NATIONWIDE CHILDREN'S HOSPITAL TOLEDO MEDICAL STAFF FAIR HEARING POLICY

Revised: 10/31/2024

ARTICLE I HEARING PROCEDURE

1.1 Definitions

1.1.1 The definitions set forth in the Medical Staff Bylaws shall apply to this Medical Staff Policy unless otherwise provided herein.

1.2 Applicability

1.2.1 The purpose of this Policy is to provide a mechanism for resolution of matters Adverse to Practitioner applicants and Medical Staff Members who have been granted or who have requested Medical Staff appointment and/or Privileges at the Hospital.

1.2.2 This Policy is not applicable to Advanced Practice Providers. Procedural due process rights for Advanced Practice Providers are set forth in the Advanced Practice Provider Policy, as such policy may be amended from time to time.

1.3 Designees

1.3.1 Whenever an individual is authorized in the Medical Staff governing documents to perform a duty by virtue of his/her position, then reference to the individual shall also include the individual's authorized designee.

1.4 Effect of Adverse Recommendation or Action

1.4.1 By the Medical Executive Committee. Unless otherwise provided in the Medical Staff Bylaws or Policies, when a Practitioner receives notice of an Adverse recommendation of the MEC, the Practitioner shall be entitled to a hearing and appellate review, if applicable, in accordance with the procedures set forth in this Policy.

1.4.2 By the Board. Unless otherwise provided in the Medical Staff Bylaws or Policies, when a Practitioner receives notice of an Adverse recommendation or action of the Board, and such decision is not based upon a prior Adverse recommendation of the MEC with respect to which the Practitioner was entitled to a hearing, the Practitioner shall be entitled to a hearing and appellate review, if applicable, in accordance with the procedures set forth in this Policy.

1.5 Recommendations or Actions of the MEC or Board

1.5.1 Types of Recommendations or Actions. Unless otherwise provided in the Medical Staff Bylaws or Policies, the following recommendations or actions of the MEC or Board shall, if deemed Adverse pursuant to Section 1.5.2 below, entitle the Practitioner to a hearing:

(a) Denial of initial Medical Staff appointment and/or Privileges or reappointment and/or regrant of Privileges.

(i) In the event that an applicant withdraws his/her initial application prior to commencement of a hearing, the withdrawal shall be deemed to be a voluntary withdrawal of the application, and the applicant's file shall be closed. Upon the commencement of a hearing on an initial application, the application may no longer be voluntarily withdrawn; rather, the process shall be completed and a final decision rendered by the Board.

(b) Reduction, restriction/limitation, or suspension of Privileges for a period in excess of fourteen (14) days as part of a corrective action process.

(c) Termination of Medical Staff appointment and/or Privileges as part of a corrective action process.

(d) Other recommendations or actions as so designated by the MEC or the Board.

1.5.2 When Deemed Adverse: A recommendation or action listed in Section 1.5.1 shall be deemed Adverse, as such term is defined in the Medical Staff Bylaws, only when such recommendation or action is based upon professional conduct or clinical competency concerns and is:

(a) Recommended by the MEC; or

(b) Taken by the Board under circumstances where no prior right to a hearing existed (*i.e.* contrary to a favorable recommendation of the MEC; or, on the Board's own initiative without benefit of a prior recommendation of the MEC).

1.6 Actions That Do Not Give Right to Hearing

1.6.1 The following actions are not deemed to be Adverse and shall not constitute grounds for, or entitle the Practitioner to request, a hearing:

(a) Any action recommended/taken by the MEC or the Board against a Practitioner where the action was recommended/taken solely for administrative or technical failings of the Practitioner (*e.g.* failure of a Practitioner to satisfy the baseline/threshold qualifications for Medical Staff appointment and/or Privileges, or to provide requested information, *etc.*)

(b) The denial, termination, modification, restriction/limitation, or suspension of temporary, emergency, disaster, distant-site telemedicine, or moonlighting Privileges.

