

***PROFESSIONAL MEDICAL STAFF BYLAWS***

***OrthoArizona Surgery Center Gilbert, LLC***

**PROFESSIONAL MEDICAL STAFF BYLAWS  
ORTHOARIZONA SURGERY CENTER GILBERT, LLC**

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## **PREAMBLE**

Whereas the OrthoArizona Surgery Center Gilbert, LLC, located in Gilbert, AZ is a facility designed to provide individual quality care for patients to undergo procedures which meet the criteria for ambulatory surgery care; and

Whereas, these Bylaws are created to set forth principles, policies, and procedures by which Practitioners authorized to provide Health Care Services at the Surgery Center shall organize themselves into a Professional Medical Staff to function and carry out their responsibilities, consistent with these Bylaws, Rules and Regulations, Policies and Procedures, and other requirements of the Surgery Center.

NOW THEREFORE, the following Professional Medical Staff Bylaws are hereby adopted:

## **DEFINITIONS**

- (1) “Administrator” shall mean the individual appointed by the Board to manage the Surgery Center.
- (2) “Allied Health Professional” or “AHP” shall mean an individual duly licensed, certified or trained to provide certain professional health care services, other than a Practitioner, who is employed by or under contract with a Physician. Allied Health Professionals, include but are not limited to Registered Nurse First Assistants, Surgical Technicians, and Physician Assistants.
- (3) “AHP Service Authorization” shall mean the permission formally granted pursuant to these Bylaws to an Allied Health Professional to provide specified patient care services within his or her scope of practice, training and qualifications.
- (4) “Applicant” shall mean a Practitioner who is applying for membership on the Professional Medical Staff.
- (5) “Application” shall mean the Initial Appointment or Reappointment Application and attached forms approved by the Board.
- (6) “Appointment” shall identify and refer to both the Initial Appointment and Reappointment cycles and processes, either separately or collectively.
- (7) “Board” shall mean the governing body of the legal owner of the Surgery Center.
- (8) “Board Certified” shall mean the Physician is so designated by either the American Board of Medical Specialties, American Osteopathic Association, American Podiatric Board or Board of Maxillofacial Surgery.
- (9) “Board Eligible” or “Qualified” shall mean the Physician has satisfied all requirements to be eligible or qualified to take the certification examination(s) in accordance with the appropriate certifying board to become Board Certified.
- (10) “Clinical Privileges” or “Privileges” shall mean the permission granted by the Board to the Professional Medical Staff Practitioners to perform specific procedures in the Surgery Center within defined limits consistent with the Practitioner’s scope of practice and training.
- (11) “Credentialing Process” shall mean the formal process of gathering, verifying, and assessing the professional credentials and qualifications of each Practitioner against the criteria and requirements established and set forth by the Professional Medical Staff Bylaws, the Joint Commission on

Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHC), the Center for Medicare and Medicaid Services (CMS), and other ambulatory surgical facility regulatory entity standards and guidelines, to determine whether that Practitioner shall be granted the right to provide Health Care Services in the Surgery Center.

- (12) “Health Care Services” shall mean the medical and/or clinical care authorized by the Board to be provided at the Surgery Center.
- (13) “Independent Practitioner” shall mean a dentist, podiatrist, or certified registered nurse anesthetist (“CRNA”) who is not employed by the Surgery Center, who is licensed by the appropriate licensing agency in this state, and who is applying for or has been granted Clinical Privileges by the Board.
- (14) “Medical Director” shall mean the Practitioner and medico-legal administrative officer employed by, contracting with, or otherwise serving, the Surgery Center, whose duties include certain responsibilities that are both administrative and clinical in nature, as defined by the Board and the Bylaws.
- (15) “Medical Executive Committee” shall mean the committee with overall responsibility for operating the Surgery Center, structured, staffed and empowered as described in Article X below and elsewhere in these Bylaws.
- (16) “Moderate Sedation/Analgesia” (“Conscious Sedation”) shall mean a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate.
- (17) “Peer Review Body” shall mean those entities entitled to discovery protections and liability immunities for peer review activities under state and federal law, including a health care entity, including a health maintenance organization or disability insurer or a professional society, and the governing body or any committee of a health care entity which conducts professional performance review activities, and includes any committee of the medical staff of such an entity when assisting the governing body in a professional performance review activity.
- (18) “Physician” shall mean an individual with a Medical Degree (MD) or Osteopathic Degree (DO) who is licensed to practice medicine by the appropriate licensing agency of the state in which the Surgery Center is located, who is applying for authorization or who has been authorized to provide Health Care Services in the Surgery Center by the Board.
- (19) “Practitioner” shall mean an individual Physician or Independent Practitioner currently licensed, certified or trained to practice that profession, who is applying for membership on the Professional Medical Staff or who has been authorized to provide Health Care Services in the Surgery Center by the Board.
- (20) “Professional Medical Staff” (or “Medical Staff”) shall mean those Practitioners who have been granted Appointments to the Medical Staff, and are authorized by the Board to provide Health Care Services in the Surgery Center.
- (21) “Special Notice” shall mean any written notice to be delivered by Certified Mail/Return Receipt or hand-delivered with signed acknowledgment of receipt of delivery.
- (22) “Staff Year” shall mean the period beginning the date Appointment is initially granted and expiring two (2) years later.

(23) “Surgery Center” shall mean the OrthoArizona Surgery Center Gilbert, LLC.

#### **ARTICLE I – NAME**

The organization shall be the OrthoArizona Surgery Center Gilbert, LLC Professional Medical Staff.

#### **ARTICLE II – PURPOSE**

The purpose of the Professional Medical Staff and this organization, subject to the ultimate authority of the Board, shall be:

- (1) To promote a high level of professional performance of all Practitioners and Allied Health Professionals who provide Health Care Services in the Surgery Center through the appropriate delineation of Clinical Privileges and AHP Service Authorizations and ongoing review and evaluation of each Practitioner’s and AHP’s performance.
- (2) To promote and maintain high quality patient care, treatment and services that are commensurate with available resources for all patients treated in the Surgery Center, regardless of race, sex, sexual orientation, religion, national origin, creed, color, age, disability, economic status or political affiliation, in conformance with applicable legal and accreditation requirements.
- (3) To initiate and maintain Rules and Regulations and Policies and Procedures of the Professional Medical Staff to facilitate the discharge of the professional responsibilities of the Practitioners and of Allied Health Professionals.
- (4) To develop structures and committees necessary to fulfill functions assigned to the Professional Medical Staff.
- (5) To provide a means whereby issues concerning the Professional Medical Staff and the Surgery Center may be discussed by the Professional Medical Staff with the Board and the management at the Surgery Center.
- (6) To assist and advise the Board in the quality assessment monitoring, performance improvement, and evaluation of Health Care Services provided by the Professional Medical Staff Practitioners and by Allied Health Professionals.
- (7) To facilitate Professional Medical Staff representation and participation in Surgery Center deliberations affecting the discharge of Professional Medical Staff responsibilities.

#### **ARTICLE III – BOARD ACTION AND FINAL AUTHORITY**

The Professional Medical Staff shall be accountable to the Board in providing oversight of the care, treatment, and services provided by Practitioners and Allied Health Professionals, as well as providing for uniform quality of patient care, treatment and services, and ethical standards of practice at the Surgery Center. The Board, following recommendations made by the Medical Executive Committee, shall make all decisions regarding credentialing, privileging, and corrective action matters, and shall serve as an appellate review body, as set forth in additional detail in these Bylaws.

## **ARTICLE IV – PROFESSIONAL MEDICAL STAFF APPOINTMENT**

### **4.1 NATURE OF APPOINTMENT**

Appointment to the Professional Medical Staff at the Surgery Center is a privilege, which shall be granted through the Credentialing Process only by action of the Board, in accordance with these Bylaws. No Practitioner shall provide Health Care Services to patients in the Surgery Center unless the Practitioner has been Appointed to the Professional Medical Staff in accordance with these Bylaws. Appointment to the Professional Medical Staff shall confer only such Clinical Privileges as have been granted by the Board in accordance with these Bylaws.

### **4.2 SCOPE**

Only Practitioners qualified to practice in the following specialties may be granted Appointment and Privileges at the Surgery Center:

- Anesthesiology
- Orthopedic Surgery
  - Hand Surgery
- Pain Management
- Podiatry
- Spine Surgery

### **4.3 QUALIFICATIONS FOR APPOINTMENT**

#### **4.3-1 General Qualifications**

Clinical Privileges and Appointment to the Professional Medical Staff may be granted only to Practitioners who demonstrate their ability to render professional services and provide patient care in accordance with these Bylaws and the Rules and Regulations. As specified by the provisions of this Article IV, the Medical Executive Committee shall investigate and consider the qualifications, professional standing and suitability of each Applicant. The Applicant's eligibility and suitability for Medical Staff membership shall be evaluated based upon the Applicant's background, experience, health, training, demonstrated competency, adherence to applicable professional ethics, reputation, the ability to work with others, and such other criteria as may be established by the Board, consistent with applicable state requirements and these Bylaws.

An application for Privileges and Appointment to the Professional Medical Staff shall be provided only to Practitioners who meet the following criteria, and all Appointed members of the Professional Medical Staff must also comply with such criteria as a condition of maintaining their memberships on the Medical Staff and of applying for Reappointment to the Medical Staff. The fact that a Physician or an Appointed member of the Professional Medical Staff meets the following criteria does not, by itself, entitle such individual to Appointment to the Professional Medical Staff, which shall be determined through the Credentialing Process by action of the Board in accordance with these Bylaws.

- (a) Must be licensed to practice in the state of Arizona without restriction or limitation;
- (b) Must practice in one of the clinical services provided for the community by the Surgery Center or into which the Surgery Center is expanding;



- (c) Must maintain professional liability insurance coverage in the minimum amounts of \$1,000,000 per occurrence/\$3,000,000 aggregate;
- (d) Must maintain current federal controlled substances registration certificates without restrictions or limitations that would conflict with his/her area of specialty; pathologists may but need not maintain such certificates;
- (e) Must maintain current admitting privileges, in good standing, at a local Medicare-participating or Medicare payment-eligible hospital within a reasonable radius of the Surgery Center, to which patients of the Surgery Center requiring emergency medical care beyond the capabilities of the Surgery Center could be transferred. The Medical Executive Committee may request that the Applicant provide documentation of the performance of the privileges requested in a surgical facility setting; and
- (f) All anesthesiologists and CRNAs must maintain current ACLS and PALS Certification.

#### **4.3-2 Effect of Other Affiliations**

No individual shall be entitled to Appointment to the Professional Medical Staff merely because he or she holds a certain degree, is licensed to practice in this or any other state, is a member of any professional organization, is certified by any clinical board or because such person had, or presently has, staff membership or privileges at another health care facility.

#### **4.3-3 Board Certification**

It is recommended but not required that a Physician be Board Certified or Board Eligible/Qualified in his or her specialty practice area during Appointment to the Professional Medical Staff at the Surgery Center.

#### **4.3-4 Needs**

Appointment to the Professional Medical Staff shall specifically consider current and projected community and patient needs, the currently indicated appropriate mix of professional specialties required at the Center, and the resource capabilities of the Center to provide for the practice needs of the Applicant and of the current members of the Professional Medical Staff. In addition, an Appointment decision shall also take into account:

- (a) Availability of adequate Surgery Center services in light of projected resignations and terminations of appointments of Practitioners currently Appointed to the Professional Medical Staff;
- (b) Offering of specialties not adequately represented at the Surgery Center, so long as the Surgery Center has the necessary personnel, space, and equipment to support such additional services or specialties;
- (c) The prospective Practitioner's special interest in the Surgery Center and in active participation in its programs, committee assignments, and supervisory responsibilities; and
- (d) Existence of contractual or other arrangements in certain specialties or for the provision of Health Care Services.

#### **4.3-5 Nondiscrimination**

No aspect of Professional Medical Staff Appointment or particular clinical privileges shall be denied on the basis of sex, race, gender, sexual orientation, age, creed, color, religion, political affiliation or national origin. All Professional Medical Staff and other Surgery Center personnel shall comply with all applicable laws and regulations.

