against any allied health personnel may be requested by the Chief of Staff, the Chief of a division, Director of a service, Chair of any standing committee or section, the hospital President, the VPMA, the Board of Directors or the Vice President of Patient Services. Such request shall be made in writing to the Interdisciplinary Practice Committee.
2. Corrective action may consist of, but shall not necessarily be limited to, a warning, a letter of admonition, a letter of reprimand, limitation, reduction or termination of privileges, terms of probation, requirement for consultation or monitoring, or loss of privileges to practice or perform services within the hospital or any other action appropriate under the circumstances.
3. Grounds for corrective action include acts, demeanor, or conduct, which is or is reasonably likely to be:
  - Detrimental to patient safety or to the delivery of quality patient care within the hospital;
  - Unethical practice;
  - In violation of the Bylaws or the Rules and Regulations of the Medical Staff or of the hospital, or in violation of the Code of Ethics of the Catholic Healthcare West;
  - Below applicable professional standards;
  - Inconsistent with the standards or obligations of the Medical Staff so as to adversely reflect upon the reputation of the Medical Staff as a whole in the community.
4. Upon receipt of a request for corrective action, or upon its own initiative, the Interdisciplinary Practice Committee shall immediately undertake a careful and detailed investigation of the complaint made. A report of the findings of the Interdisciplinary Practice Committee and a recommendation of the action to be taken shall be made to the Credentials Committee within sixty (60) days after receipt of the request for an investigation. Prior to making such report to the Credentials Committee, the Allied Health-Personnel against whom corrective action has been requested shall be afforded an opportunity to appear before the Interdisciplinary Practice Committee, be informed of the general nature of the charges being investigated, and be permitted an opportunity at such meeting to make a statement on his or her own behalf. This appearance shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules hereinafter set forth with respect to hearings shall apply to such appearance.
5. At all times, the MEC, the Credentials Chairman, the Chief of Staff (or in his absence his designee), or the Hospital President (or his designee) may summarily suspend the privileges of an Allied Health Personnel when failure to do so may result in imminent danger to the health of any patient, prospective patient, employee, or other individual. In the event of summary suspension, the Allied Health Personnel shall be entitled to a preliminary review of that decision as soon as it can be arranged before the VPMA and the Chief of Staff of Mercy Medical Center. The decision of the VPMA and the Chief of Staff as to whether or not suspension should remain in effect pending a review hearing and the appeal process shall be final and conclusive upon the Allied Health Personnel.

## Review Hearing

1. Whenever action is recommended or taken by a Committee of the Medical Staff which constitutes adverse action affecting an Allied Health Personnel or an Allied Health Personnel applicant for privileges, the affected Allied Health Personnel shall be entitled to a hearing before a panel of three health care providers consisting of one member of the Medical Staff appointed by the Chairman of the Credentials Committee, who shall act as chairman of the panel, one registered nurse employee of Mercy Medical Center, who is not a member of the Interdisciplinary Practice Committee, appointed by the Vice President of Patient Services, and one other Allied Health Personnel having privileges in the hospital who shall also be appointed by the Chairman of the Credentials Committee.
2. Any action or recommended action, including denial of requested privileges, adversely affecting the right of an Allied Health Personnel to exercise privileges within the hospital, constitutes adverse action for purposes of these due process requirements.
3. Investigation or review activities, a warning, a letter of admonition, or a letter or reprimand, shall not be construed as adverse action, which entitles an Allied Health Personnel or applicant to a review hearing.
4. In all cases in which an Allied Health Personnel is entitled to a review hearing, the Allied Health Personnel shall promptly be given written notice by the Chairman of the Interdisciplinary Practice Committee, by certified or registered mail, return receipt requested, or by personal delivery. The notice shall include the following information:
  - A description of the action or recommendation;
    - A concise statement of the reasons for the action or recommendation;
    - That the Allied Health Personnel has the right to request a hearing on the proposed action;
    - That the member or applicant has thirty (30) days from receipt of the notice to request the hearing, which request shall be in writing and shall be received by the Director of Medical Staff Services employed by the hospital on or before the expiration of said thirty (30) days.
5. Upon request by the Allied Health Personnel, a Review Panel shall be convened within twenty (20) days. The Allied Health Personnel shall be notified of the hearing date not less than ten (10) days prior to the review hearing. The notice of hearing shall include a list of the witnesses to be called in support of the person making the recommendation. At the hearing, the Chairman of the Interdisciplinary Practice Committee on the one hand, and the affected Allied Health Personnel on the other, will each have the right to call witnesses and present relevant verbal and written evidence of the sort that responsible persons are accustomed to rely on the conduct of serious affairs. Evidence need not conform to common law or statutory rules, which might make it inadmissible in a court of law. The Allied Health Personnel will be afforded the opportunity to present a personal statement in his or her own defense. The statement may be presented orally or in writing. The review hearing will be closed and the proceedings shall be recorded by a court reporter or by other means approved by the panel. Legal counsel may be consulted to assist in preparation for the hearing, but may not directly participate in its proceedings. The Review Panel shall render a recommendation, in writing, to the Credentials Committee within ten (10) days of the hearing. The recommendation shall include the reasons supporting the decision. A copy of the recommendation shall be delivered to the affected Allied Health Personnel and to the Chairman of the Interdisciplinary Practice Committee.

## Appeal

Following receipt of the Review Panel's decision, the Allied Health Personnel may appeal that decision, in writing, to the MEC of the Medical Staff. To exercise that right, the Allied Health Personnel shall give written notice of appeal within ten (10) days following delivery of the decision. Failure to give notice in the manner and within the time provided shall constitute a waiver of the right to appeal. Notice of the time and place of the appearance before the MEC, which shall be scheduled not less than twenty (20) days following the request for the appeal, shall be given to the Allied Health Personnel not less than ten (10) days before the time scheduled. The proceedings on appeal shall be in the nature of an appellate review, based upon the record of the hearing before the Review Panel. However, the MEC, in its sole judgment and discretion, may accept additional oral or written evidence subject to the same rights of cross-examination or confrontation provided at the Review Panel Hearing. The Allied Health Personnel shall each have the right to present oral and written statements and authorities at any time prior to submission of the matter, in support of his or her position on appeal. The MEC may affirm, modify, or reverse the recommended action of the Review Panel or may, in its sole judgment and discretion, refer the matter for further review and consideration. The decision of the MEC shall constitute the final recommendation of the Medical Staff to the Board of Directors of the Hospital of the action to be taken.

## Error in Procedure

The MEC, in its sole judgment and discretion, shall determine whether or not any failure to follow the procedure outlined in this document has deprived an Allied Health Personnel of due process and should constitute grounds for a new review hearing and appeal or for other remedial action. Its determination with regard to that matter should be final and conclusive.