(c) Ineligibility for Medical Staff appointment, reappointment, or the Privileges requested because a Department/Section has been closed, or because the Hospital is presently a party to an exclusive contract for such services.

(d) Ineligibility for Medical Staff appointment and/or requested Privileges because of the Hospital's lack of facilities, equipment, or support services; because the Hospital has elected not to perform or does not provide the service which the Practitioner intends to provide or the procedure for which Privileges are sought; or, inconsistency with the Hospital's strategic plan.

(e) An automatic suspension or automatic termination of Medical Staff appointment and/or Privileges as defined in the Bylaws.

(f) An oral or written reprimand or warning.

(g) Imposition of focused or ongoing professional practice evaluation as part of the routine peer review process.

(h) Termination of the Practitioner's employment or other contract for services unless the employment or services contract provides otherwise.

(i) Resignation of Medical Staff appointment and/or Privileges when such resignation is not in return for the MEC or Board refraining from conducting an investigation based upon the Practitioner's professional conduct or clinical competence.

(j) Any other recommendation or action made/taken by the MEC or Board that does not relate to the clinical competence or professional conduct of a Practitioner unless the Medical Staff Bylaws or Policies specifically state such action to be Adverse.

1.7 Notice of Adverse Recommendation or Action; Right to Request Hearing; and Waiver

1.7.1 Notice of Adverse Recommendation or Action. A Practitioner against whom an Adverse recommendation or action has been made/taken shall promptly be given Special Notice thereof by the Medical Staff President or Chief Operating Officer (if the recommendation/action was taken by the Board). The *Notice of Adverse Recommendation/Action* shall include:

(a) Notice of the Adverse recommendation or action and the nature of such recommendation or action.

(b) The reasons for the Adverse recommendation or action including a concise statement of the basis for the recommended denial of Medical Staff appointment and/or Privileges; or, in the case of a formal corrective action, the Practitioner's alleged acts or omissions, a list of

the specific or representative medical records in question, if applicable, and any other information forming the basis for the Adverse recommendation or action.

(c) The time frame and manner in which the Practitioner may submit a request for hearing on the Adverse recommendation or action.

(d) A summary of the Practitioner's hearing rights.

(e) A statement that if the Practitioner fails to request a hearing, in the manner and within the time period prescribed, such failure shall constitute a waiver of his/her right to a hearing and to an appellate review on the issue that is the subject of the notice.

1.7.2 Request for Hearing. A Practitioner shall have thirty (30) days after his/her receipt of a *Notice of Adverse Recommendation/Action* pursuant to Section 1.7.1 to file a written request for a hearing. Such request shall be delivered to the Medical Staff President (or to the Chief Operating Officer if the *Notice* was issued by the Board) by Special Notice.

1.7.3 Waiver by Failure to Request Hearing. A Practitioner who fails to request a hearing, within the time frame and in the manner specified, waives any right to such hearing and to any appellate review to which he/she might otherwise have been entitled. The Adverse recommendation or action shall thereafter be presented to the Board for final decision. The Practitioner shall be informed of the Board's final decision by Special Notice.

Right to One Hearing and Appellate Review. No Practitioner shall be entitled as a matter of right to more than one (1) hearing and one (1) appellate review on any matter for which there is a hearing right. Adverse recommendations or actions on more than one (1) matter may be consolidated and considered together or separately as the Board shall designate in its sole discretion.

1.8 Hearing Notice and Pre-Hearing Requirements

1.8.1 Notice of Time and Place for Hearing: Upon receipt from a Practitioner of a timely and proper request for a hearing, the Medical Staff President (on behalf of the MEC) or the Chief Operating Officer (on behalf of the Board), as applicable, shall promptly schedule and arrange for a hearing. At least thirty (30) days prior to the hearing, the Medical Staff President or the Chief Operating Officer, as applicable, shall send the Practitioner a letter, by Special Notice, advising of the date, time, and place of the hearing, which date shall be not less than thirty (30) days after the date of the *Hearing Notice* unless otherwise mutually agreed to by the parties. A hearing for a Practitioner who is under summary suspension shall, at the request of the Practitioner, be held as soon as the arrangements may be reasonably made provided that the Practitioner agrees to a waiver of the thirty (30) day advance notice time requirement.