### **4.4 BASIC RESPONSIBILITIES AND PROCEDURES OF APPOINTMENT**

#### **4.4-1 General Responsibilities of Staff Appointment**

The following shall be the ongoing responsibilities of the members of the Professional Medical Staff:

- (a) Abide by the provisions of these Bylaws, Rules and Regulations, Policies and Procedures, and such other requirements as may be adopted and amended by the Board;
- (b) Provide patients with continuous, quality care in keeping with generally recognized professional standards and levels of quality and efficiency, and with the professional standards of the Professional Medical Staff at the Surgery Center;
- (c) Appear, if requested, before any Surgery Center or Professional Medical Staff committees, the Medical Director or Board and provide requested information related to his/her continued satisfaction of credentialing criteria and any other aspect of the Practitioner's Privileges or Appointment to the Professional Medical Staff;
- (d) Notify the Medical Director, Administrator or Director of Credentialing immediately of any change in his/her:
  - (1) licensure (including challenges, voluntary and or involuntary loss);
  - (2) controlled substance registrations;
  - (3) malpractice insurance;
  - (4) staff membership or privileges at any hospital/surgical facility or health care entity (whether voluntary or involuntary);
  - (5) Medicare or Medicaid status;
  - (6) malpractice claim activity;
  - (7) notification of any investigation or disciplinary action by a licensing or governmental agency;
  - (8) any other change in the information provided on his/her most recent Application for Appointment or Reappointment;
- (e) Participate and cooperate with the Surgery Center peer review, quality assessment, performance improvement, and risk management activities;
- (f) Prepare and maintain adequate, complete and accurate medical records for all patients to whom he/she provides care in the Surgery Center, in accordance with the Rules and Regulations;

- (g) Abide by the lawful, ethical principles of his/her profession, including, without limitation, prohibitions relating to unlawful inducements relating to patient referral;
- (h) Work cooperatively with the Medical Director, Administrator, and other Surgery Center Professional Medical Staff and personnel as not to adversely affect patient care;
- (i) Accept committee assignments and perform required functions; and
- (j) Attend Professional Medical Staff meetings and vote on matters presented, as appropriate.

#### **4.4-2 General Standards of Conduct**

Members of the Medical Staff are expected to fulfill their Medical Staff obligations in a manner that is within generally accepted bounds of professional interaction and behavior, including but not limited to the following:

- (a) The Medical Staff promotes a culture and an environment that values integrity, honesty and fair dealing with each other, and a caring environment for patients, Practitioners, employees and visitors.
- (b) Interactions with all persons shall be conducted with courtesy, respect, civility and dignity. Members of the Medical Staff shall be cooperative and respectful in their dealings with other persons in and affiliated with the Surgery Center.
- (c) Rude and offensive behavior, as well as refusal to communicate or comply with the rules of the Medical Staff and the Surgery Center may constitute disruptive behavior. Patient care and Surgery Center operations can be adversely affected whenever such behavior occurs. All Surgery Center personnel play an important part in the ultimate mission of delivering quality patient care.
- (d) Quality patient care embraces, in addition to care of specific patients and medical outcomes, matters such as timeliness of services, appropriateness of services, timely and thorough communications with patients, their families, and general patient satisfaction with the services rendered and the individuals involved in rendering those services.
- (e) Discrimination, harassment or intimidation by a member of the Professional Medical Staff against any individual on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, marital status, sex, gender or sexual orientation shall not be tolerated, and shall be an actionable offense under these Bylaws.

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

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

employment and/or employment benefits are conditioned upon acquiescence in sexual activities. All allegations of sexual harassment shall be immediately investigated by the Medical Executive Committee and, if confirmed, will result in appropriate corrective action, from reprimands up to and including termination of Professional Medical Staff membership or Clinical Privileges, if warranted by the facts.

- (f) Complaints and disagreements shall be aired constructively, in a non-demeaning manner, and through official channels.
- (g) Medical Staff members shall cooperate with the Medical Executive Committee's procedures for investigating and addressing incidents of perceived misconduct.

#### **4.4-3 Agreement**

Submitting an Application for Initial Appointment or Reappointment constitutes a Practitioner's agreement to comply with the above responsibilities of Appointment as well as acknowledges his/her receipt and review of the Bylaws, Rules and Regulations, and Policies and Procedures of the Professional Medical Staff at the Surgery Center. The provision of information in materials containing significant misrepresentations or omissions and/or a failure to produce required information shall be grounds for denying an Application, whether for Initial Appointment or Reappointment.

#### **4.4-4 Responsibility to Provide Adequate Information**

An Applicant shall have the burden of producing adequate information to document his or her qualifications with an Application to the satisfaction of the Medical Executive Committee and Board. In connection with all Applications for Initial Appointment or Reappointment and Privileges, the Applicant shall have the burden of providing information for an adequate evaluation of his or her qualifications and suitability for the Medical Staff membership and/or Clinical Privileges requested, of resolving any reasonable doubt about these matters, and of satisfying requests for additional information. Failure to produce such information, to update information or to correct any misstatement, misrepresentation or omission, constitutes grounds for denial of the Application, or for corrective action if the Applicant Practitioner has already been appointed to the Professional Medical Staff.

The Director of Credentialing or the Administrator will notify the Practitioner by Special Notice if an Application is not complete. Failure to submit a complete Application and all requested attachments and detailed narratives shall result in the Application not being processed and returned to the Practitioner. An incomplete Application will be kept on file for no more than ninety (90) days, at which time the incomplete Application will be returned to the Practitioner.

#### **4.4-5 Pre-Application Procedure**

All Practitioners interested in applying for membership on the Professional Medical Staff of the Surgery Center will be required to complete a Pre-Application to ensure that only eligible Practitioners receive an Initial Appointment Application and initiate the formal Credentialing Process.

EXCEPTION – All founding partners may be issued an Initial Appointment Application and bypass the Pre-Application process prior to the opening of the Surgery Center.

Pre-Application information required of the prospective Practitioner shall include the following:

- (a) Full name of Applicant;

- (b) Current office address and telephone number(s);
- (c) Current hospital affiliations, including names, locations, and privilege status (Physicians only);
- (d) Specialty Board Certification status including name of board and date of Board Certification (Physicians only). (If not Board Certified, the Physician must indicate whether or not he/she is a current candidate for examination and the date he/she is planning to begin/complete testing. Physicians who have obtained certification from a Board other than those listed in Definition Number (7) above will be considered by the Medical Executive Committee and Board, together with the Physician's training and experience in the specialty for which he/she is applying for Privileges.);
- (e) State medical and professional license(s) and certification(s), reflecting the license/certification number and the expiration date of each;
- (f) Federal Narcotics Registration/Certificate (DEA), reflecting the number and date of expiration (as applicable);
- (g) Professional liability coverage information, reflecting the Practitioner's name, carrier, policy limits and dates of coverage;
- (h) The name of at least one (1) Practitioner currently on the Professional Medical Staff at the Surgery Center who would be able to provide a recommendation;

The Applicant will receive an Initial Appointment Application upon successfully completing a Pre-Application and demonstrating fulfillment of the preliminary requirements to request Privileges at the Surgery Center.

#### **4.4-6 Procedures of Initial Appointment and Reappointment**

- (a) Initial Appointment and Reappointment to the Professional Medical Staff may be granted only by the Board for a term of two (2) years. The Board shall consider recommendations of the Medical Executive Committee, which shall be based on adequate and appropriate investigation and evaluation, pursuant to the provisions of these Bylaws, in making decisions with respect to Initial Appointments and Reappointments;
- (b) Applicants requesting membership in the Professional Medical Staff of the Surgery Center must submit a complete Application in accordance with these Bylaws. The Initial Appointment and Reappointment Applications shall require, but are not limited to, the following information:
  - (1) Full name of Applicant, other names also or previously known as, social security number, date and location of birth, current home and office address(es) and telephone number(s), and professional (practice) affiliation;
  - (2) Undergraduate and postgraduate education information including name of school, location, dates attended, degree received, and Head of Department (Initial Application only);

- (3) Residency (includes internship if not a recent trainee) and, if applicable, fellowship information, including name of hospital or facility, location, dates of training, specialty, and Head of Department (Physicians only; Initial Application only);
- (4) Specialty Board Certification status including name of board and date of Board Certification (Physicians only) (if not Board Certified, the Physician must indicate whether or not he/she is a current candidate for examination and the date he/she is planning to begin/complete testing);
- (5) Indication if the Practitioner has ever taken and failed a certification exam, providing a detailed explanation, including the date(s) of the failure;
- (6) Previous and current hospital and surgical facility affiliations, including names, locations, appointment and expiration dates, and privilege status (Physicians only), and information regarding any loss or limitation of privileges and/or disciplinary activity by any hospital, surgical facility or Peer Review Body;
- (7) State medical and professional license(s) and certification(s), reflecting the license/certification number and the expiration date of each, and information regarding any loss or suspension of license or certification and any past or present sanctions, denials, suspensions or limitations by a licensing or professional entity or Peer Review Body;
- (8) Federal narcotics registration/certificates, including the number and date of expiration (Physicians only; excepting pathologists, who may, but need not, maintain such certificates);
- (9) At least two (2) professional references at Application for Initial Appointment and at least one (1) reference at Application for Reappointment who have personal knowledge of the Applicant's recent professional performance and experience, including name, address and phone number(s);
- (10) Previous practice/employment information such as solo practice and partnerships, including locations and dates;
- (11) Professional liability coverage information, reflecting the Practitioner's name, carrier, policy limits, and dates of coverage;
- (12) Past and present professional litigation and liability history, including any open/pending cases;
- (13) Any physical or mental health condition that could adversely affect the provision of patient care or the performing of the Privileges requested, and any necessary reasonable accommodations that would be required to enable such provision or performance;
- (14) Professional practice history, to include a chronological accounting from medical school (or equivalent) graduation to present;
- (15) Reasons for any inability to perform the essential functions within the scope of his/her practice, to include:

- (a) Current illegal or controlled substance or alcohol abuse that could affect the provision and quality of care provided to patients at the Surgery Center, and any sanction for any type of illegal or controlled substance or alcohol abuse, and;
  - (b) Felony or misdemeanor convictions, regardless of whether such convictions have been expunged or sealed from public record.
- (16) For Applicants for Reappointment, the results of any specific peer review activities within the Professional Medical Staff; and
- (17) Attestation that the contents of the Application and attachments are current and complete.
- (c) Practitioners seeking Reappointment to the Professional Medical Staff of the Surgery Center shall (1) complete an Application for Reappointment; (2) demonstrate continued satisfaction of the qualifications and the basic responsibilities of Appointment, as set forth, without limitation, in Sections 4.3, 4.4-1 and 4.4-2 of these Bylaws; and demonstrate:
  - (1) Continued use of the Surgery Center's facilities for patient care, to enable quality assessment and peer review functions to be performed with respect to the Practitioner;
  - (2) A professional and respectful attitude toward patients, Surgery Center personnel, and the public; and
  - (3) Providing such other relevant information as may be requested by the Medical Executive Committee or the Board relating to the Practitioner's ability to provide quality Health Care Services in the Surgery Center, consistent with generally recognized standards.
- (d) Initial Appointment and Reappointment Applications should include, but not be limited to, the following attachments:
  - (1) Clinical Privileges requested;
  - (2) Authorization for Release of Information;
  - (3) Supervising Physician Malpractice Insurance Coverage for Allied Health Professionals (when applicable);
  - (4) Supervising Physician Agreement (when applicable);
  - (5) Current Arizona medical license or certificate;
  - (6) Current DEA certificate;
  - (7) Evidence of current malpractice liability insurance (policy face sheet reflecting Practitioner's name, policy limits, and dates of coverage will fulfill this requirement);
  - (8) Recent photographic identification of Practitioner;
  - (9) Curriculum Vitae/Resume;

- (10) Elaboration/Narrative to accommodate answers provided on the Initial Appointment or Reappointment Application, as appropriate;
- (11) Current ACLS/PALS/BCLS Certification (anesthesiologists and surgeons requesting or granted Moderate Sedation privileges only); and
- (12) TB documentation, if required by applicable state law.

#### **4.4-7 Statement of Actions Implicit in Application**

By completing and submitting an Initial Application for Appointment or an Application for Reappointment to the Medical Staff at the Surgery Center, the Applicant:

- (a) Declares his/her willingness to appear for interviews concerning the Application;
- (b) Consents to the inspection and copying of all records and documents that may be relevant to the Credentialing review and decision;
- (c) Certifies that the he/she will immediately report any changes in the information submitted on the Initial Appointment or Reappointment Application to the Surgery Center and Medical Executive Committee;
- (d) Releases the Surgery Center, its officers, directors, employees, representatives, agents, and the Credentialing staff from any liability for acts performed in connection with the processing and evaluation of the Practitioner's Application;
- (e) Releases from any and all liability all individuals and organizations who provide information concerning the Practitioner (including otherwise privileged or confidential information) to Credentialing staff and Surgery Center representatives pursuant to their requests;
- (f) Unless otherwise prohibited by state or federal law, releases the Credentialing staff and Surgery Center employees or representative from liability and authorizes them to provide to other surgical facilities/hospitals, Peer Review Bodies, or licensing bodies with jurisdiction over the Practitioner's performance or the Surgery Center, any relevant information that the Surgery Center may have concerning the Practitioner;
- (g) Consents to the confirmation of the adequacy of his/her current physical and mental health status to perform the Privileges requested, subject to any necessary reasonable accommodations, in the following ways:
  - (1) Written peer reference from a physician who has recently observed the Practitioner; or
  - (2) Written confirmation from the Chief of Staff or Head of Department at a hospital where he/she maintains current privileges; or
  - (3) If verification cannot be obtained from either of the above sources, the Practitioner will be required to have a physician designated by the Surgery Center conduct the appropriate assessment and provide written confirmation of such current physical and mental health status and of any necessary reasonable accommodations to enable the



Applicant to provide the level of care generally recognized to be acceptable professional care in the community in which the Surgery Center is located.