## Section 7: Extent of Privileges

- A. Evaluation of the applicant for the privilege requested shall be based upon the applicant's training, experience, references, professional criteria, and other relevant information. Professional criteria are designed to assure the medical staff and governing body that patients will receive quality care. The professional criteria at least pertain to evidence of current licensure, relevant training or experience, current competence, and ability to perform the privileges requested. Additional privilege requests may be approved using the Category One and Category Two method outlined in this Credentialing Procedure as long as criteria for granting the privilege exists. If such criteria do not exist, the request will be submitted to the full committees for development of criteria as well as consideration of approval of the request for the additional privilege(s).
- B. Re-determination of privileges and the increase or curtailment of the same, shall be based upon direct observation, review of the records, or any portion thereof, of patients treated in this or other hospitals, and review of the records of the medical staff which may document the member's participation in medical staff responsibilities. Physical and mental capabilities and clinical competency will be considered. At the time of reappointment, peer review data shall be used in making the reappointment decision.
- C. Reinstatement of Clinical Privileges: Physicians who have had their clinical privileges withdrawn or curtailed for alleged lack of competency in accordance with the procedures outlined in the Medical Staff Bylaws shall not have them reinstated until the following requirements have been met: "Active participation in a training program approved by the division committee with written approval of the Credentials Committee, and monitoring to allow demonstration of such competency to this hospital's Medical Staff divisions, Credentials and MEC Committees."

- D. **Emergency Privileges:** In the event of an emergency, any person shall be permitted to do whatever is reasonably possible to save the life of a patient or to save a patient from serious harm. Such persons shall promptly yield such care to qualified members of the medical staff when it becomes reasonably available.

**Under conditions of extreme patient risk**, the Chief of Staff, Chairman of the appropriate Division, Chairman of Credentials Committee, or the Hospital President of Mercy Medical Center (or his designee) may grant emergency privileges for that patient alone. These conditions would apply if the physician in question were the only one capable of rendering appropriate professional services (i.e. no qualified staff members were available). Such privileges shall be based on the information then available, which may reasonably be relied upon to affirm the competence, ethical standing and licensure of the physician who desires such emergency privileges. In the exercise of such privileges, such physician shall act under the direct supervision of the Division Chairman to which he is assigned or under the direct supervision of a member of that Division selected by the Division Chairman.

**In circumstances of disaster**, (1) in which the Emergency Management Plan has been activated and (2) the organization is unable to meet immediate patient needs, the Hospital President or Chief of Staff (or their designees) may grant emergency privileges to volunteers eligible to be licensed independent practitioners. All volunteers who have been granted privileges will be partnered with a member of the Active Staff who will provide direct observation to oversee the professional performance of the volunteer practitioner. The medical staff oversees the professional practice of volunteer licensed independent practitioners.

Granting such privileges shall be based on a minimum of a valid government-issued photo ID issued by a state or federal agency (e.g. driver's license or passport) **and at least one of the following**, which may reasonably be relied upon to affirm the competence, ethical standing and licensure of the physician:

- ◆ Current photo I.D. or verification of the LIP's identity from another hospital clearly identifying professional designation.
- ◆ Current copy of medical license.
- ◆ Primary source verification of the license.
- ◆ Identification indicating that the individual is a member of a Disaster Medical Assistance Team (DMAT), or Medical Reserve Corps (MRC), Emergency System for Advance Registration of Volunteer Health Professionals Program (ESAR-VHP), or other recognized state or federal organizations or groups.
- ◆ Identification indicating that the individual has been granted authority to render patient care, treatment and services in disaster circumstances. Such authority having been granted by a federal, state or municipal entity.
- ◆ Identification by current hospital or medical staff member(s) who possesses personal knowledge regarding volunteer's ability to act as a licensed independent practitioner during a disaster.

The primary source verification process of licensure of individuals who receive such privileges will begin as soon as the immediate situation is under control and completed within 72-hours from the time the volunteer practitioner presents to the organization. A decision related to the continuation of the disaster privileges initially granted will be made within 72-hours.

In the extraordinary circumstance that primary source verification cannot be completed in 72-hours, it will be done as soon as possible. In this situation, there must be documentation of (1) why primary source verification could not be performed in the required time frame, (2) evidence of a demonstrated ability to continue to provide adequate care, treatment and services and (3) and attempt to rectify the situation as soon as possible. This requirement is not applicable if the volunteer practitioner has not provided care, treatment, or services under the disaster privileges.

- E. One Time Use Privileges: The "One Time Use" application must be completed and returned to the Credentialing Coordinator at Mercy Medical Center Redding. The application fee is waived. The physician must meet minimum standards for medical staff membership. The Credentialing Coordinator will verify current staff membership (in good standing and without disciplinary restrictions or investigation of clinical privileges) at the hospital where the physician holds privileges and will verify that the applicant maintains surgical or surgical assist privileges at that facility. The National Practitioner Data Bank and CA Medical Board will be queried. The privilege will be granted for one day only. This application may be submitted up to 3 times in any 12-month period. If needed more often than that, the applicant will be encouraged to apply for Courtesy Staff membership. The following documentation must accompany the application:
- ◆ Current copy of CA medical license
  - ◆ Current copy of DEA certificate
  - ◆ Verification of certification from Specialty Board or certificate of completion from residency program.
  - ◆ Copy of malpractice insurance certificate.

Upon completion and verification of the application, the Chief of Staff or the Chief of Division and as an agent of the Board, the VPMA (or designate) will approve/disapprove the application.

- F. Administrative Positions: Members in Administrative Positions are subject to the same procedures as all other applicants/reapplicants for medical staff membership or privileges. In the event any member of the Medical Staff who holds an administrative position in the hospital or who contracts to provide professional services within the hospital, on an exclusive basis or otherwise, should terminate that function or be terminated for any reason whatsoever, such termination shall have no effect upon that individual's existing Medical Staff membership privileges. Medical Staff membership and privileges shall be granted, limited or terminated according to the provisions of the Medical Staff Bylaws, subject, however, to the right of the hospital to contract for professional or administrative services on an exclusive basis with other physicians on its medical staff.

G. Resident Staff:

1. **Purpose:** The purpose of this clause is to safeguard patient care and enhance graduate medical education by setting standards for supervision of residents.
2. **Resident Supervision:** Medical staff physicians who wish to participate as clinical faculty and preceptors in the resident program will do so under the privileges granted by the medical staff. Those physicians will adhere to the requirements as set forth by UC Davis for clinical faculty. The faculty requirements are contained in the MEC Policy Manual.
3. **Supervisor Privileges:** Licensed, independent practitioners with appropriate clinical privileges must supervise residents in their patient care responsibilities.
4. **Community Among Hospital Personnel:** The Family Practice Residency Committee and the medical staff, through its Medical Executive Committee, must regularly communicate, and must communicate at least annually about the safety and quality of patient care provided by residents and their related educational and supervisory needs. The Family Practice Residency Committee and the governing body must periodically communicate about the educational needs and performance of residents. At least annually, the Family Practice Residency Committee must submit a comprehensive report to the education needs and performance of residents for consideration by the governing body.
5. **Patient Care Orders:** Supervision of residents shall be as outlined in the graduate Medical Education Program Supervision of Residency MEC Policy.