1.8.2 Witnesses and Documents. The *Hearing Notice* shall also include a list of witnesses, if any, expected to testify at the hearing in support of the proposed Adverse recommendation/action on behalf of the MEC or Board as well as a time frame within which the Practitioner must provide the Medical Executive Committee or Board, as applicable, his/her list of witnesses. The *Hearing Notice* shall also outline a schedule for exchange of documents upon which each party expects to rely at the hearing. Each party remains under a continuing obligation to provide to the other party any documents or witnesses identified after the initial exchange which the party intends to introduce at the hearing. The introduction of any documents not provided prior to the hearing, or the admissibility of testimony to be presented by a witness not so listed, shall be at the discretion of the presiding officer.

1.8.3 Confidentiality

(a) Prior to receiving any confidential documents, the Practitioner requesting the hearing must agree, in writing, that all documents and information will be maintained as confidential and will not be disclosed or used for any purpose outside of the hearing. The Practitioner must also provide a written representation that his/her counsel and any expert(s) have executed business associate agreements in connection with any patient Protected Health Information contained in any documents provided.

(b) Upon receipt of the above agreement and representation, the Practitioner requesting the hearing will be provided with a copy of the following, as applicable:

(i) At the Practitioner's expense, copies of, or reasonable access to, all patient medical records set forth in the *Notice of Adverse Recommendation/Action*.

(ii) Copies of relevant minutes (with portions regarding other Practitioners and unrelated matters deleted).

(iii) Copies of any other documents relied upon by the Medical Executive Committee or Board (as applicable), with respect to its Adverse recommendation/action.

(c) The Practitioner will have no right to discovery beyond the information set forth in subsection (b) above. No information will be provided regarding other Practitioners.

(d) Prior to the pre-hearing conference, according to the schedule for exchange of documents set forth in the *Hearing Notice*, each party will provide the other party with its proposed exhibits. All objections to documents or witnesses, to the extent then reasonably known, will be submitted in writing in advance of the pre-hearing conference.

(e) With the exception set forth in Section 1.10.6, exhibits/testimony unrelated to the reasons for the Adverse recommendation/action will be excluded.

(f) Neither the Practitioner, nor his/her attorney, or any other person on behalf of the Practitioner, shall contact a Hospital employee while the employee is working at the Hospital. The Practitioner (or his/her attorney or other agent) may contact Hospital legal counsel to make a request to talk with Hospital employees. At his/her request, a Hospital employee may be accompanied by legal counsel (who may be the counsel who represents the MEC or Board, as applicable) when meeting with the Practitioner or his/her attorney or other agent. Although Hospital employees will be encouraged to participate in the hearing process, all such participation shall be voluntary and the Hospital shall not have the authority to compel participation unless such participation is part of the employee's job description.

1.9 Appointment of Hearing Panel or Hearing Officer

1.9.1 Determination. The hearing shall be conducted by either (i) a hearing officer, or (ii) a hearing panel, as determined by whichever body, the MEC or Board, made the Adverse recommendation or took the Adverse action that is the basis for the hearing.

(a) Appointment of Hearing Panel. A hearing panel shall consist of not less than three (3) individuals selected by the MEC or the Board, whichever body made the Adverse recommendation or took the Adverse action that is the basis for the hearing. The hearing panel members may either be Practitioners or individuals from outside of the Hospital, or a combination thereof, as determined by the MEC or the Board. At least two (2) members of the hearing panel should be Practitioners.