#### **4.4-8 Application Processing**

Applications shall be considered in a timely and good faith manner by all individuals and committees required by these Bylaws to act thereon and, except for good cause, shall be processed within the time periods specified in this Article IV. The Medical Staff Office shall transmit an Application to the Medical Executive Committee at its next regularly scheduled meeting following completion of verification tasks and receipt of all relevant materials. In the event the relevant materials are not received within sixty (60) days after the Application is received, the Applicant shall be notified, and the Application shall remain pending until either all of the materials are received by the Credentialing Staff or the expiration of six (6) months from the date the Application was received. Applications that are not completed within six (6) months after receipt shall automatically be removed from consideration. The Medical Executive Committee shall review the Application and make its recommendation to the Board within sixty (60) days after its receipt of the Application. The Board shall then take final action on the Application within sixty (60) days of receipt of such recommendation. The time periods specified herein are to assist those named in accomplishing their tasks and shall not be deemed to create any right for the Applicant to have his or her Application processed within those periods.

#### **4.4-9 Adverse Decision in Reappointment**

A member of the Medical Staff who, pursuant to the Reappointment Credentialing Process has been denied Reappointment, shall be afforded the procedures set forth in Article IX of these Bylaws before the Board issues a final decision on that member's Reappointment.

#### **4.4-10 Board Decision**

Upon receipt of a favorable recommendation from the Medical Executive Committee, the Board shall decide whether or not the Practitioner's request for Appointment or Reappointment should be accepted, deferred or rejected. When the Board has taken final action on any Application for Appointment or Reappointment to the Professional Medical Staff, it shall notify the Practitioner of the action in writing. If the final action is adverse to the Practitioner, the notice shall include a statement of the reasons for the decision and shall be communicated by Special Notice. A Board decision in favor of an Appointment shall be final and shall include the Privileges the Practitioner shall be granted and any provisional conditions relating to such Privileges.

### **ARTICLE V – MEDICAL STAFF MEMBERSHIP CATEGORIES**

The Medical Staff at the Surgery Center shall be divided into the following categories:

#### **5.1 PROVISIONAL STAFF**

All Practitioners who have completed the Initial Credentialing Process and been granted Initial Appointment and Privileges will be assigned to the "Provisional Staff" category for a one (1) year period. The Medical Executive Committee and Board may also require that a member of the Professional Medical Staff be placed in this Privilege category with respect to Privileges granted for new procedures. Consistent with the provisions of Section 6.1-7 of these Bylaws, a Practitioner assigned to this staff category will be proctored by an Active Staff member, as assigned by the Medical Director, who will be required to review the proctored

Practitioner's medical records over the Provisional period and report his/her findings to the Medical Executive Committee. Provisional Staff membership may be extended by the Medical Executive Committee and approved by the Board only upon determination of good cause. The maximum Provisional Staff extension will be an additional twelve (12) months, for extenuating circumstances. At the conclusion of Provisional Staff status, the Practitioner must have satisfactorily demonstrated the ability to exercise the Clinical Privileges initially granted and otherwise be qualified for continued Professional Medical Staff membership in order to be considered eligible for advancement to Active or Courtesy Staff as appropriate.

If the Medical Executive Committee, after adequate review and evaluation, determines that a Provisional Staff Practitioner should not be advanced to Active or Courtesy Staff status, it shall so advise the Practitioner and the Board regarding its recommendations for termination of the Practitioner from Medical Staff membership. The Practitioner shall have the fair hearing procedural rights described in these Bylaws, including an appellate review of such a Medical Executive Committee decision.

## **5.2 ACTIVE STAFF**

All Practitioners who have successfully completed the Initial Credentialing Process and have been granted Initial Appointment and Privileges for one (1) year in a Provisional Staff status shall be assigned to the "Active Staff" category for the remaining one (1) year of the Appointment cycle, pursuant to the recommendation of the Medical Executive Committee. All Practitioners who have met the minimum annual case requirement by performing at least six (6) cases at the Surgery Center during the prior twelve (12) month period and who have completed the Reappointment Credentialing Process will be assigned to this staff category at Reappointment, for a period of two (2) years, contingent upon continuing to meet the minimum annual case requirement and other applicable provisions of these Bylaws.

## **5.3 COURTESY STAFF**

All Practitioners who have not met the minimum annual case requirement of performing at least six (6) cases at the Surgery Center during the prior twelve (12) month period but who have performed at least one (1) case at the Surgery Center during the prior twelve (12) month period, and who have completed the Reappointment Credentialing Process will be assigned to the "Courtesy Staff" category at Reappointment, for a period of two (2) years, contingent upon continuing to meet the minimum annual case requirement and other applicable provisions of these Bylaws.

## **5.4 TEMPORARY PRIVILEGES**

### **5.4-1 Temporary privileges may be granted after appropriate application:**

- (a) For 90-day periods, subject to renewal during the pendency of an application;
- (b) For the care of up to 4 specific patients each consecutive 3 months;
- (c) For practitioners who will serve as locum tenens for a Professional Medical Staff member or otherwise for up to 30 days at a time, subject to renewal to a total of 120 days in any consecutive 6 months (if such a practitioner serves more than 4 times in a calendar year, or for greater than 120 days in a calendar year, he or she shall be required to apply for regular membership on the Professional Medical Staff if she or she desires to exercise privileges at the Surgery Center); or
- (d) As otherwise necessary, in the judgment of the Medical Director, to fulfill an important patient care need.

#### **5.4-2 Application and Review**

- (a) Temporary privileges may be granted after the applicant completes the application procedure and the Administrator completes the application review process. The following conditions apply:
  - (1) There must first be verification of:
    - (i) current licensure;
    - (ii) relevant training or experience;
    - (iii) current competence; and
    - (iv) ability to perform the Privileges requested.
  - (2) The results of the National Practitioner Data Bank and Medical Board of Arizona queries have been obtained and evaluated.
  - (3) The applicant has:
    - (i) filed a complete application;
    - (ii) no current or previously successful challenge to licensure or registration;
    - (iii) not been subject to involuntary termination of medical staff membership at another organization; and
    - (iv) not been subject to involuntary limitation, reduction, denial, or loss of clinical privileges.
- (b) There is no right to temporary privileges. Temporary privileges will not be granted unless the available information supports, with reasonable certainty, a favorable determination regarding the requesting applicant's qualifications, ability and judgment to exercise the privileges requested.
- (c) If the available information is inconsistent or casts any reasonable doubts on the applicant's qualifications, action on the request for temporary privileges may be deferred until the doubts have been satisfactorily resolved.
- (d) A determination to grant temporary privileges shall not be binding or conclusive with respect to an applicant's pending request for appointment to the Professional Medical Staff.

#### **5.4-3 General Conditions and Termination**

- (a) Members granted temporary privileges shall be subject to the proctoring and supervision specified in these Bylaws and in applicable rules.
- (b) Temporary privileges shall automatically terminate at the end of the designated period, unless affirmatively renewed as provided at Section 5.4-1(a), or earlier terminated as provided at Section 5.4-3(c).
- (c) Temporary privileges may be terminated with or without cause at any time by the Medical Director. A person shall be entitled to the procedural rights afforded by these Bylaws only if a request for temporary privileges is refused based upon, or if all

or any portion of temporary privileges are terminated or suspended for, a medical disciplinary cause or reason. In all other cases (including a deferral in acting on a request for temporary privileges), the affected practitioner shall not be entitled to any procedural rights based upon any adverse action involving temporary privileges.

- (d) Whenever temporary privileges are terminated, the Medical Director shall assign a member of the Professional Medical Staff to assume responsibility for the care of the affected patient(s).
- (e) All persons requesting or receiving temporary privileges shall be bound by these Bylaws, Policies and Procedures and other applicable rules.

## **ARTICLE VI – CLINICAL PRIVILEGES**

### **6.1 DETERMINATION OF PRIVILEGES**

#### **6.1-1 Exercise of Clinical Privileges**

Except for Surgery Center employed staff, and as otherwise provided in these Bylaws or required by state law, only Practitioners who have been Appointed to the Professional Medical Staff and Allied Health Professionals approved pursuant to the provisions of Article VII shall be entitled to provide Health Care Services in the Surgery Center. Every Practitioner practicing in the Surgery Center by virtue of Professional Medical Staff Appointment shall, in connection with such practice, be entitled to exercise only those Clinical Privileges specifically granted by the Board.

#### **6.1-2 Criteria**

The determination as to what Clinical Privileges shall be offered and the criteria for granting them shall be made by the Medical Executive Committee, subject to approval by the Board, and shall be made in the best interests of patient care and the needs of the local community served by the Surgery Center. Clinical Privileges offered must be:

- (a) specific to this Surgery Center;
- (b) limited to surgical and related services; and
- (c) within the scope of any license, certificate or other legal requirement authorizing practice in the state of Arizona and consistent with any restrictions therein.

#### **6.1-3 Application**

Every Initial Application and Reappointment Application submitted for Professional Medical Staff Appointment must contain a request for the specific Clinical Privileges desired by the Practitioner. The evaluation of such request shall be based on the Practitioner's education, training, experience, demonstrated professional competence and judgment, references, clinical performance, results of quality assessment activities and medical record review (if available), and other relevant information gathered during the Credentialing Process. Privilege determinations may also be based on pertinent information concerning clinical performance obtained from other sources, especially other institutions and health care settings where the Practitioner exercises or has exercised clinical privileges.

#### **6.1-4 Procedures**

All Applications for Clinical Privileges shall be evaluated and granted, renewed, modified, terminated or denied by the Board only upon recommendation of the Medical Director and Medical Executive Committee, pursuant to and in accordance with these Bylaws.

#### **6.1-5 Request for Additional Privileges After Appointment**

Requests for additional Clinical Privileges not included under previously granted Clinical Privileges must be submitted in writing to the Surgery Center Administrator, or Medical Director or their appropriate designee. Such requests shall be evaluated in accordance with Sections 4.3-4 and 6.1-3. Verification of qualifications and/or training to perform the requested procedures will be collected and presented to the Medical Director, Medical Executive Committee, and Board for review and approval. All Practitioner requests for additional Clinical Privileges must receive approval from the Board, upon recommendation from the Medical Executive Committee.

#### **6.1-6 Special Conditions Applicable to Podiatric Privileges**

No podiatrist may admit or treat patients without a history and physical examination recorded in a timely manner before the patient's procedure by a doctor of medicine or osteopathy. Each podiatric patient shall receive the same medical appraisal as any patient admitted to any other surgical service.

A podiatrist shall arrange for a history and physical examination to be recorded before the patient's procedure for each patient he/she admits to be performed by a doctor of medicine or osteopathy.

#### **6.1-7 Proctoring**

##### **(a) General Requirements**

Except as otherwise determined by the Medical Executive Committee and the Board, all initial Appointees to the Medical Staff and all members of the Medical Staff granted new Privileges shall be subject to a period of proctoring. During proctoring, Practitioners must demonstrate that they are qualified to exercise the Privileges that were granted and that they are carrying out the duties of their Medical Staff category. In addition, members may be required to be proctored as a condition of renewal of Privileges or Reappointment. Proctoring may also be implemented whenever the Medical Executive Committee determines that additional information is needed to assess a Practitioner's performance. Proctoring shall be imposed only for such period (or number of cases) as the Medical Executive Committee deems reasonably necessary. Proctoring does not give rise to the procedural rights described in these Bylaws, unless it becomes a de facto restriction of Privileges because of the unavailability of proctors.

##### **(b) Completion**

Proctoring shall be deemed successfully completed when the Practitioner has completed the required number of proctored cases within the time frame established and the Practitioner's professional performance in the cases has been determined, in a written report by the Medical Executive Committee, to have met the standard of care of the Surgery Center.

(c) Effect of Failure to Complete

(1) Failure to Complete Required Number of Cases

Any Practitioner who fails to complete the required number of proctored cases within the time frame established shall be deemed to have withdrawn his or her request for membership (or the relevant Privileges), and he or she shall not be afforded the procedural rights provided in these Bylaws. Notwithstanding the foregoing, the Medical Executive Committee shall have the discretion to extend the time for completion of proctoring in appropriate cases.

(2) Failure to Satisfactorily Complete Proctoring

If a Practitioner completes the necessary volume of proctored cases but fails to perform satisfactorily during proctoring, he or she may be terminated from the Professional Medical Staff (or the relevant Privileges may be revoked), and he or she shall be afforded the procedural rights provided in these Bylaws.

(d) Protections

The activities of a proctor are part of the peer review system of the Professional Medical Staff, and as such, all records, reports, documents, and any other information regarding the proctorship shall be subject to all confidentiality requirements within these Bylaws, and proctors are protected by all immunities accorded Medical Staff peer review activities by these Bylaws, and any applicable regulations, statutes or legal decisions.