## Section 8: Proctoring/Monitoring

Definitions:     **Proctoring:**     Concurrent observance of a case/admission.  
                      **Monitoring:**     Retrospective review of a case/admission.

- A. Procedure: Except as otherwise determined by the MEC, all initial appointees to the medical staff and all members granted new clinical privileges shall be subject to a period of proctoring/monitoring. The following principles shall apply:
1. The proctor/monitor must be a member of the medical staff and must enjoy the privilege for which he/she is performing the proctoring/monitoring duty. The Division Chief or division executive committee may grant exceptions.
  2. All initial appointees will be proctored in **at least** 3 MAJOR procedures or 3 major admissions within his/her specialty. These three cases should, whenever possible, be proctored by three different physicians (at least one of these 3 physicians should preferably be a physician who **is not** the appointee's associate).
  3. Members granted new clinical privileges will be subject to proctoring/monitoring as determined by the division executive committee.
  4. Initial appointees of the medical staff **will not** be allowed to take Emergency Room and/or Trauma call independently **until the "3 major case requirement"** is fulfilled and the appointee **has been removed from proctoring** by the Division Chief and/or the division executive committee. This will apply to surgical specialties only.
  5. All members of the Active Staff are strongly encouraged to proctor at least 2 complete cases (if requested) per calendar year. Failure to do so will be reviewed at the time of reappointment.
  6. It shall be the responsibility of the member requesting privileges to secure a proctor before the case is scheduled or patient admitted. For surgical procedures, the surgical assistant may be the proctor.
  7. The proctor shall prepare a written report (on an approved proctor/monitor report form) for use by the division executive committee.
  8. Retroactive monitoring will be done from time to time, or on request, and will consider:
    - a. All aspects of patient care, including but not limited to, H&P, workup, surgery complications, outcome, record keeping, etc.
    - b. Ethical and interpersonal issues.
    - c. Compliance with medical staff bylaws, regulations, policies, etc.
    - d. Punctuality in starting and completing scheduled cases.
- B. Removal: The member shall remain subject to such proctoring/monitoring until the Division Chief and/or the division executive committee has determined that the member has satisfactorily demonstrated the ability to exercise the clinical privileges initially granted in those divisions. Individual divisions/sections of the medical staff may suggest additional requirements.

## Section 9: Telemedicine Services & Practitioner Privileges

Services to be provided by telemedicine will be recommended and approved by the Medical Staff Executive Committee.

Practitioners who diagnose, treat, provide official readings of images, tracings or specimens for patients via telemedicine link are subject to the credentialing and privileging processes of Mercy Medical Center Redding. This language shall not be construed to prevent non-credentialed specialists to provide consultation by telemedicine (similar to consultation by telephone) whereby the specialist will not be prescribing, rendering a diagnosis, or otherwise providing a clinical treatment.

If a telemedicine practitioner prescribes, renders a diagnosis, or otherwise provides clinical treatment to a patient, the telemedicine practitioner is credentialed and privileged in the following manner:

A. Procedure:

The following items are needed before considering a request for Telemedicine privileges:

- ◆ Completed application
- ◆ Current copy of California license
- ◆ Current DEA (if applicable)
- ◆ Current Malpractice Certificate
- ◆ Data Bank Query
- ◆ Verification that the physician is affiliated with a Joint Commission accredited organization.
- ◆ AMA or AOA Physician Profile
- ◆ Credentialing information may be used from another Joint Commission accredited facility

Before granting or renewing privileges, challenges to any licensure or registration, voluntary and involuntary relinquishment of any license or registration, voluntary and involuntary termination of medical staff membership, voluntary and involuntary limitation, reduction or loss of clinical privileges, any evidence of an unusual pattern or an excessive number of professional liability actions resulting in a final judgment against the applicant, documentation as to the applicant's health status, relevant practitioner-specific data are compared to aggregate data (when available), and performance measurement data including morbidity and mortality data (when available) will be evaluated.

Telemedicine practitioners are not required to obtain concurrent monitoring. Retrospective monitoring will be done through the usual quality assessment process.

The application will be categorized by the complexity of the application. Applications will be processed in the same manner as Category One and Two applications and reappointments for medical staff membership.

Reappointment will occur every two years in the same manner as outlined in Section 3 of this Credentialing Procedure.

**Section 10: Locum Tenens Privileges**

Locum Tenens privileges may be granted to a person serving as a locum tenens for a current member of the medical staff for a period not to exceed 120-days. Applications for locum tenens privileges must meet the expectations of a Category One application for consideration (see Article V Credentialing Procedure, Section 2 Procedure for Appointment, Paragraph F Category One).

A. Procedure:

The following items are needed before considering a request for Locum Tenens privileges:

- ◆ Completed Locum Tenens application, fee and all required documents.
- ◆ Current unrestricted California license
- ◆ Current DEA
- ◆ Current Malpractice Certificate
- ◆ AMA Physician Profile
- ◆ Data Bank Query
- ◆ No limitations to Medicare or Medi-Cal or conviction of a criminal offense related to the provisions of health care items or services
- ◆ Copy of privileges where the physician is currently or has been practicing. For physicians just coming out of training, a signed statement from the residency program director that the physician is competent to perform duties within his/her specialty will be required. It will be the physician's responsibility to obtain this statement.

The VPMA (or his designee) will call the facility where the physician is or has been practicing and talk with the medical director or Chief of Staff. If physician is just out of training, the residency program director will be called.

Locum Tenens physicians with privileges in a medical specialty are not required to obtain concurrent monitoring if he/she currently holds active staff privileges of a like nature without monitoring at another facility (this will be verified). Locum Tenens physicians with privileges in a surgical specialty must obtain concurrent monitoring of 3 cases prior to working independently. This requirement may be waived if the physician is on Active Staff with full-unrestricted privileges at another Joint Commission accredited hospital upon approval of those responsible for granting such privileges. Retrospective monitoring will be done through the usual quality assessment process.

Locum Tenens privileges will be time limited as noted above. Approval will be granted by signature of the Division Chief, Credentials Chair, MEC Chair and VPMA (or an administrative designee). If the physician needs Locum Tenens privileges again within a two-year time frame, the initial application will suffice (with current CA license, DEA, malpractice insurance certificate and NPDB). Approval will be required in the above fashion for the new time period. If applying for Locum Tenens after the two-year time frame, a new application is required.

#### **Section 11: Credentials File**

The Credentials Committee shall maintain a personnel file on each member of the medical staff.