## **6.2 EMERGENCY PRIVILEGES/CARE OF SPECIFIC PATIENT**

In case of an emergency in which serious permanent harm or aggravation of injury or disease is imminent, or in which the life of a patient is in immediate danger, and any delay in administering treatment could add to that danger, any Professional Medical Staff member, assisted as necessary, is authorized to do anything possible to save the patient's life or to save the patient from serious harm, to the degree permitted by the Practitioner's license, but regardless of Surgery Center affiliation, staff category or level of Privileges. A Practitioner exercising Emergency Privileges is expected to use good judgment and summon the consultative assistance deemed necessary.

## **6.3 DISASTER PRIVILEGES**

Disaster Privileges may be granted when the Surgery Center's emergency management plan has been activated and the Center is unable to handle the immediate patient needs. Disaster Privileges may be granted by the Administrator, Medical Director or their appropriate designee(s) to accommodate the impending or imminent disaster at hand, and in accordance with the emergency plan of the Center.

## **6.4 NON-ANESTHESIOLOGISTS REQUESTING MODERATE SEDATION PRIVILEGES**

All Physicians (excluding anesthesiologists) requesting Privileges to perform Moderate Sedation procedures must maintain current ACLS Certification and must pass the Surgery Center Moderate Sedation Post Test Examination to ensure competency to perform Moderate Sedation procedures.

## **ARTICLE VII – ALLIED HEALTH PROFESSIONALS**

### **7.1 GENERAL**

#### **7.1-1 Allied Health Professionals**

Allied Health Professionals are not eligible for Professional Medical Staff membership. They may be granted AHP Service Authorizations if they hold a license, certificate or other credentials in a category of AHP's that the Board (after securing Medical Executive Committee comments) has identified as eligible for AHP Service Authorizations, and only if the individual AHP is professionally competent and continuously meets the qualifications, standards and requirements set forth in these Bylaws and the Rules and Regulations. AHPs shall be subject to the supervision requirements developed by the Medical Executive Committee and the Board, including the requirement that they be supervised at all times by Physicians currently on staff at the Surgery Center. AHPs must conform to those standards, limitations and conduct required of the employees of the Surgery Center.

#### **7.1-2 Employed Allied Health Professionals**

The Medical Executive Committee shall collaborate with the Board to ensure that the qualifications, standards and requirements established for allied health professionals employed by the Surgery Center are consistent with and substantially similar to those established for Allied Health Professionals, as defined in these Bylaws.

### **7.2 CRITERIA AND GENERAL QUALIFICATIONS**

An Application for AHP Service Authorizations shall be provided only to Allied Health Professionals who meet the following criteria:

- (a) Currently professionally licensed or certified, and in good standing with the licensing or certifying entity in his/her area of practice without restriction or limitation;
- (b) Appropriately trained to provide at the Surgery Center the specified patient care services that would be covered by the requested Service Authorization(s);
- (c) Maintain current professional liability coverage in the minimum amounts of \$1,000,000 per occurrence/\$3,000,000 aggregate;

An Allied Health Professional may be covered under his/her Supervising Physician's liability insurance, in which case the Supervising Physician must sign the Supervising Physician Professional Liability Insurance Coverage for Allied Health Professionals form. All Supervising Physicians who cover an Allied Health Professional and who are identified as the AHP's Supervising Physician at the Surgery Center must sign this form. A Physician designated by a group practice may sign a Group Supervising Physician Malpractice Agreement, listing the Physicians who are represented in the group practice. An AHP who does not maintain his or her own professional liability coverage and who is not covered under his or her Supervising Physician's liability coverage shall not be eligible for Service Authorizations.

- (d) All Allied Health Professionals must execute, together with his or her Supervising Physician, a Supervising Physician Agreement. A Supervising Physician Agreement must be maintained by each Physician for whom an Allied Health Professional provides services. (A

Physician designated by a group practice may execute a Group Supervising Physician Agreement, listing the Physicians that are represented in the group practice, with the affected AHP's.);

- (e) Allied Health Professionals must maintain current BCLS Certification.

### **7.3 AHP SERVICE AUTHORIZATION APPLICATION**

Allied Health Professionals must apply and qualify for AHP Service Authorizations. Applications for initial granting of AHP Service Authorizations, and biennial renewal thereof, shall be submitted and processed in a manner similar to that established for the granting of Clinical Privileges to Practitioners, unless otherwise specified in the Rules and Regulations.

The AHP Service Authorization Application shall require undergraduate and postgraduate education information, including name of school, location, dates attended, degree or certification received, and head of department (as related to professional education history; initial Application only). The Allied Health Professional must indicate the facility/practice name, supervising physician name, and address of the facility(ies) where he/she has/is practicing and must indicate the name of all Physicians who will be supervising him/her while providing services at the Surgery Center.

### **7.4 TERMINATION OF ALLIED HEALTH PROFESSIONAL STATUS**

The AHP Service Authorizations of an Allied Health Professional who ceases employment by, or who is no longer supervised by, a Physician on the Professional Medical Staff at the Surgery Center will automatically be terminated effective the date that employment or supervisory status terminates. The Supervising Physician is responsible for notifying the Administrator or Medical Director of the termination of employment and/or supervisory status. If the Supervising Physician's Professional Medical Staff membership terminates or if any of his/her Clinical Privileges are suspended or terminated, the Allied Health Professional's AHP Service Authorizations shall be automatically restricted or terminated accordingly, unless the AHP executes a Supervising Physician Agreement with another Physician Practitioner member of the Professional Medical Staff.

The Medical Director, Medical Executive Committee or Board may suspend, limit or revoke an Allied Health Professional's AHP Service Authorizations at any time for failure to adhere to the responsibilities delineated in these Bylaws, to conduct himself/herself within his/her job description or the scope of the AHP Service Authorizations, to abide by Surgery Center Policies and Procedures, or to provide his/her patients with care of the generally acceptable professional level of quality and efficiency. Allied Health Professionals are not entitled to any procedural rights afforded by these Bylaws, including, without limitation, any due process or fair hearing rights.

## **ARTICLE VIII – CORRECTIVE ACTION**

### **8.1 ROUTINE CORRECTIVE ACTION**

#### **8.1-1 Criteria for Initiation**

Any person may provide information to the Administrator, the Medical Director or Medical Executive Committee about the conduct, performance or competence of any Practitioner. When in the judgment of the Medical Director or the Medical Executive Committee informal corrective actions would be appropriate, they shall be taken. When reliable information indicates a Practitioner with Clinical Privileges may have committed acts, or exhibited demeanor or conduct, reasonably likely to be: (1)



detrimental to patient safety or to the delivery of quality patient care within the Surgery Center; (2) unethical; (3) contrary to the Professional Medical Staff Bylaws, Rules and Regulations or Policies and Procedures; (4) below applicable professional standards; or (5) disruptive to the operations of the Surgery Center, formal corrective action against such Practitioner may be requested of the Medical Executive Committee by an Officer of the Professional Medical Staff, by the Medical Director, by a member of the Board, or by a member of the Medical Executive Committee.

If the Medical Executive Committee fails to investigate or take disciplinary action, contrary to the apparent weight of the evidence, the Board may direct the Medical Executive Committee to initiate the investigation or disciplinary action, but only after consultation with the Medical Director and the Medical Executive Committee. If the Medical Executive Committee fails to take action in response to that Board direction, the Board may initiate corrective action, but this corrective action must comply with Articles VIII and IX of these Bylaws.

### **8.1-2 Initiation**

- (a) All requests for corrective action shall be in writing, submitted to the Medical Executive Committee (unless the corrective action investigation is initiated by the Medical Executive Committee), and supported by reference to the specific activities or conduct which constitute the grounds for the request; and
- (b) The Chairperson of the MEC shall promptly notify the Medical Director, Administrator and Director of Credentialing in writing of all requests for corrective action received by the Medical Executive Committee and shall continue to keep the Medical Director, Administrator and Director of Credentialing fully informed of all action taken in connection with the request, as appropriate.

### **8.1-3 Investigation**

If the Medical Executive Committee concludes that an investigation is warranted, it shall direct an investigation to be undertaken. The Medical Executive Committee may assign the task to perform the investigation to an appropriate Professional Medical Staff Officer or standing or ad hoc committee of the Professional Medical Staff or may conduct the investigation itself.

- (a) The Medical Executive Committee or such Officer or committee delegated the task of investigation shall proceed with the investigation within thirty (30) days of receipt of a request for corrective action and shall forward a written report of the investigation to the Medical Executive Committee as soon as practicable. The report may include recommendations for appropriate corrective action.
- (b) Prior to making such report, the Practitioner against whom investigation and possible corrective action has been requested shall have an opportunity to appear before the Medical Executive Committee, Officer or other committee, if one is assigned, in the course of its investigation. At such appearance, the Practitioner shall be informed of the specific nature of the charges against him/her and shall be invited to discuss, explain or refute them. This appearance shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rights of review provided in these Bylaws with respect to hearings shall apply thereto. An attorney may not accompany the Practitioner. A record or summary of the appearance shall be made by the Medical Executive Committee (or Officer or other committee assigned to this task) and included with the Medical Executive Committee's recommendation.

#### **8.1-4 Medical Executive Committee Action**

- (a) As soon as practicable after the conclusion of the investigation, the Medical Executive Committee shall take action, which may include, without limitation:
  - (1) Determining no corrective action be taken and, if the Medical Executive Committee determines there was no credible evidence for the complaint in the first instance, removing any adverse information from the Practitioner'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 the Medical Director from issuing informal written or oral warnings outside of the mechanism for corrective action. In the event such letters are issued, the affected Practitioner may make a written response which shall be placed in the Practitioner's file;
  - (4) Recommending the imposition of terms of probation or special limitation upon continued exercise of Professional Medical Staff membership Clinical Privileges, including, without limitation, requirements for mandatory consultation or monitoring;
  - (5) Recommending reduction, modification, suspension or revocation of Clinical Privileges;
  - (6) Recommending reduction of Appointment status or limitation of prerogatives directly related to the Practitioner's delivery of patient care;
  - (7) Recommending suspension, revocation or probation of Practitioner's Professional Medical Staff Appointment; or
  - (8) Taking other actions deemed appropriate under the circumstances.
- (b) When the recommendation of the Medical Executive Committee is favorable to the Practitioner, the Medical Director or Administrator shall promptly forward the recommendation, together with all supporting documentation, to the Board for final decision.
- (c) When the recommendation of the Medical Executive Committee is adverse to the Practitioner, as defined in Section 9.2-1, the Medical Director or Administrator shall promptly notify the Practitioner by Special Notice and provide the Practitioner with a copy of the Medical Executive Committee's recommendation. The Practitioner shall be entitled to the processes set forth in this Article VIII, which shall be afforded to or waived by the Practitioner before the Board acts upon the recommendation.

#### **8.1-5 Board Decision**

At its next regular meeting (or a special meeting called if the Board so chooses) after receipt of a recommendation from the Medical Executive Committee, the Board shall act on the matter. The Board shall give substantial weight to the decision of the Medical Executive Committee and shall disregard such decision in whole or in part only if the failure to act is contrary to the weight of the evidence and then only after it has consulted with the Medical Executive Committee. The Board may affirm, modify or deny the recommendation or return the matter to the Medical Executive Committee for further action before the Board takes final action.

- (a) When the Board's decision is favorable to the Practitioner, such results shall become the final decision of the Board and the Medical Director or Administrator shall promptly notify the Practitioner by Special Notice;
- (b) When the Board's decision is adverse to the Practitioner, as defined in Section 9.2-1, the procedures set forth in Article IX shall be afforded before the Board issues a final decision. Such adverse decision shall be held in abeyance until the Practitioner has been notified by Special Notice by the Medical Director or Administrator, and has exercised or waived his/her rights under Article IX, unless a summary suspension is imposed, pursuant to Section 8.2.

#### **8.1-6 Final Action**

When the Board has taken final action on any request for corrective action, it shall, acting through the Medical Director or Administrator, notify the Practitioner and the Medical Executive Committee of the action taken by Special Notice. If the final action is adverse to the Practitioner, the notices shall include a statement of the basis for such action.

#### **8.1-7 Extraordinary Corrective Actions**

Notwithstanding the above procedural steps and timelines, if in the judgment of the Medical Director, as concurred in by the Medical Executive Committee, the Practitioner behavior at issue is of such a nature as to pose an imminent threat to the safety of any individual, the Medical Executive Committee may structure and conduct an appropriate expedited review and, as indicated, corrective action process, which shall afford the Practitioner procedural fairness while also protecting Surgery Center patients and staff. Where there is an immediate threat to patient safety posed, the Medical Director shall take such emergency action as he or she deems necessary to protect patients, which emergency action shall be subject to review and subsequent action by the Medical Executive Committee and the Board, in procedures that accord the Practitioner fairness approximating that of the standard corrective action procedures outlined in this Article VIII. Such emergency action shall result in a Summary Suspension, as described in Section 8.2.

### **8.2 SUMMARY SUSPENSION**

#### **8.2-1 Criteria for Initiation**

The Administrator, the Medical Director, the Medical Executive Committee or the Board may immediately restrict or suspend the Professional Medical Staff Appointment or Clinical Privileges of a Practitioner whenever a Practitioner's conduct appears to require that immediate action be taken to protect the life or well-being of any person(s) or to reduce a substantial and imminent likelihood of impairment of the life, health, or safety of any patient, prospective patient, or other person, provided that the procedures in Section 8.2-2 are followed.

#### **8.2-2 Initiation**

The Medical Director, or the Administrator with the concurrence of the Medical Director, the Medical Executive Committee or Chairperson of the Board, shall have the authority to immediately suspend or restrict, summarily, all or any portion of the Clinical Privileges of a Practitioner under the conditions described in Section 8.2-1. Such Summary Suspension shall become effective immediately upon imposition, whether oral or written, as dictated by the degree of likelihood of the imminent danger, and the Medical Director or the Administrator shall give the Practitioner a written copy of the Summary Suspension decision by Special Notice, including a statement of the general basis of the decision. This

notice shall also be promptly provided in writing to the Medical Executive Committee and the Board. The Summary 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 Suspension, the Medical Director or Administrator shall promptly assign the Practitioner's patients to another Professional Medical Staff Practitioner until they are discharged, considering where feasible the wishes of the patient in the choice of the substitute Practitioner.

### **8.2-3 Medical Executive Committee Action**

Within fourteen (14) days after such Summary Suspension has been imposed, a meeting of the Medical Executive Committee shall be convened to review and consider the action. Upon request by the Medical Executive Committee, the Practitioner may attend and make a statement concerning the issues under investigation, on such terms and conditions as the Medical Executive Committee may impose, although in no event shall any meeting of the Medical Executive Committee, with or without the Practitioner, constitute a hearing within the meaning of Article IX. The Medical Executive Committee may modify, continue or terminate the Summary Suspension, but in any event it shall furnish the Practitioner with Special Notice of its decision. Any recommendation by the Medical Executive Committee or decision by the Board regarding Summary Suspension shall not preclude routine corrective action involving the same matter.

- (a) If, as a result of such investigation and review, the Medical Executive Committee does not recommend immediate termination of the Summary Suspension or modification so that the recommendation is no longer adverse, as defined in Section 9.2-1, the procedures set forth in Article IX shall be afforded to or waived by the Practitioner before the recommendation is acted upon by the Board. The Practitioner's failure without good cause to attend any Medical Executive Committee meeting upon request shall constitute a waiver of rights under Article IX. The terms of the Summary Suspension as sustained or modified by the Medical Executive Committee shall remain in effect pending exercise of such procedures and final action by the Board. When a summary action is continued and the affected Practitioner has requested a hearing under Article IX, the hearing may be consolidated with the hearing on any corrective action that is recommended so long as the hearing commences within 60 days after the hearing on the summary action was requested (unless such time frame is affirmatively waived by the Practitioner).
- (b) If the Medical Executive Committee recommends termination of the Summary Suspension or an action which is not adverse, as defined in Section 9.2-1, the Medical Executive Committee's recommendation shall become effective unless Summary Suspension is continued by the Chairperson of the Board pending convening of the Board within forty-eight (48) hours (excluding weekends and holidays) of the receipt of the Medical Executive Committee's recommendation. If the Board approves continuing the Summary Suspension, the procedures set forth in Article IX shall be afforded to or waived by the Practitioner before the Board takes final action. The Practitioner shall remain under Summary Suspension until he/she has exercised or waived his/her rights as set forth in Article IX.

### **8.2-4 Final Action**

When the Board has taken final action on a Summary Suspension, it shall, acting through the Medical Director or Administrator, notify the Practitioner and the Medical Executive Committee of the action taken by Special Notice. If the final action is adverse to the Practitioner, the notice shall include a statement of the basis for such action. A Summary Suspension finally approved by the Board constitutes

a termination of the Clinical Privileges specified, and may include termination of the Professional Medical Staff Appointment and all Clinical Privileges of the Practitioner.

### **8.3 AUTOMATIC SUSPENSION**

#### **8.3-1 Initiation**

A Practitioner's Clinical Privileges and Appointment, shall be automatically suspended to the extent appropriate to the circumstances when:

- (a) the Practitioner's license authorizing him/her to practice in the state of [state] expires without contemporaneous renewal or is revoked, suspended, restricted or subject to probation or limitation in whole or in part;
- (b) the Practitioner fails to maintain the minimum amount of professional liability insurance required by this Surgery Center and the Board;
- (c) the Practitioner's state or federal controlled substances registrations expire without contemporaneous renewal or are revoked, limited, suspended or subject to probation or limitation in whole or in part;
- (d) the Practitioner fails, as determined by the Administrator, after adequate warnings have been given and without good cause as determined by the Medical Director and Administrator, to pay dues or assessments, as required in these Bylaws; or
- (e) the Practitioner fails to complete medical records within (30) thirty days of patient discharge (Practitioners shall be sent a notice of delinquency after fourteen (14) days, which shall allow an additional sixteen (16) days before suspension will occur), as provided in the Rules and Regulations and approved by the Board.

#### **8.3-2 Notice**

The Medical Director, Administrator or Director of Credentialing, on behalf of the Board, shall notify the Practitioner by Special Notice and the Medical Executive Committee of any action taken pursuant to this Section.

#### **8.3-3 Reinstatement**

Upon reinstatement of license, malpractice insurance or controlled substances registration, as required, or payment of dues on assessments, or completion of medical records, upon his/her request, Practitioner's Appointment and/or Clinical Privileges shall be reinstated, subject to any limitations that the Medical Director in consultation with the Medical Executive Committee determines should remain in place, unless further corrective action has been taken. Termination of an automatic suspension shall not preclude routine corrective action involving the same matter. Failure of the Practitioner to secure reinstatement of his/her license, malpractice insurance, controlled substances registration or to pay fees or assessments within ninety (90) days of such notice or to complete medical records within the time established in Section 8.3-1(e) shall operate as a permanent termination of Appointment and Clinical Privileges.

## **8.4 MEDICAL PEER REVIEW COMMITTEE STATUS**

The Medical Executive Committee, the Board or any ad hoc committee that has been granted the appropriate functions under these Bylaws (including within such bodies, their members, employees, and agents) as well as the Administrator, Medical Director and the Officers of the Professional Medical Staff, because their function includes participating in “medical peer review” within the meaning of the Arizona Medical Board relating to immunity during peer review, shall each be classified as a “peer review committee” or “professional review body” as described in that practice act, with all the rights, powers, and immunities accorded thereto.

## **ARTICLE IX – HEARINGS AND PROCEDURAL RIGHTS OF REVIEW**

### **9.1 ENTITLEMENT**

When any Practitioner receives notice of an Adverse Action (as such term is defined, below), he/she shall be entitled to the procedures set forth in this Article IX. Notwithstanding any other provision in these Bylaws, the Practitioner shall not be entitled to any review of a recommendation or decision which is not defined below as “adverse.”

### **9.2 DEFINITIONS**

#### **9.2-1 “Adverse Action”**

Unless otherwise provided in these Bylaws, any one of the following actions or recommended actions by the Medical Executive Committee, the Medical Director, the Administrator or the Board shall be deemed an actual or potential “Adverse Action” and shall entitle a Practitioner to the procedures set forth in this Article:

- (a) Denial of Professional Medical Staff Initial Appointment for any of the reasons set forth in Sections 4.4-6(b)(12)-(17);
- (b) Denial of Professional Medical Staff Reappointment;
- (c) Denial of requested Clinical Privileges;
- (d) Denial of requested advancement in staff status or category;
- (e) Demotion to lower Professional Medical Staff category;
- (f) Suspension of Professional Medical Staff Appointment;
- (g) Revocation of Professional Medical Staff Appointment;
- (h) Involuntary reduction of current Clinical Privileges (effective for a period in excess of thirty (30) days);
- (i) Suspension of some or all Clinical Privileges (effective for a period in excess of thirty (30) days);
- (j) Termination of some or all Clinical Privileges;
- (k) Summary Suspension or restriction of some or all Clinical Privileges for a period in excess of fourteen (14) days;

- (l) Involuntary imposition of significant consultation or monitoring requirements (excluding proctoring incidental to Provisional Staff status, or the granting of new privileges, or imposed because of insufficient activity, or proctoring or consultation that does not restrict the Practitioner's privileges);
- (m) Any other medical disciplinary action or recommendation that must be reported to the Arizona Medical Board.

### **9.2-2 "Non-Adverse"**

Notwithstanding any other provisions in these Bylaws, the following recommendations or actions are not adverse and shall not entitle a Practitioner to any procedural rights of review:

- (a) Denial of Professional Medical Staff Initial Appointment for any of the reasons set forth in Sections 4.4-6(b)(1)-(11);
- (b) Issuance of a warning, letter of admonition or reprimand;
- (c) Automatic suspension pursuant to Section 8.3, involving licensure, controlled substances registration, required malpractice insurance, dues assessments or medical records;
- (d) Failure to provide an Application pursuant to Article IV;
- (e) Expiration of Appointment for failure to timely reapply or submit a completed request for Reappointment, as provided in Article IV.

## **9.3 WAIVER**

If a Practitioner at any time waives his/her right to a hearing, appellate review or other procedure set forth in these Bylaws, such waiver shall cause the adverse recommendation that otherwise made available the procedural review to become automatically the final decision of the Board. In such case, the Medical Director or Administrator shall send a copy of the Board's final decision to the Practitioner by Special Notice.

## **9.4 LIMITATION**

In no event shall a Practitioner be entitled to more than one (1) hearing and appellate review, as set forth in these Bylaws, on any matter which shall have been the subject of action by the Medical Executive Committee, Board or other person or body conducting medical peer review. There shall be no further right to review or reconsideration of a final action of the Board. By initiating a hearing or appellate review, Practitioner acknowledges and agrees that participants in such review processes are immune from liability with respect to such participation, in accordance with Article XII. The Practitioner must exhaust the remedies afforded by these Bylaws before resorting to a legal action in the judicial system.

## **9.5 HEARINGS**

### **9.5-1 Notice of Action or Proposed Action**

In all cases in which action has been taken or a recommendation made as set forth in Section 9.2-1, said person or body shall give the Practitioner written notice within fifteen (15) days of such action or recommendation. This notice shall in all instances include the following information:

- (a) A description of the action or recommendation;

- (b) The Practitioner's right to request a hearing: The right to such a hearing is waived unless a hearing is requested within thirty (30) days of receipt of the notice;
- (c) A summary of the Practitioner's rights in the hearing; and
- (d) A concise statement of the reasons for the action or recommendation, sufficiently descriptive as to allow Practitioner to prepare for a requested hearing.

#### **9.5-2 Request for Hearing**

The Practitioner shall have thirty (30) days following receipt of notice of such action to request a hearing. The request shall be addressed in writing to the Medical Executive Committee, with a copy to the Board. In the event the Practitioner does not request a hearing within the time and in the manner described, the Practitioner shall be deemed to have waived any right to a hearing and to have accepted the recommendation or action involved.

#### **9.5-3 Time and Place for Hearing**

Upon receipt of a request for hearing, the Medical Executive Committee shall schedule a hearing and, within thirty (30) days, give Special Notice to the Practitioner of the time, place and date of the hearing. The date of the commencement of the hearing shall be not less than thirty (30) days from the date of the notice, nor more than sixty (60) days after receipt by the Medical Executive Committee of the request for hearing; provided, however, when the request is received from a Practitioner who is under Summary Suspension, the hearing shall be held as soon as the arrangements may reasonably be made, but not to exceed forty-five (45) days from the date of receipt of the request.

#### **9.5-4 Notice of Charges**

Together with the notice stating the place, time, and date of the hearing, the Medical Executive Committee shall provide a list of the medical records in question, where applicable. The content of this list shall be subject to update by the Medical Executive Committee. The notice of hearing shall also include a list of the names and addresses of the individuals, so far as reasonably known or anticipated, who are expected to give testimony or evidence in support of the Medical Executive Committee at the hearing. This list shall be updated as appropriate, at least ten (10) days prior to the commencement of the hearing.

#### **9.5-5 Composition of Hearing Committee**

When a hearing is requested, the Medical Executive Committee shall recommend an ad-hoc Hearing Committee to the Board for appointment. The Board shall be deemed to approve the selection unless it provides written notice to the Medical Executive Committee stating the reasons for its objection within five (5) days of receipt of the recommended selection. The Hearing Committee shall be composed of not less than five (5) Practitioners from the Professional Medical Staff. The Hearing Committee shall gain no direct financial benefit from the outcome, and shall not have acted or participated as accuser, investigator, fact-finder, initial or subsequent decision-maker and have not actively participated in the consideration of the matter leading up to the recommendation or action. Knowledge of the matter at issue shall not preclude a Practitioner of the Professional Medical Staff from serving as a member of the Hearing Committee. In the event that it is not feasible to appoint a Hearing Committee from the Active Professional Medical Staff, the Medical Executive Committee may appoint Practitioners from other staff categories or Practitioners who are not appointed to the Professional Medical Staff. Such appointment shall include designation of the Chair. Membership on the Hearing Committee shall consist of one (1)



Practitioner who shall have the same healing arts licensure as the accused, and, where feasible, one (1) Practitioner practicing the same specialty as the accused. All other Hearing Committee members shall have M.D. or D.O. degrees.