- A. Content - The personnel file shall contain the following documents:
1. Original application and all applications for reappointment.
  2. Privilege lists.
  3. Verification of credentials (i.e. California license, DEA, etc.)
  4. Malpractice insurance verification or documentation of a waiver thereof.
  5. Requests for references and any response to the same, including notes of telephone calls, provided upon the initial application for membership.
  6. Documentation as to all final action taken with respect to the member by the medical staff.
  7. Copies of correspondence related to final adverse action between the medical staff, its officers, committees and the affected member's written response to said correspondence.
  8. Honors, awards, and other specific documents of achievement.
- B. Adverse Information - No documents, except as provided in Paragraph A, this Section 11, shall be inserted or maintained in a member's personnel file except in accordance with the following:
1. All adverse information submitted regarding a member shall be reviewed by the Medical Staff Executive Committee to determine whether or not it should be inserted in the affected member's personnel file.
  2. After review, a decision will be made by the MEC:
    - (a) not insert the information, or
    - (b) notify the member of the adverse information by a written summary, but without identifying the source of the information, and offer an opportunity to rebut the information, and
    - (c) following a reasonable opportunity for the affected member to rebut the information, not insert or insert the information in the member's personnel file, with the rebuttal information, if provided; or without rebuttal and evidence that it was not rebutted.

- C. Maintenance - The following applies to the review of adverse information in the medical staff member's personnel file at the time of reappraisal and reappointment.
  - 1. The Credentials Committee, as part of its reappraisal function, shall review any adverse information in the member's personnel file, together with any rebuttal to it, and make a recommendation to the MEC as to whether or not it should remain in the file.
  - 2. Following receipt of the recommendation from the Credentials Committee the MEC shall make a final determination as to whether or not the information shall remain in the member's personnel file. In making a final decision the MEC shall give substantial consideration to whether or not the adverse information has been utilized as the basis for corrective action and, if not, whether it is reasonably required of continuing evaluation of the member's character, competence, or professional performance.
- D. There shall be no right of appeal from any decision of the MEC as to whether or not information shall be inserted or removed from a personnel file.
- E. In addition to a member's personnel file, the Credential's Committee shall be responsible for maintaining a separate file for any member as to whom corrective action has been instituted under the medical staff's Fair Hearing Procedure. All documentation relating to the corrective action shall be inserted in this file, including, but not limited to notices, written statements, decisions, rulings, and a copy of the final decision relating to the member.
- F. Nothing contained in this Section 11 shall limit or restrict the inclusion of information relating to a member in the minutes of any medical staff committee.
- G. All files maintained by the Credentials Committee shall be kept in a safe place in the Medical Staff Services Department. Access to records and information maintained in said files shall be established by regulation adopted by the MEC which shall assure that the confidentiality of said records is fully protected and that inspection or release of information or documents contained in the files is authorized only for proper and legitimate purposes.

**Article VI FAIR HEARING PROCEDURE (FHP)**

**Section 1: Corrective Action**

- A. Criteria for Initiation: Any person may provide information to the medical staff about the conduct, performance, or competence of its members. When reliable information indicates a member may have exhibited acts, demeanor, or conduct reasonably likely to be (1) detrimental to patient safety or to the delivery of quality patient care within the hospital; (2) unethical; (3) contrary to the medical staff bylaws and accessory documents, or 4) below applicable professional standards, a request for an investigation or action against such member may be initiated by the Chief of Staff, a Division Chief, the MEC, or the Hospital President (or his designee). See also Rule & Regulation 17 "Physician Behavior/Disruptive Conduct".  
**Note**: Due process procedures for allied health personnel shall be followed in accordance with approved language in Article V Section 6 C.
- B. Initiation: A request for an investigation must be in writing, submitted to the MEC, and supported by reference to specific activities or conduct alleged. If the MEC initiates the request, it shall make an appropriate recordation of the reasons.
- C. Investigation: If the MEC concludes an investigation is warranted, it shall direct an investigation to be undertaken. The MEC may conduct the investigation itself, or may assign the task to an appropriate medical staff officer, medical staff division, or ad hoc committee of the medical staff

appointed by the MEC. The MEC in its discretion may appoint practitioners who are not members of the medical staff as temporary members of the medical staff for the sole purpose of serving on an ad hoc committee, should circumstances warrant. If the investigation is delegated to an officer or committee other than the MEC, such officer or committee shall proceed with the investigation in a prompt manner and shall forward a written report of the investigation to the MEC as soon as practicable. The report may include recommendations for appropriate corrective action. The member shall be notified that an investigation is being conducted and shall be given an opportunity to provide information in a manner and upon such terms as the investigating body deems appropriate. The individual or body investigating the matter may, but is not obligated to, conduct interviews with persons involved; however, such investigation shall not constitute a hearing, nor shall the procedural rules with respect to hearings or appeals apply. Despite the status of any investigation, at all times the MEC shall retain authority and discretion to take whatever action may be warranted by the circumstances, including summary suspension, termination of the investigative process, or other action.

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

1. Determining no corrective action be taken and, if the MEC determines there was no credible evidence for the complaint in the first instance, removing any adverse information from the member's file;
2. Deferring action for a reasonable time where circumstances warrant;
3. Issuing letters of admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude Division Chiefs from issuing informal written or oral warnings outside of the mechanism for corrective action. In the event such letters are issued, the affected member may make a written response which shall be placed in the member's file in accordance with Article V Section 11B;
4. Recommending the imposition of terms of probation or special limitation upon continued medical staff membership or exercise of clinical privileges, including, without limitation, requirements for co-admission, mandatory consultation, or monitoring;
5. Recommending reduction, modification, suspension or revocation of clinical privileges;
6. Recommending reductions of membership status or limitation of any prerogatives directly related to the member's delivery of patient care;
7. Recommending suspension, revocation or probation of medical staff membership; and
8. Taking other actions deemed appropriate under the circumstances.

E. Subsequent Action

1. If corrective action as set forth in this Fair Hearing Procedure (Section 1 D 1-8) is recommended by the MEC, that recommendation shall be transmitted to the Board of Directors.
2. So long as the recommendation is supported by substantial evidence, the recommendation of the MEC shall be adopted by the Board of Directors as final action unless the member requests a hearing, in which case the final decision shall be determined as set forth in Section 7, Hearing Procedure.

- F. Initiation by Board of Directors: If the MEC fails to investigate or take disciplinary action, contrary to the weight of the evidence, the Board of Directors may direct the MEC to initiate investigation or disciplinary action, but only after consultation with the MEC. The Board's request for medical staff action shall be in writing and shall set forth the basis for the request. If the MEC fails to take action in response to that Board of Directors direction, the Board of Directors may initiate corrective action after written notice to the MEC, but this corrective action must comply with this Fair Hearing Procedure.