Alternatively, an arbitrator may be utilized who is selected using a process mutually accepted by the Medical Executive Committee and the Practitioner. The arbitrator need not be either a health professional or an attorney. The arbitrator shall carry out all of the duties assigned to the Hearing Officer and to the Hearing Committee.

#### **9.5-6 Failure to Appear or Proceed**

Failure without good cause of the Practitioner 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.

#### **9.5-7 Postponements and Extensions**

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

### **9.6 HEARING PROCEDURE**

#### **9.6-1 Pre-hearing Procedure**

- (a) If either Party to the hearing requests in writing a list of witnesses, each Party shall furnish to the other Party a written list of the names and addresses of the individuals, so far as then reasonably known or anticipated, who are anticipated to give testimony or evidence in support of that Party at the hearing. The list shall be provided within fifteen (15) days of such request, and in no event less than ten (10) days prior to the hearing. Failure of either Party to do so shall constitute grounds for a continuance. The Practitioner shall have the right to inspect and copy at his/her expense any documentary information upon which the charges are based which the Professional Medical Staff has in its possession or under its control, as soon as practicable after receipt of the Practitioner's request for a hearing. The right of either Party to inspect and copy such documentary information does not extend to confidential information referring solely to individually identifiable Practitioners, other than the Practitioner under review.
- (b) The Medical Executive Committee shall have the right to inspect and copy at its expense, as soon as practicable after receiving the request, any documents or other evidence relevant to the charges which the Practitioner possesses or controls.
- (c) The failure by either Party to provide access to this information at least thirty (30) days before the hearing shall constitute good cause for a continuance.
- (d) The Hearing Officer shall consider and rule upon any disputed request for access to information and may impose any safeguards under the protection of the peer review process as required. In so doing, the Hearing Officer shall consider, among other things:
  - (1) whether the information sought would be introduced to support or defend the charges;
  - (2) the exculpatory or inculpatory nature of the information sought, if any;

- (3) the extent of the burden imposed on the Party in possession of the information sought, if access is granted; and
  - (4) any previous requests for access to information submitted or resisted by the Parties to the same proceeding.
- (e) The Medical Executive Committee may object to the to the introduction of evidence that was not provided during an Appointment, Reappointment or Privilege application review or during corrective action despite the requests of the peer review body for such information. The information will be barred from the hearing by the Hearing Officer unless the Practitioner can prove he or she previously acted diligently and could not have submitted the information at an earlier time.
  - (f) The Practitioner shall be entitled to a reasonable opportunity to question and challenge the impartiality of the Hearing Committee members and the Hearing Officer. The Hearing Officer shall establish the procedure by which this right may be exercised, provided that such procedure shall be intended to resolve all such questions prior to the hearing. Challenges to the impartiality of the Hearing Committee members or the Hearing Officer shall be ruled on by the Hearing Officer applying applicable legal principles defining standards of impartiality for hearing panels and hearing officers in proceedings of this type.
  - (g) It shall be the duty of the Practitioner and the Medical Executive Committee or its designee to exercise reasonable diligence in notifying the Chair of the Hearing Committee of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible, in order that decisions concerning such matters may be made by the Hearing Officer in advance of the hearing. Objections to any pre-hearing decisions may be succinctly made at the hearing.

#### **9.6-2 Representation**

The hearings provided in these Bylaws are for the purpose of interprofessional resolution of matters bearing on professional conduct, professional competency or character. The Practitioner shall be entitled to and shall receive notice of the right to obtain representation by legal counsel in any phase of the hearing if the Practitioner so chooses. In the absence of legal counsel, the Practitioner shall be entitled to be accompanied by and represented at the hearing only by a Practitioner licensed to practice in the state of [state] who is not also an attorney at law, and the Medical Executive Committee shall appoint a representative who is not an attorney to present its action or recommendation and the materials in support thereof. The Practitioner shall be entitled to examine witnesses and to respond to appropriate questions. The Medical Executive Committee shall not be represented by legal counsel if the Practitioner is not so represented.

#### **9.6-3 Hearing Officer**

The Medical Executive Committee shall recommend in a timely fashion a Hearing Officer to the Board to preside at the hearing. The Board shall be deemed to approve the selection unless it provides written notice to the Medical Executive Committee stating the reasons for its objections within five (5) days. The Hearing Officer shall be an attorney at law, qualified to preside over a quasi-judicial hearing; however, an attorney regularly utilized by the Surgery Center, by the Professional Medical Staff or by the involved Practitioner for legal advice shall not be eligible to serve as Hearing Officer. The Hearing Officer shall gain no financial benefit from the outcome and must not act as a prosecuting officer or an advocate. The Hearing Officer shall endeavor to ensure 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 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 Hearing Committee, the Hearing Officer may participate in the deliberations of such committee and be a legal advisor to it, but the Hearing Officer shall not be entitled to vote.

#### **9.6-4 Record of the Hearing**

A shorthand or court reporter shall be present to make a record of the pre-hearing proceedings, if deemed appropriate by the Hearing Officer. The cost of the attendance of the shorthand or court reporter shall be borne by the Surgery Center, but the cost of the transcript, if any, shall be borne by the Party requesting it. The Hearing Officer 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.

#### **9.6-5 Rights of the Parties**

Within reasonable limitations, both sides at the hearing may call and examine witnesses for relevant testimony, introduce relevant exhibits or other documents, subject to the confidentiality restriction stated in Section 9.6-1(a) above, cross-examine or impeach witnesses who have testified orally on any matter relevant to the issues, and otherwise refute evidence, receive all information made available to the Hearing Committee, and may submit a written statement at the close of the hearing, as long as these rights are exercised in an efficient and expeditious manner. The Practitioner may be called by the Medical Executive Committee and examined as if under cross-examination.

#### **9.6-6 Miscellaneous Rules**

Judicial rules of evidence and procedure relating to the conduct of the hearing, examination of witnesses, and presentation of evidence shall not apply to a hearing conducted under this Article. Any relevant evidence, including hearsay, shall be admitted if in the judgment of the Hearing Officer it is the type 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 Hearing Committee may interrogate the witnesses or call additional witnesses if it deems such action appropriate.

#### **9.6-7 Burdens of Presenting Evidence and Proof**

- (a) At the hearing, the Medical Executive Committee or its designee shall have the initial duty to present evidence for each case or issue in support of its action or recommendation. The Practitioner shall be obligated to present evidence in response.
- (b) Initial Applicants whose Applications have been denied pursuant to Section 9.2-1(a) and Applicants for Reappointment shall bear the burden of persuading the Hearing Committee, by a preponderance of the evidence, of their qualifications, by producing information which allows for adequate evaluation and resolution of reasonable doubts concerning their qualifications for Appointment and Privileges. Such Applicants shall not be permitted to introduce information requested by the Professional Medical Staff but not produced during the Application process, unless the Applicants establish that the information could not have been produced previously through the exercise of reasonable diligence.

- (c) Except as provided above for Applicants, the Medical Executive Committee shall bear the burden of persuading the Hearing Committee, by a preponderance of evidence, that its action or recommendation was reasonable and warranted.

#### **9.6-8 Adjournment and Conclusion**

After consultation with the Chair of the Hearing Committee, the Hearing Officer may adjourn the hearing and reconvene at such times and intervals as may be reasonable and warranted, with due consideration for reaching an expeditious conclusion to the hearing. Both the Medical Executive Committee and the Practitioner may submit a written statement at the closing of the hearing. Upon conclusion of the presentation of oral and written evidence, or the receipt of closing written arguments, if submitted, the hearing shall be closed.

#### **9.6-9 Basis for Decision**

The decision of the Hearing Committee shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences from the evidence and the testimony.

#### **9.6-10 Decision of the Hearing Committee**

Within thirty (30) days after the closing of the hearing, the Hearing Committee shall render a decision, which shall be accompanied by a report in writing and delivered to the Medical Executive Committee and the Practitioner by Special Notice. If the Practitioner is currently under suspension, however, the decision and report shall be due fifteen (15) days after closing of the hearing. A copy of the report and decision shall also be forwarded to the Administrator, Medical Director, Chairperson, and the Board. The report shall contain a concise statement of the reasons in support of the decision, including findings of the facts and conclusions articulating the connection between the evidence produced at the hearing and the conclusions and decisions reached. A written explanation of the procedure for appealing the decision shall be provided to both the Practitioner and the Medical Executive Committee. The decision of the Hearing Committee shall be subject to such rights of appeal or review as described in these Bylaws, but shall otherwise be affirmed by the Board as the final action if it is supported by substantial evidence and the hearing process followed these Bylaws or applicable law so as to extend and constitute a fair procedure.

### **9.7 APPEAL**

#### **9.7-1 Time for Appeal**

Within ten (10) days after receipt of the decision of the Hearing Committee, either the Practitioner or the Medical Executive Committee may request an appellate review of the decision. A written request for such review shall be delivered to the Medical Director, the Administrator, the Chair of the Board, and the other party in the hearing. If appellate review is not requested within such period, the decision of the Hearing Committee shall be affirmed by the Board as the final action if it is supported by substantial evidence and the hearing process followed these Bylaws or applicable law so as to extend and constitute a fair procedure.

#### **9.7-2 Grounds for Appeal**

A written request for an appeal shall include an identification of the grounds for appeal, and a clear and concise statement of the facts in support of the appeal. The grounds for appeal from the decision of the Hearing Committee shall be: (a) substantial non-compliance with the procedures required by these

Bylaws or applicable law which has created demonstrable prejudice; or (b) the decision was not supported by substantial evidence based upon the hearing record or such additional information as may be permitted pursuant to Section 9.7-5.

### **9.7-3 Appeal Board**

The Board may sit as the Appeal Board, or it may appoint an Appeal Board, which shall be composed of not less than three (3) members of the Board. Knowledge of the matter involved shall not preclude any person from serving as a member of the Appeal Board, provided that person did not take part in the 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 shall not be the attorney that represented either party at the hearing before the Hearing Committee.

### **9.7-4 Time, Place, and Notice**

If a request for appeal meeting the requirements of Section 9.7-1 and 9.7-2 is received and an appellate review is granted by the Appeal Board, the Appeal Board shall, within fifteen (15) days after receipt of notice of appeal, schedule a review date and provide each side to be given notice of the time, place, and date of the appellate review. The date of commencement of the appellate procedure shall not be less than thirty (30) nor more than sixty (60) days from the date of such notice, provided, however, that when a request for appellate review concerns a Practitioner who is currently under suspension, the appellate review shall be held as soon as the arrangements may reasonably be made, not to exceed fifteen (15) days from the date of the notice. The time for appellate review may be extended by the Appeal Board for good cause.

### **9.7-5 Appeal Procedure**

The proceedings by the Appeal Board shall be in the nature of an appellate hearing based upon the record of the hearing before the Hearing Committee, provided that the Appeal Board may accept additional oral or written evidence, subject to a foundational showing that such evidence could not have been made available to the Hearing Committee in the exercise of reasonable diligence and subjected to cross-examination and confrontation at the hearing; or the Appeal Board may remand the matter to the Hearing Committee for the taking of further evidence and for a confirmed or revised report and 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 the appeal, and to personally appear and make oral argument. The Appeal Board may thereupon conduct deliberations outside the presence of the Parties and their representatives within thirty (30) days of the proceedings. The Appeal Board shall present to the Board its written, reasoned recommendations as to whether the Board should affirm, modify or reverse the Hearing Committee's decision, or remand the matter to the Hearing Committee for further review and decision.

### **9.7-6 Decision**

- (a) Except when the matter is remanded to the Hearing Committee pursuant to section (b), below, within thirty (30) days after the conclusion of the appellate review proceedings, the Board shall render a final decision and shall affirm the decision of the Hearing Committee if the Hearing Committee's decision is supported by substantial evidence, and if its hearing procedure followed these Bylaws or applicable law so as to extend and constitute a fair procedure.
- (b) Should the Board determine that the Hearing Committee decision is not supported by substantial evidence, the Board may modify or reverse the decision of the Hearing Committee. If in the

Board's judgment a fair procedure had not been afforded by the Hearing Committee, the Board may remand the matter to the Hearing Committee for reconsideration, stating the purpose for the remand. If the matter is remanded to the Hearing Committee for further review and recommendation, the Hearing Committee shall promptly conduct its review and make its recommendations to the Board. This further review and report shall take place within no more than thirty (30) days after the remand, except as the Parties may otherwise agree in writing or for good cause as jointly determined by the Chairperson of the Board and the Hearing Committee.

- (c) The final decision of the Board shall be taken and issued within fifteen (15) days of receipt of the Hearing Committee's recommendation upon reconsideration, shall be in writing, shall specify the reasons for the action taken, and shall be forwarded to the Administrator, Director of Credentialing, Medical Director, Medical Executive Committee, and the Practitioner at least ten (10) days prior to submission to the state professional licensing body if such a submission is so required.

## **9.8 EXCEPTIONS TO HEARING RIGHTS**

### **9.8-1 Medical-Administrative Officers and Contract Practitioners**

Any Independent Practitioner on the Professional Medical Staff who has a contract with the Surgery Center which requires Privileges on the Professional Medical Staff shall not have his/her Professional Medical Staff Privileges terminated without the same rights of hearing and appeal as are available to all Independent Practitioners of the Professional Medical Staff and the due process rights included herein may not be limited by any inconsistent provisions in a contract.

### **9.8-2 Automatic Suspension or Limitation of Clinical Privileges**

In the circumstances where automatic suspension or termination of a member's Appointment or Clinical Privileges occurs in accordance with the provisions of Section 8.3, the member shall be entitled to the hearing rights described in this Article IX; provided however, any a hearing that is requested shall be limited to the question of whether the grounds for automatic suspension have occurred.

## **9.9 NATIONAL PRACTITIONER DATA BANK REPORTING**

### **9.9-1 Adverse Actions**

The Administrator or Medical Director shall report an Adverse Action to the National Practitioner Data Bank (NPDB) in accordance with the requirements of the law. The Administrator or Medical Director shall also report any and all revisions of an Adverse Action, including, but not limited to, any expiration of the final action consistent with the terms of that final action.

### **9.9-2 Dispute Process**

If no hearing was requested, a Practitioner who was the subject of an Adverse Action report may request an informal meeting to dispute the report filed. The report dispute meeting shall not constitute a hearing and shall be limited to the issue of whether the report filed is consistent with the final action issued. The meeting shall be attended by the subject of the report, the Medical Director, the Administrator, and the Surgery Center's authorized representative or their respective designee.

If a hearing was held, the dispute process shall be deemed to have been completed.

## **ARTICLE X – OFFICERS AND ADMINISTRATION**

### **10.1 OFFICERS**

#### **10.1-1 General**

The Officers of the Professional Medical Staff shall be the Medical Director (acting as the Chief of Staff) and a Vice Chief of Staff. Officers must be currently appointed to the Professional Medical Staff and in good standing during any term of services. The Medical Director shall be appointed by the Board following consideration of nominations made by the Professional Medical Staff. The Medical Director shall serve at the pleasure of the Board and may be removed by the Board.

The Vice Chief of Staff may be appointed by and serve at the pleasure of the Medical Executive Committee.

All nominees for appointment to Professional Medical Staff offices shall in a timely fashion disclose in writing to the Medical Executive Committee any personal, professional, or financial relationships that could foreseeably result in a conflict of interest with their activities or responsibilities on behalf of the Medical Staff.

#### **10.1-2 Medical Director**

- (a) Management – The Board shall have an agreement with the Medical Director to provide specific administrative, quality assessment, and medical staff related management activities at the Surgery Center.
- (b) Accountability – The Medical Director shall be accountable and report directly to the Board.
- (c) Duties – The duties of the Medical Director shall be to:
  - (1) organize and administer the Professional Medical Staff in accordance with these Bylaws, Rules and Regulations, Policies and Procedures, and other requirements;
  - (2) monitor and report to the Board on professional services provided at the Surgery Center;
  - (3) be responsible for the clinical organization and functioning of the Surgery Center;
  - (4) be responsible, with the active participation of the Professional Medical Staff, for the collection and analysis of data on an on-going basis regarding the medical necessity of procedures and the appropriateness of care provided at the Surgery Center;
  - (5) present to the Board for approval, through the Administrator, any proposed amendments to these Professional Medical Staff Bylaws, Rules and Regulations, Policies and Procedures, or other requirements;
  - (6) call, preside at, and be responsible for the agenda of meetings of the Professional Medical Staff and Medical Executive Committee;
  - (7) serve as a voting member of all other committees of the Professional Medical Staff;

- (8) appoint, subject to the approval by the Board, the Chairperson and members of all committees of the Professional Medical Staff, other than the Medical Executive Committee;
- (9) be responsible for all educational activities of the Professional Medical Staff, subject to Surgery Center Policies and Procedures and approval by the Board; and
- (10) be responsible for the enforcement of these Bylaws, Rules and Regulations, Policies and Procedures, and other requirements.

### **10.1-3 Vice Chief of Staff**

In the absence of the Medical Director, the Vice-Chief of Staff shall assume all of the duties of the Medical Director and shall have all of his/her authority, unless otherwise provided for in these Bylaws. He/she shall also be expected to perform any duties as may be assigned to him/her by the Board, the Medical Executive Committee or the Medical Director.

## **10.2 COMMITTEES**

### **10.2-1 Appointment**

The Board or the Medical Director, with the approval of the Board, may establish such committees as are deemed necessary to fulfill the functions of the Medical Staff of the Surgery Center. Membership of the Medical Executive Committee and of every other committee of the Professional Medical Staff shall be by appointment of the Medical Director with the advice of the Medical Executive Committee, unless otherwise specified in these Bylaws, and subject to approval by the Board, which shall not be unreasonably withheld. The Medical Executive Committee may, at its discretion and with approval of the Board, assume any committee responsibilities, and may make recommendations to the Board regarding removal of a committee member or the filling of a vacancy.

### **10.2-2 Authority**

The specific authority and purpose of each committee shall be stated in writing, including but not limited to evaluating the quality of Health Care Services provided at the Surgery Center, assessing the competence and qualifications of Practitioners or other individuals providing or seeking to provide Health Care Services at the Surgery Center, and reviewing the merits of complaints relating to such Health Care Services.

### **10.2-3 Medical Executive Committee**

- (a) The Medical Executive Committee shall be a standing committee, consisting of the Officers of the Professional Medical Staff, with the Administrator and Director of Credentialing as ex-officio members. The Medical Director shall chair the Medical Executive Committee. The Medical Director may designate a temporary alternate in the event a member of the Medical Executive Committee must be excused on an agenda matter.
- (b) The Medical Executive Committee shall be accountable and report directly to the Board.
- (c) The duties of the Medical Executive Committee shall include but not be limited to:



- (1) report to the Board on all evaluation, monitoring and recommendations regarding the appropriateness and quality of Health Care Services rendered to patients at the Surgery Center;
  - (2) review, investigate, evaluate and make recommendation on matters relating to the professional competence and conduct of Practitioners, including the merits of complaints and appropriate corrective action;
  - (3) represent and act on behalf of the Professional Medical Staff between meetings, subject to such limitations as may be imposed by these Bylaws;
  - (4) coordinate the activities of and initiate and implement general policies applicable to the Professional Medical Staff;
  - (5) receive and act upon committee reports;
  - (6) provide a liaison between the Professional Medical Staff, the Administrator and the Board;
  - (7) periodically review all information available concerning the performance and clinical competence of Professional Medical Staff Practitioners with Clinical Privileges and make recommendations for Reappointments and renewal or changes in Clinical Privileges;
  - (8) take all reasonable steps to ensure professional, ethical conduct and competent clinical performance on the part of the Professional Medical Staff members;
  - (9) review all credentials of all Applicants to the Professional Medical Staff, make recommendations on Appointments and Reappointments to the Professional Medical Staff, and delineate Privileges;
  - (10) perform staff functions relating to quality assessment, medical records, surgery, infection control and antibiotic usage, tissue review, medical staff utilization, pharmacy and therapeutics, anesthesiology, and other such functions;
  - (11) make recommendations to the Medical Director, the Administrator and the Board on matters of a medico-administrative nature; and
  - (12) perform such duties as may be requested by the Medical Director or the Board.
- (d) The Medical Executive Committee shall function as the Credentials Committee, in which capacity it shall:
- (1) receive, review and investigate all Applications for Appointment and Reappointment to the Professional Medical Staff and make recommendations to the Board in such regard, including delineation of Clinical Privileges;
  - (2) receive, review and investigate any requests for changes in Privileges, AHP Service Authorizations, or Medical Staff categories between times of Appointment and Reappointment, as recommended by the Medical Director, and make recommendations to the Board in such regard; and

- (3) advise the Board regarding the qualifications of individuals who provide Health Care Services pursuant to these Bylaws, and the quality of services provided by them.
- (e) The Medical Executive Committee shall meet at least quarterly or as requested by the Medical Director, and shall maintain a permanent record of its proceedings and actions.

## **ARTICLE XI - MEETINGS**

### **11.1 GENERAL PROFESSIONAL MEDICAL STAFF MEETINGS**

- (a) Professional Medical Staff meetings are to be held at least annually or as deemed necessary by the Board or the Medical Executive Committee, upon recommendation of the Medical Director.
- (b) Quorum. The presence of at least ten (10) percent of the Active Staff members at a meeting of the Professional Medical Staff, or at least a majority of the voting Active Staff members of a standing or ad-hoc committee, shall constitute a quorum. Any action at a Professional Medical Staff meeting shall require a majority affirmative vote from those voting Practitioners present at any meeting.
- (c) Notice. Written notice stating the place, day and hour of any meeting of the Professional Medical Staff shall be delivered by the Administrator in a timely fashion to each Practitioner and to any other person entitled to be present at the meeting.
- (d) Agenda. The agenda for each meeting shall be prepared by the Medical Director.
- (e) Attendance.
  - (1) A Practitioner of the Professional Medical Staff who has attended a case that is to be presented for discussion at any meeting (staff or committee) shall be required to attend such meeting if requested in writing and if notified at least seven (7) days in advance of meeting. Failure to attend shall be grounds for corrective action.

### **11.2 MINUTES**

Minutes of all Professional Medical Staff and committee meetings shall be prepared and shall include, at a minimum, a record of attendance and of the vote taken on significant matters. Copies of such minutes shall be signed by the Vice Chief of Staff and made available to the Board and other persons as approved by the Administrator, subject to Surgery Center policies on confidentiality. A permanent file of the minutes of each meeting shall be maintained by the Administrator.

## **ARTICLE XII - CONFIDENTIALITY, REPORTING AND IMMUNITY**

### **12.1 APPLICATION**

The following shall be express conditions applicable to any Practitioner having or seeking Privileges to practice his/her profession in the Surgery Center during any Appointment to the Surgery Center's Professional Medical Staff. By applying for Appointment, the Practitioner expressly accepts these conditions during the processing and consideration of his/her Application, regardless of whether he/she is granted Appointment or Clinical Privileges. These conditions shall also apply during any Appointment or Reappointment and to any corrective action, hearing, appellate review, or other proceedings taken or instituted pursuant to these Bylaws.

## **12.2 DEFINITIONS**

For purposes of this Article XII only, the following definitions shall apply:

- (a) “Information” shall mean records of proceedings, minutes, interviews, reports, forms, Applications, correspondence, memoranda, statements, investigations, examinations, hearings, meetings, recommendations, findings, evaluations, opinions, conclusions, actions, data, and other disclosures or communications, whether in written, electronic or oral form, relating to any of the activities specified in Section 12.3 below.
- (b) “Representative” shall mean the Board, its members and appointed representatives; the Medical Director or Administrator or designee; all employees, consultants and independent contractors of the Surgery Center; the Surgery Center’s attorneys and partners, assistants or designees; the Professional Medical Staff and all Practitioners appointed thereto; all Medical Staff committees; the Surgery Center as an entity; and any authorized representative of any of the foregoing.
- (c) “Third Parties” shall mean all individuals or government agencies, organizations, associations, partnerships and corporations, whether hospitals, health care facilities, Peer Review Bodies, or otherwise, from whom or which Information has been requested by the Surgery Center or its representative or who or which provides Information to the Surgery Center or its representatives.

## **12.3 ACTIVITIES AND INFORMATION COVERED**

- (a) Activities. The confidentiality and immunity provided by this Article applies to all Information provided or activities performed in connection with this or any other health care facility’s or organization’s activities concerning, but not limited to:
  - (1) Applications for Appointment and Clinical Privileges;
  - (2) periodic reappraisals for Reappointment and Clinical Privileges;
  - (3) corrective actions, including automatic and Summary Suspensions;
  - (4) hearings and appellate reviews;
  - (5) utilization and quality management activities;
  - (6) claims reviews;
  - (7) profiles and profile analyses;
  - (8) risk management activities;
  - (9) Peer Review Body activities; and
  - (10) other Surgery Center committee or Professional Medical Staff activities related to monitoring and promoting quality, efficient Health Care Services and appropriate professional conduct.
- (b) Information. The Information referred to in this Article may relate to a Practitioner's professional licensure or certification, education, training, qualifications, clinical ability, judgment, utilization practices, character, physical or mental health, emotional stability,

professional ethics or any other matter that might directly or indirectly affect the quality, efficiency or appropriateness of Health Care Services provided in the Surgery Center.