**Section 2: Summary Restrictions or Suspension**

- A. Criteria for Initiation: Whenever a member's conduct appears to require that immediate action be taken to protect the life or well-being of patient(s) or to reduce a substantial and imminent likelihood of significant impairment of the life, health, safety of any patient, prospective patient, or other person, the Chief of Staff, the MEC, or the Division Chief in which the member holds privileges may summarily restrict or suspend the medical staff membership or clinical privileges of such member. Unless otherwise stated, such summary restriction or suspension shall become effective immediately upon imposition, and the person or body responsible shall promptly give written notice to the Board of Directors, the MEC and the Hospital President (or his designee). In addition, the affected medical staff member shall be provided with a written notice of the action which notice fully complies with the requirements of Section 2 C, Written Notice of Summary Suspension. The summary restriction or suspension may be limited in duration and shall remain in effect for the period stated or, if none, until resolved as set forth herein. Unless otherwise indicated by the terms of the summary restriction or suspension, the member's patients shall be promptly assigned to another member by the Division Chief or by the Chief of Staff, considering where feasible, the wishes of the patient in the choice of a substitute member.
- B. Hospital President's Role: The Hospital President may summarily suspend a medical staff member if the Chief of Staff or designee is unavailable or if there is conflict with the Chief of Staff or designee. The Hospital President may take action unilaterally subject to MEC ratification within two working days as referenced in Section 2 F (paragraph 2).
- C. Written Notice of Summary Suspension: Within one working day of imposition of a summary suspension, the affected medical staff member shall be provided with written notice of such suspension. This initial written notice shall include a statement of facts demonstrating that the suspension was necessary because failure to suspend or restrict the practitioner's privileges summarily could reasonably result in an imminent danger to the health of an individual. The statement of facts provided in this initial notice shall also include a summary of one or more particular incidents giving rise to the assessment of imminent danger. This initial notice shall not substitute for, but is in addition to, the notice required under this Article, Section 6 A (which applies in all cases where the MEC does not immediately terminate the summary suspension). The notice under this Article, Section 6 A may supplement the initial notice provided under this section, by including any additional relevant facts supporting the need for summary suspension or other corrective action.
- D. Medical Staff Executive Committee Action: Within one week after such summary restriction or suspension has been imposed, a meeting of the MEC [or a subcommittee appointed by the Chief of Staff] shall be convened to review and consider the action. Upon request, the member may make a statement (either written or oral) concerning the issues under investigation, on such terms and conditions as the MEC may impose, although in no event shall any meeting of the MEC, with or without the member, constitute a "hearing" within the meaning of this FHP, nor shall any procedural rules apply. The MEC may modify, continue, or terminate the summary restriction or suspension, but in any event it shall furnish the member with notice of its decision within two working days of the meeting.

- E. Procedural Rights: Unless the MEC promptly terminates the summary restriction or suspension, the member shall be entitled to the procedural rights afforded by this FHP. In addition, the affected practitioner shall have the following rights:
1. Any affected practitioner shall have the right to challenge imposition of the summary suspension, particularly on the issue of whether or not the facts stated in the notice present a reasonable possibility of "imminent danger" to an individual. Initially, the practitioner may present this challenge to the MEC at the meeting held within one week of imposition of the suspension. If the MEC's decision is to continue the summary suspension, then any practitioner who has properly requested a hearing under this FHP may request that the hearing be bifurcated, with the first part of the hearing being devoted exclusively to procedural matters, including the propriety of summary suspension. Along with any other appropriate requests for rulings, the affected practitioner may request that the hearing panel stay the summary suspension, pending the final outcome of the hearing and any appeal.
  2. At the conclusion of the procedural portion of the hearing, the hearing panel shall issue a written opinion on the issues raised, including whether or not the facts stated in the written notice to the affected practitioner adequately support a determination that failure to summarily restrict or suspend could reasonably result in "imminent danger" to an individual. Such written opinion shall be transmitted to both the affected practitioner and the MEC within 15 days of the date of the procedural hearing.
  3. If the hearing panel's determination is that the facts stated in the notice required by Section 2 C do not support a reasonable determination that failure to summarily restrict or suspend the practitioner's privileges could result in imminent danger; the summary suspension shall be immediately stayed pending the outcome of the hearing and any appeal.
  4. If the hearing panel determines that the facts stated in the notice required by Section 2 C support a reasonable determination that summary suspension was necessary to avoid imminent danger to an individual, the summary suspension shall remain in effect pending conclusion of the hearing and any appellate review.
- F. Initiation by Board of Directors: If the Chief of Staff, members of the MEC, the Division Chief in which the member holds privileges, or the Hospital President (or his designee) are not available to summarily restrict or suspend the member's membership or clinical privileges, the Board of Directors (or designee) may immediately suspend a member's privileges if a failure to suspend those privileges is likely to result in an imminent danger to the health of any person, provided that the Board of Directors (or designee) made reasonable attempts to contact the Chief of Staff, members of the MEC, Division Chief, and the Hospital President (or his designee) before the suspension.

Such a suspension is subject to ratification by the MEC. If the MEC does not ratify such a summary suspension within two working days, excluding weekends and holidays, the summary suspension shall terminate automatically. If the MEC does ratify the summary suspension, all other provisions under this Article, Section 2, Summary Restriction or Suspension will apply. In this event, the date of imposition of the summary suspension shall be considered to be the date of ratification by the MEC for purposes of compliance with notice and hearing requirements.

### **Section 3: Automatic Suspension or Limitation**

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

A. Licensure:

1. Revocation and Suspension: Whenever a member's license or other legal credential authorizing practice in this state is revoked or suspended, medical staff membership and clinical privileges shall be automatically revoked as of the date such action becomes effective. There shall be no right of appeal or hearing from such action.
2. Restriction: Whenever a member's license or other legal credential authorizing practice in this state is limited or restricted by the applicable licensing or certifying authority, any clinical privileges which the member has been granted at the hospital which are within the scope of said limitation or restriction shall be automatically limited or restricted in a similar manner, as of the date such action becomes effective and throughout its term. There shall be no right of appeal or hearing from such action.
3. Probation: Whenever a member is placed on probation by the applicable licensing or certifying authority, membership status and clinical privileges shall automatically become subject to the same terms and conditions of the probation as of the date such action becomes effective and throughout its term. There shall be no right of appeal or hearing from such action.

B. Controlled Substances:

1. Whenever a member's DEA certificate is revoked, limited, or suspended, the member shall automatically and correspondingly be divested of the right to prescribe medications covered by the certificate, as of the date such action becomes effective and throughout its term. There shall be no right of appeal or hearing from such action.
2. Probation: Whenever a member's DEA certificate is subject to probation, the member's right to prescribe such medications shall automatically become subject to the same terms of the probation, as of the date such action becomes effective and throughout its term. There shall be no right of appeal or hearing from such action.

C. Other Reasons:

- a. Failure to complete medical records in accordance with the Rules and Regulations of the Medical Staff shall be grounds for temporary suspension, without right of hearing or appeal. Repeated violation of this section may be grounds for discipline under this Article, Section 1, Corrective Action. Discipline for such repeated violations of this subsection shall be subject to the hearing rights set forth in the following Sections.
- b. Failure to maintain professional liability insurance, as provided by Article V, Section 2 A (6) shall result in automatic suspension of a member's clinical privileges, and if within 90 days after written warning of the delinquency, the member does not provide evidence of professional liability insurance, membership on the medical staff shall be automatically terminated. There shall be no right of appeal or hearing from such action.
- c. Sanctions: Physician, dentist, or podiatrist who is excluded, suspended or otherwise ineligible to participate in any state or federal health care program, including but not limited to Medicare or Medi-Cal or if he/she has been convicted of a criminal offense related to the provisions of health care items or services, but has not yet been excluded, suspended, or otherwise declared ineligible.

- d. **Criminal Record:** The Chief of Staff or Hospital President may automatically suspend a practitioner who has been convicted of or pleaded guilty to any crime (other than a minor traffic violation). Such suspension shall become effective immediately upon the receipt of information regardless of whether or not an appeal from the judgment is taken or pending. Such suspension shall remain in effect until the matter is resolved by subsequent action of the Board, or through corrective action by the MEC, if the MEC decides that the event(s) have a substantial relationship to the qualifications, functions or duties of the medical staff member.
- e. **Failure to provide documentation of PPD testing** in accordance with the Rules and Regulations of the Medical Staff shall be grounds for automatic suspension of a member's clinical privileges, without right of hearing or appeal. If within 90 days after written warning of the delinquency, the member does not provide PPD evidence, membership on the medical staff shall be automatically terminated.

**Section 4: Hearings and Appellate Reviews**

General Provisions

- A. **Exhaustion of Remedies:** If adverse action described in Section 5 is taken or recommended, the applicant or member must exhaust the remedies afforded by this FHP before resorting to legal action.
- B. For purposes of this FHP, the term "member" may include "applicant," as it may be applicable under the circumstances, unless otherwise stated.
- C. **Timely Completion of Process:** The hearing and appeal process shall be completed within a reasonable time.
- D. **Final Action:** Recommended adverse actions described in Section 5 shall become final only after the hearing and appellate rights set forth in this FHP have either been exhausted or waived, and only upon being adopted as final actions by the Board of Directors.

**Section 5: Grounds for Hearing**

Except as otherwise specified in this FHP, any one or more of the following actions or recommended actions shall be deemed actual or potential adverse action and constitute grounds for a hearing:

- A. Denial of medical staff membership;
- B. Denial of requested advancement in staff membership status, or category;
- C. Denial of medical staff reappointment;
- D. Demotion to lower medical staff category or membership status;
- E. Suspension of staff membership;
- F. Revocation of medical staff membership;
- G. Denial of requested clinical privileges;
- H. Involuntary reduction of current clinical privileges;

- I. Suspension of clinical privileges (excluding suspension for incomplete medical records);
- J. Termination of clinical privileges; or
- K. Involuntary imposition of restrictive consultation. Generally, monitoring is a request for observation to assess competence and to gain information, and it is not a restriction that constitutes grounds for a hearing nor is it reportable to the National Practitioner Data Bank. However, monitoring or proctoring which requires that the physician present the case to the monitor or proctor for approval before proceeding does constitute a restriction and grounds for a hearing.

**Section 6: Requests for Hearing**

- A. Notice of Action or Proposed Action: In all cases in which action has been taken or a recommendation made as set forth in Section 5, and a right of appeal or hearing for such action is not precluded by this FHP, the Chief of Staff or designee on behalf of the MEC shall give the member prompt written notice of (1) the recommendation or final proposed action and that such action, if adopted, shall be taken and reported to the Medical Board of California and/or to the National Practitioner Data Bank if required; (2) the reasons for the proposed action including the acts or omissions with which the member is charged; (3) the right to request a hearing pursuant to this Section 6, and that such hearing must be requested within 30 days; and (4) a summary of the rights granted in the hearing pursuant to this FHP.
- B. Request for Hearing: The member shall have [30] days following receipt of notice of such action to request a hearing. The request shall be in writing addressed to the Chief of Staff. In the event the member does not request a hearing within the time and in the manner described, the member shall be deemed to have waived any right to a hearing and accepted the recommendation or action involved.
- C. Time and place for hearing: Upon receipt of a request for hearing, the MEC shall schedule a hearing and, within 15 days give notice to the member of the time, place and date of the hearing. Unless extended by the judicial review committee, the date of the commencement of the hearing shall be not less than 30 days, nor more than 60 days from the date of receipt of the request by the MEC for a hearing, provided, however, that when the request is received from a member who is under summary suspension the hearing shall be held as soon as the arrangements may reasonably be made, but not to exceed 45 days from the date of receipt of the request.
- D. Notice of Hearing: Together with the notice stating the place, time, and date of the hearing, which date shall not be less than 30 days after the date of the notice unless waived by a member under summary suspension, the Chief of Staff or designee on behalf of the MEC shall provide the reasons for the recommended action, including the acts or omissions with which the member is charged, a list of the charts in question, where applicable, and a list of the witnesses (if any) expected to testify at the hearing on behalf of the MEC. The content of this list is subject to update pursuant to Section 7 A.
- E. Judicial Review Committee: When a hearing is requested, the Chief of Staff shall schedule and arrange for the hearing and shall appoint the judicial review committee. The judicial review committee shall be composed of not less than 5 members of the medical staff. The judicial review committee members shall gain no direct financial benefit from the outcome, shall not be in direct substantial competition with the affected member or applicant, and shall not have acted as accusers, investigators, fact finders, initial decision makers or otherwise have not actively participated in the consideration of the matter leading up to the recommendation or action. Knowledge of the matter involved shall not preclude a member of the medical staff from serving as a member of the judicial review committee. In the event that it is not feasible to appoint a judicial review committee from the active medical staff, the MEC may appoint members from

other staff categories or practitioners who are not members of the medical staff. Such appointment shall include designation of the chair. Membership on a judicial review committee shall, where feasible, include an individual practicing the same specialty as the member.

- F. Failure to Appear or Proceed: Failure without good cause of the member to personally attend and proceed at such a hearing in an efficient and orderly manner shall be deemed to constitute voluntary acceptance of the recommendations or actions involved.
- G. Postponements and Extension: Once a request for hearing is initiated, postponements and extensions of time beyond the times permitted in this FHP may be permitted by the hearing officer on a showing of good cause, or upon agreement of the parties.

**Section 7: Hearing Procedure**

A. Prehearing Procedure:

1. If either side to the hearing requests in writing a list of witnesses, within 15 days of such request, and in no event less than 10 days before commencement of the hearing, each party shall furnish to the other a written list of the names and addresses of the individuals, so far as is reasonably known or anticipated, who are anticipated to give testimony or evidence in support of that party at the hearing. The member shall have the right to inspect and copy documents or other evidence upon which the charges are based, as well as all other evidence relevant to the charges. The member shall also have the right to receive at least 30 days prior to the hearing a copy of the evidence forming the basis of the charges which is reasonably necessary to enable the member to prepare a defense, including all evidence which was considered by the MEC in determining whether to proceed with the adverse action, and any exculpatory evidence in the possession of the hospital or medical staff. The member and the MEC shall have the right to receive all evidence which will be made available to the Judicial Review Committee. Failure to disclose the identify of a witness or produce copies of all documents expected to be produced at least ten days before the commencement of the hearing shall constitute good cause for a continuance.
2. The MEC shall have the right to inspect and copy at its expense any documents or other evidence relevant to the charges which the member possesses or controls as soon as practicable after receiving the request.
3. The failure by either party to provide access to this information at least 30 days before the hearing shall constitute good cause for a continuance. The right to inspect and copy by either party does not extend to confidential information referring solely to individually identifiable members, other than the member under review.
4. The hearing officer shall consider and rule upon any request for access to information and may impose any safeguards the protection of the peer review process and justice requires. In so doing, the hearing officer shall consider:
  - a. Whether the information sought may be introduced to support or defend the charges;
  - b. The exculpatory or inculpatory nature of the information sought, if any;
  - c. The burden imposed on the party in possession of the information sought, if access is granted; and