- (c) Security. An individual credentialing file shall be maintained for each Practitioner who has been granted Privileges at the Surgery Center, and all such files shall be secured, with access to the files limited to only the appropriate personnel.

## **12.4 CONDITIONS AND RELEASES**

- (a) Authorization. By applying for Appointment or Reappointment to the Professional Medical Staff, a Practitioner agrees to authorize Representatives to solicit, provide and act upon Information bearing on his or her professional ability, utilization practices and other qualifications; to authorize Third Parties to provide Information to the Surgery Center or its Representatives; and to be bound by the provisions of this Article and to waive all legal claims against any Representative or Third Parties who act in accordance with the provisions of this Article.
- (b) Immunity from Liability
  - (1) No Representative shall be liable to a Practitioner for damages or other relief for any decision, opinion, action, statement, or recommendation made within the scope of his or her duties as a Representative, if such Representative acts in good faith and without malice;
  - (2) No Representative and no Third Parties shall be liable to a Practitioner for damages or other relief by reason of providing Information, including otherwise privileged or confidential Information, to a Representative or to any Third Party pursuant to authorization by the Practitioner or if permitted or required by law or these Bylaws, provided that such Representative or Third Parties act in good faith and without malice.
- (c) Releases. Each Practitioner shall, upon request of the Surgery Center, execute general and specific releases reflecting the provisions of this Article; provided, however, that execution of such releases is not a prerequisite to the effectiveness of this Article. Failure to execute such releases in connection with an Application for Initial Appointment shall result in the Application being deemed incomplete and to have been voluntarily withdrawn, and it shall not be considered or processed. Failure to execute such releases in connection with Reappointment or upon request by the Director of Credentialing, Administrator, Medical Director or Board shall operate as a voluntary relinquishment by the Practitioner of Reappointment and of all Clinical Privileges upon expiration of the Practitioner's current Appointment.
- (d) Acknowledgment. Each Practitioner shall acknowledge that compliance with the provisions of this Article are express conditions to his or her Application for, and acceptance of, Professional Medical Staff Appointment and the continuation of such Appointment and of his or her exercise of Clinical Privileges at the Surgery Center.

## **12.5 CONFIDENTIALITY OF INFORMATION**

- (a) General. Information submitted, collected or prepared by any Representative or Third Party for the purpose of evaluating, monitoring or improving the quality and efficiency of patient care services; of determining that services are professionally indicated or were performed in

compliance with the applicable standard of care; or related to any of the activities set forth in these Bylaws, shall be privileged and confidential, and so maintained by the Surgery Center.

- (b) Committees. Disclosure of any Information generated by or at the direction of a Professional Medical Staff committee (other than to committee members, another Professional Medical Staff committee, the Staff, the Administrator, or Board) shall require approval of the Medical Director and the Administrator.
- (c) Reporting Requirements. The submission of any reports required of the Surgery Center or medical peer review committees pursuant to state or federal law shall be the responsibility of the Administrator, subject to approval by the Board. Nothing herein shall affect or interfere with any right of an individual Practitioner to make any report pursuant to state or federal law.
- (d) HIPAA. All Representatives shall, in carrying out their responsibilities under this Article and these Bylaws, comply with the applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996, as amended (42 U.S.C. § 300gg) and regulations promulgated thereunder, particularly, but without limitation, to those provisions relating to “protected health information”, as defined therein.

## **12.6 BREACH OF CONFIDENTIALITY**

Inasmuch as effective peer review and consideration of the qualifications of Professional Medical Staff members and Applicants to perform specific procedures must be based on free and candid discussions, breach of confidentiality of the discussions or deliberations of the Professional Medical Staff or committees, except in conjunction with other surgical facility, peer review committee, professional society, or licensing authority, is outside appropriate and acceptable standards of conduct for the Professional Medical Staff and will be deemed disruptive to the operations of the Surgery Center. If it is determined that such a breach has occurred, the Medical Executive Committee may initiate such corrective action as it deems appropriate.

## **12.7 ACCESS TO INFORMATION AND FILES**

### **12.7-1 Access to Confidential Information**

Professional Medical Staff records, including confidential records and Information, shall be accessible to the Board, the Medical Executive Committee, officers of the Staff and Staff committee members for the sole purpose of enabling them to conduct their authorized functions and to fulfill their responsibilities.

### **12.7-2 Member's Access**

- (a) A Professional Medical Staff member shall have access to his or her own credentials file, in accordance with reasonable procedures to be established by the Medical Executive Committee, consistent with the following:
  - (1) A request to review the file shall be given by the member to the Medical Director at least five (5) days before the requested date for review.
  - (2) The member may review and receive a copy of only those materials documented, provided by or addressed personally to the member. A summary of all other information shall be provided to the member, in writing, within a reasonable period of time. Such summary shall disclose the substance, but not the source, of the information summarized.

- (3) The review by the member shall take place in a designated office, during normal work hours, with a designee of the Medical Director present.
  - (4) In the event a corrective action is filed against a member, access to that member's credentials files shall be governed by applicable provisions of Articles VIII and IX of these Bylaws.
- (b) A Medical Staff member may request to correct or insert clarifying Information in her or her credentials file consistent with the following:
- (1) A member may, in a written, reasoned request to the Medical Director, ask for correction of Information in his or her credentials file.
  - (2) The Medical Director shall review the request within a reasonable time and recommend to the Medical Executive Committee whether to make the correction as requested, and the Medical Executive Committee shall make the final determination.
  - (3) The member shall be notified promptly, in writing, of the decision of the Medical Executive Committee.
  - (4) A member shall have the right to add to his or her credentials file a statement regarding any Information contained in the file. Such written statement shall be addressed to the Medical Executive Committee, and shall be placed in the credentials file immediately following review by the Medical Executive Committee.

## **12.8 CUMULATIVE EFFECT**

The provisions in these Bylaws and in any Professional Medical Staff or Surgery Center forms relating to authorization, confidentiality of Information and immunities from liability are in addition to any protections, privileges or immunities protections provided by relevant state and federal law, and not in limitation thereof. A finding by a court of law or administrative agency with proper jurisdiction that all or any portion of any such provision is not enforceable shall not affect the legality or enforceability of the remainder of such provision or any other provision.

## **ARTICLE XIII – ADOPTION AND AMENDMENT OF BYLAWS**

### **13.1 PROCEDURE**

#### **13.1-1 Adoption or Repeal**

Upon request of the Medical Executive Committee or upon timely written petition signed by at least ten (10) percent of the members of the Active Professional Medical Staff in good standing who are entitled to vote, consideration shall be given by the Professional Medical Staff to the adoption or repeal of these Bylaws. Such action shall be taken at a regular or special meeting, provided: (1) written notice of the proposed adoption or repeal was sent to all voting members on or before the last previous regular or special meeting of the Professional Medical Staff, and (2) notice of the next regular or special meeting at which action is to be taken includes notice that such adoption or repeal would be considered. Alternatively, the adoption or repeal of these Bylaws may be conducted by mail ballot so long as the proposed action and the mail ballot are sent to all voting members at least thirty (30) calendar days prior to the date on which the voting is scheduled to close.

### **13.1-2 Amendment**

Upon request of the Medical Executive Committee or the Medical Director, or upon timely written petition signed by at least ten (10) percent of the members of the Active Professional Medical Staff in good standing who are entitled to vote, consideration shall be given by the Medical Executive Committee to the amendment of these Bylaws. Such action shall be taken at a regular or special meeting of the Medical Executive Committee, provided: (1) written notice of the proposed change was sent to all voting members of the Medical Executive Committee, on or before the last previous regular or special meeting of the Medical Executive Committee, and such changes were offered at such prior meeting, and (2) notice of such next regular or special meeting at which action is to be taken includes notice that such a Bylaw change would be considered. Both notices shall include the exact wording of the existing Bylaw language, if any, and the proposed change(s). Alternatively, the amendment of these Bylaws may be conducted by mail ballot so long as written notice of the exact wording of the existing Bylaw and the proposed changes, and the mail ballot, are sent to all voting members of the Medical Executive Committee at least thirty (30) calendar days prior to the date on which the voting is scheduled to be taken.

### **13.1-3 Delegation of Amendment**

The Professional Medical Staff may, using procedures substantially similar to those outlined in Section 13.1-1, delegate to the Board the power to amend these Bylaws. Such an action by the Professional Medical Staff may reserve to the procedures outlined in Section 13.1-2 amendment of the Bylaws related to certain specified issues.

## **13.2 ACTION ON BYLAW CHANGE**

A change in the Bylaws shall require an affirmative vote of two-thirds (2/3) of the members voting in person at a meeting of the Medical Executive Committee at which a quorum is present, or, if the vote is taken by mail ballot, by a two-thirds (2/3) vote of the members of that Committee voting by mail ballot.

## **13.3 APPROVAL**

Bylaw changes adopted by the Medical Executive Committee shall become effective following approval by the Board, which approval shall not be withheld unreasonably, or automatically within ninety (90) days if no action is taken by the Board. If approval is withheld, the reasons for doing so shall be specified by the Board in writing and shall be forwarded to the Medical Director and the Medical Executive Committee.

## **13.4 MINOR AMENDMENTS TO BYLAWS**

The Medical Executive Committee shall have the power to adopt such amendments to these Bylaw and the Rules and Regulations as are in its judgment mere technical modifications or clarifications, reorganization or renumbering of sections, grammatical or punctuation errors, inaccurate cross-references or such amendments necessary to respond to specific rules and requirements of governmental agencies.

Such amendments shall be effective immediately and shall be considered permanent if not disapproved by the Board within ninety (90) days of adoption by the Medical Executive Committee. The action to make such amendments may be taken by motion acted upon in the same manner as any other motion before the Medical Executive Committee. After approval, such amendments shall be communicated in writing to the Professional Medical Staff and to the Board.

Except as noted above, the mechanisms described herein shall otherwise be the sole methods for the initiation, adoption, amendment, or repeal of these Bylaws and the Rules and Regulations.

### **13.5 AMENDMENTS TO BOARD BYLAWS**

The Board shall inform the Professional Medical Staff of changes to the governing body bylaws so that the content of the Professional Medical Staff Bylaws, the Rules and Regulations, Policies and Procedures, and the governing body bylaws will not be in conflict.

### **13.6 BIENNIAL EVALUATION**

The Medical Executive Committee and Board will review the Bylaws, Rules and Regulations, and all Professional Medical Staff Policies and Procedures at least biennially or more frequently as recommended by the Medical Executive Committee. This review shall be reflected in the minutes of the Medical Executive Committee and of the Board.

## **ARTICLE XIV – GENERAL PROVISIONS**

### **14.1 SURGERY CENTER POLICIES**

The Professional Medical Staff, through individuals or committees designated by the Medical Executive Committee and Medical Director, shall review and approve written Surgery Center policies to include, but not be limited to: (1) pre-operative laboratory work; (2) pre-operative medical history and physical examination; (3) evaluation for risk of anesthesia and of surgical procedure; (4) evaluation of anesthesia recovery prior to discharge; (5) pathology tissue specimens, macroscopic and microscopic examination requirements, and any exemptions; (6) radiology services; (7) scope of surgical procedures permitted to be performed at the Surgery Center; and (8) proceedings for handling emergencies and hospital transfers.

### **14.2 RULES AND REGULATIONS**

The Medical Executive Committee shall initiate and adopt such Rules and Regulations as it may deem necessary and shall periodically review and revise its Rules and Regulations to accommodate or address current Professional Medical Staff practice. Recommended changes to the Rules and Regulations may be submitted to the Medical Executive Committee for review and approval. Following approval by the Medical Executive Committee, a Rule and Regulation shall become effective following approval of the Board, which approval shall not be unreasonably withheld, or automatically within sixty (60) days if no action is taken by the Board. If there is a conflict between the Bylaws and the Rules and Regulations, the Bylaws shall prevail. The Rules and Regulations shall be deemed an integral part of these Bylaws.

### **14.3 FORMS**

Application forms and any other prescribed forms required by these Bylaws for use in connection with Professional Medical Staff Appointments, Reappointments, delineation of Privileges, corrective action, notices, recommendations, reports, and other matters shall be approved by the Medical Executive Committee and the Board. Upon adoption, they shall be deemed part of the Rules and Regulations. They may be amended by approval of the Medical Executive Committee and the Board.



#### **14.4 DUES OR ASSESSMENTS**

The Medical Executive Committee shall have the power to recommend the amount of annual dues or assessments, if any, for each category of Professional Medical Staff membership, subject to the Board's approval, and to determine the manner of expenditure of such funds received.

#### **14.5 AUTHORITY TO ACT**

Any Professional Medical Staff member who acts in the name of this Professional Medical Staff without proper authority shall be subject to such disciplinary action as the Medical Executive Committee may deem appropriate.

Approved and adopted by the Professional Medical Staff on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Medical Director

\_\_\_\_\_  
Administrator

Approved by the Board on \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Board Chair  
[of legal owner of Center]