- d. Any previous requests for access to information submitted or resisted by the parties to the same proceedings.
  - 5. The member shall be entitled to a reasonable opportunity to question and challenge the impartiality of judicial review committee members and the hearing officer. Challenges to the impartiality of any judicial review committee member or the hearing officer shall be ruled on by the hearing officer.
  - 6. It shall be the duty of the member and the MEC or its designee to exercise reasonable diligence in notifying the chair of the judicial review committee of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible, in order that decisions concerning such matters may be made in advance of the hearing. Objections to any prehearing decisions may be succinctly made at the hearing.
- B. Representation: The hearings provided for in this FHP are for the purpose of intraprofessional resolution of matters bearing on professional conduct, professional competency, or character.
- The member shall be entitled to representation by legal counsel in any phase of the hearing, if the member so chooses, and shall receive notice of the right to obtain representation by an attorney at law. In the absence of legal counsel, the member shall be entitled to be accompanied by and represented at the hearing only by a practitioner licensed to practice in the state of California who is not also an attorney at law, and the MEC shall appoint a representative who is not an attorney to present its action or recommendation, the materials in support thereof, examine witnesses, and respond to appropriate questions. An attorney at law shall not represent the MEC if the member is not so represented.
- C. The Hearing Officer: The Chief of Staff may appoint a hearing officer. The hearing officer may be an attorney at law qualified to preside over a quasi-judicial hearing. The hearing officer shall gain no direct financial benefit from the outcome and must not act as a prosecuting officer or as an advocate. The hearing officer shall endeavor to assure that all participants in the hearing have a reasonable opportunity to be heard and to present relevant oral and documentary evidence in an efficient and expeditious manner, and that proper decorum is maintained. The hearing officer shall be entitled to determine the order of or procedure for presenting evidence and argument during the hearing and shall have the authority and discretion to make all rulings on questions that pertain to matters of law, procedure or the admissibility of evidence. If the hearing officer determines that either side in a hearing is not proceeding in an efficient and expeditious manner, the hearing officer may take such discretionary action as seems warranted by the circumstances. If requested by the judicial review committee, the hearing officer may attend the deliberations of such committee and be a legal advisor to it, but the hearing officer shall not be entitled to vote.
- D. Record of the Hearing: A shorthand reporter shall be present to make a record of the hearing proceedings, and the pre-hearing proceedings if deemed appropriate by the hearing officer. The cost of attendance of the shorthand reported shall be borne by the hospital, but the cost of the transcript, if any, shall be borne by the party requesting it. The judicial review committee may, but shall not be required to, order that oral evidence shall be taken only on oath administered by any person lawfully authorized to administer such oath.
- E. Rights of the Parties: Within reasonable limitations, both sides at the hearing may call and examine witnesses for relevant testimony, introduce relevant exhibits or other documents, cross-examine or impeach witnesses who shall have testified orally on any matter relevant to the issues, and otherwise rebut evidence, as long as these rights are exercised in an efficient and expeditious manner. The member may be called by the MEC and examined as if under cross-examination.

- F. Miscellaneous Rules: Judicial rules of evidence and procedure relating to the conduct of the hearing, examination of witnesses, and presentation of evidence shall not apply to a hearing conducted under this Section. Any relevant evidence, including hearsay, shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The judicial review committee may interrogate the witnesses or call additional witnesses if it deems such action appropriate. At its discretion, the judicial review committee may request or permit both sides to file written arguments. The hearing process shall be completed within a reasonable time after the notice of the action is received; unless the hearing officer issues a written decision that the member or the MEC failed to provide information in a reasonable time or consented to the delay.
- G. Burdens of Presenting Evidence and Proof:
1. At the hearing the MEC shall have the initial duty to present evidence for each case or issue in support of its action or recommendation. The member shall be obligated to present evidence in response.
  2. An applicant shall bear the burden of persuading the judicial review committee, by a preponderance of the evidence, of the applicant's qualifications by producing information which allows for adequate evaluation and resolution of reasonable doubts concerning the applicant's current qualifications for membership and privileges. An applicant shall not be permitted to introduce information requested by the medical staff but not produced during the application process unless the applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.
  3. Except as provided above for applicants, throughout the hearing, the MEC shall bear the burden of persuading the judicial review committee, by a preponderance of the evidence, that its action or recommendation is reasonable and warranted.
- H. Adjournment and Conclusion: After consultation with the chair of the judicial review committee, the hearing officer may adjourn the hearing and reconvene the same without special notice at such times and intervals as may be reasonable and warranted, with due consideration for reaching an expeditious conclusion to the hearing. Both the MEC and the member may submit a written statement to the close of the hearing.
- I. Basis for Decision: The decision of the judicial review committee shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences from the evidence and the testimony. The decision of the judicial review committee shall be subject to such rights of appeal as described in these bylaws, but shall otherwise be affirmed by the Board of Directors as the final action if it is supported by substantial evidence, following a fair procedure.
- J. Decision of the Judicial Review Committee: Within 30 days after final adjournment of the hearing, the judicial review committee shall render a decision which shall be accompanied by a report in writing and shall be delivered to the MEC. If the member is currently under suspension, however, the time for the decision and report shall be 15 days. A copy of said decision also shall be forwarded to the Hospital President (or his designee), the Board of Directors, and to the member. The report shall contain a concise statement of the reasons in support of the decision including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the conclusion reached. If the final proposed action adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days and is based on competence or professional conduct, the decision shall state that the action if adopted will be reported to the National Practitioner Data Bank. The decision shall also state whether the action, if adopted, shall be reported to the Medical Board of California. Both the member and the MEC shall be provided a written explanation of the procedure for appealing the decision. The decision of the

judicial review committee shall be subject to such rights of appeal or review as described in this FHP, but shall otherwise be affirmed by the Board of Directors as the final action if it is supported by substantial evidence, following a fair procedure.

**Section 8: Appeal**

- A. Time for Appeal: Within 30 days after receipt of the decision of the judicial review committee, either the member or the MEC may request an appellate review. A written request for such review shall be delivered to the Chief of Staff, the Hospital President (or his designee), and the other party in the hearing. If a request for appellate review is not requested within such period, that action or recommendation shall be affirmed by the Board of Directors as the final action if it is supported by substantial evidence, following a fair procedure.
- B. Grounds for Appeal: A written request for an appeal shall include an identification of the grounds for appeal and a clear and concise statement of the facts in support of the appeal. The grounds for appeal from the hearing shall be: (1) substantial non-compliance with the procedures required by this FHP or applicable law which has created demonstrable prejudice; (2) the decision was not supported by substantial evidence based upon the hearing record or such additional information as may be permitted pursuant to Section 8 E.
- C. Time, Place and Notice: If an appellate review is to be conducted, the appeal Board shall, within 15 days after receipt of notice of appeal, schedule a review date and cause each side to be given notice of the time, place and date of the appellate review. The date of appellate review shall not be less than 30 nor more than 60 days from the date of such notice, provided however, that when a request for appellate review concerns a member who is under suspension which is then in effect, the appellate review shall be held as soon as the arrangements may reasonably be made, not to exceed 20 days from the date of the notice. The time for appellate review may be extended by the appeal Board for good cause.
- D. Appeal Board: The Board of Directors may sit as the appeal Board, or it may appoint an appeal Board which shall be composed of not less than 3 members of the Board of Directors. Knowledge of the matter involved shall not preclude any person from serving as a member of the appeal Board, so long as that person did not take part in a prior hearing on the same matter. The appeal Board may select an attorney to assist it in the proceeding, but that attorney shall not be entitled to vote with respect to the appeal. The attorney selected by the Board of Directors shall be neither an attorney that represented either party at the hearing before the judicial review committee nor the attorney who assisted the hearing panel or served as hearing officer.
- E. Appeal Procedure: The proceeding by the appeal Board shall be in the nature of an appellate hearing based upon the record of the hearing before the judicial review committee, provided that the appeal Board may, in its discretion, accept additional oral or written evidence, subject to a foundational showing that such evidence could not have been made available to the judicial review committee in the exercise of reasonable diligence and subject to the same rights of cross-examination or confrontation provided at the judicial review hearing; or the appeal Board may remand the matter to the judicial review committee for the taking of further evidence and for decision. Each party shall have the right to be represented by legal counsel, or any other representative designated by that party in connection with the appeal, to present a written statement in support of that party's position on appeal, and to personally appear and make oral argument. The appeal Board may thereupon conduct, at a time convenient to itself, deliberations outside the presence of the appellant and respondent and their representatives. The appeal Board shall present to the Board of Directors its written recommendations as to whether the Board of Directors should affirm, modify, or reverse the judicial review committee decision consistent with the standard set forth in Section 8 F, or remand the matter to the judicial review committee for further review and decision.

F. Decision:

1. Except as provided in Section 8 F 2, within 30 days after the conclusion of the appellate review proceedings, the Board of Directors shall render a final decision and shall affirm the decision of the judicial review committee if the judicial review committee's decision is supported by a preponderance of the evidence, following a fair procedure.
2. Should the Board of Directors determine that the judicial review committee decision is not supported by a preponderance of the evidence, the Board may modify or reverse the decision of the judicial review committee and may instead, or shall, where a fair procedure has not been afforded, remand the matter to the judicial review committee for reconsideration, stating the purpose for the referral. If the matter is remanded to the judicial review committee for further review and recommendation, the committee shall promptly conduct its review and make its recommendations to the Board of Directors. This further review and the time required to report back shall not exceed 30 days in duration except as the parties may otherwise agree or for good cause as jointly determined by the chair of the Board of Directors and the judicial review committee.
3. The decision shall be in writing and shall specify the reasons for the action taken and shall be forwarded to the Chief of Staff, the MEC, the subject of the hearing, and the Hospital President (or his designee).

G. Right to One Hearing: Except in circumstances where a new hearing is ordered by the Board of Directors or a court because of procedural irregularities or otherwise for reasons not the fault of the member, no member shall be entitled to more than one evidentiary hearing and one appellate review on any matter which shall have been the subject of adverse action or recommendation.

**Section 9: National Practitioner Data Bank Reporting**

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

**Section 10: Reapplication After Adverse Appointment Decision**

An applicant or staff member who has received a final adverse decision regarding staff membership shall not be eligible to reapply to the medical staff for a period of two (2) years. Any such reapplication shall be processed as an initial application and the applicant shall submit such additional information as the MEC or Board of Directors may require in demonstration that the basis for the earlier adverse action no longer exists.

**Article VII ACCESSORY DOCUMENTS**

In addition to the Bylaws, the medical staff organization shall be directed by various documents. Rules & Regulations and MEC Policies will contain specific information regarding conduct and requirements expected of all members.

Upon adoption by the MEC and the Board of Directors, such additional documents as occur in this section will be incorporated by reference as part of these Bylaws.

**Article VIII AMENDMENTS**

The MEC will update the Bylaws and Accessory Documents as needed to reflect current practices within the organized medical staff and hospital system.

**A. Bylaws**

These Bylaws are amended when a favorable majority vote of those voting from the active staff is sustained by the Board of Directors, which approval shall not be withheld unreasonably (neither body may unilaterally amend the medical staff bylaws or accessory documents). The staff voting shall be conducted by mail and counted by members of the Nominating Committee. Call for a vote can arise from either five votes of the Medical Executive Committee or a 60% majority of the active staff present at a meeting of the Committee of the Membership.

**B. Accessory Documents**

Amendments to the Rules and Regulations or MEC Policy Manual and other documents pertaining to the operation of the medical staff are amended when a unanimous vote of the MEC with at least four members present is sustained by the Board of Directors. Notification of such amendment occurs by mail to all medical staff members before action of the MEC is sent to the Board. This notice of activity by the MEC will occur at least ten business days prior to the submission of the matter to the Board of Directors.

**Article IX ADOPTION**

These Bylaws, upon adoption by the medical staff, shall replace any previous Bylaws and shall become effective when approved by the Board of Directors of Mercy Medical Center. They shall, when adopted and approved, be equally binding on the Board of Directors and the medical staff, subject, however, to the right of the Board of Directors of Mercy Medical Center to require that said Bylaws be amended. The Medical Staff Bylaws, Rules and Regulations, and MEC Policies and the Board of Directors' Bylaws shall not conflict.

ADOPTED BY THE ACTIVE STAFF OF MERCY MEDICAL CENTER:

\_\_\_\_\_  
Robert Duvoisin, D.O, Chief of Staff 8/12/10  
Date

\_\_\_\_\_  
Mark Korth, Hospital President 8/12/10  
Date

ADOPTED BY THE BOARD OF DIRECTORS OF CHW NORTH STATE SERVICE AREA:

\_\_\_\_\_  
Lisa Cheung, M.D., Board of Directors President 8/12/10  
Date

Medical Staff 12/95; 10/97; 11/97; 3/98; 4/99; 4/00; 12/00; 1/03; 2/04; 7/06; 5/07; 7/09; 7/10  
Board of Directors 12/95; 11/97; 12/97; 3/98; 4/99; 4/00; 12/00; 2/03; 3/04; 10/06; 6/07; 9/09; 8/10

Reviewed by Legal Counsel & the Regional CMO for possible conflicts with Board of Directors: 1/98; 8/00; 6/06