(i) The MEC or Board may appoint one (1) of the panel members as the chair of the panel. If the MEC or Board elects not to designate the panel's chair, one (1) of the panel members shall be appointed as chair pursuant to a majority vote of the panel members.

(ii) In the alternative, the MEC or Board may appoint an active or retired attorney at law in addition to the hearing panel members to act as presiding officer; provided, however, that such individual shall not be entitled to vote on the hearing panel's recommendation.

(b) Appointment of Hearing Officer. A hearing officer may be a Practitioner, an attorney, or other individual qualified to conduct the

hearing. A hearing officer is not required to be a Medical Staff Member and shall preferably be an attorney at law.

1.9.2 Designation and Role of Presiding Officer

(a) The hearing officer, the hearing panel chair, or other designated individual shall serve as the presiding officer. A presiding officer must not act as a prosecuting attorney or advocate for either side at the hearing. A presiding officer shall:

(i) Preside over the proceeding.

(ii) Allow the hearing participants to have a reasonable opportunity to be heard and to present oral and documentary evidence. The presiding officer shall set reasonable limits on the number of witnesses and duration of direct and cross-examination as may be necessary to avoid cumulative or irrelevant testimony or to prevent abuse of the hearing process.

(iii) Prohibit conduct or presentation of evidence that is redundant, excessive, irrelevant, abusive, or that causes undue delay.

(iv) Maintain decorum throughout the hearing.

(v) Determine the order of procedure throughout the hearing.

(vi) Have the authority and discretion to make rulings on all questions that pertain to matters of procedure and to the admissibility of evidence.

(vii) Make certain that all information relevant to the hearing is presented.

(viii) Conduct argument by counsel on procedural points outside the presence of the hearing panel (if one is selected) unless the panel wishes to be present.

(b) The presiding officer may be advised by legal counsel to the Hospital with regard to the hearing procedure.

1.9.3 Service as Hearing Officer, on Hearing Panel, or as Presiding Officer. Any person shall be disqualified from serving as a hearing officer, on a hearing panel, or as a presiding officer if the person directly participated in initiating the Adverse recommendation or action, or in investigating the underlying matter at issue; if the person has taken an active part in the matter contested, or; if the person is a direct economic competitor or otherwise has a conflict of interest with the Practitioner involved in the hearing. In the event that an attorney serves as the hearing officer, on the hearing panel, or as a presiding

officer, he/she must not represent clients in direct economic competition with the individual who is the subject of the hearing.

1.9.4 Objection to Hearing Officer/Hearing Panel Member/Presiding Officer. Any objection to any member of the hearing panel, a hearing officer, or a presiding officer must be made in writing to the Medical Staff President (or Chief Operating Officer if the Adverse recommendation/action was made by the Board) and must include the basis for the objection. The Medical Staff President or Chief Operating Officer, as applicable, will rule on the objection and give notice to the parties.

1.10 Hearing Procedure

1.10.1 Rights of the Parties. The parties shall have the following hearing rights:

(a) To be represented by an attorney or other person of the party's choice.

(b) To be provided with a list of witnesses and copies of documents that will be relied upon by the other side at the hearing.

(c) To have a record made of the proceedings, copies of which may be obtained by the Practitioner upon payment of any reasonable charges associated with the preparation thereof.

(d) To call, examine, and cross-examine witnesses.

(e) To present and/or rebut evidence determined relevant by the hearing officer or hearing panel regardless of the admissibility of the evidence in a court of law.

(f) To introduce exhibits.

(g) To impeach (challenge the credibility of) witnesses.

(h) To submit a written statement at the close of the hearing.

(i) Upon completion of the hearing, to receive a copy of the written recommendation of the hearing officer or hearing panel (including a statement of the basis for the hearing officer's or hearing panel's recommendation(s)) and to receive a copy of the written decision of the Board (including a statement of the basis for the Board's decision.).

1.10.2 Personal Presence/Forfeiture of Hearing. The personal presence of the Practitioner who requested the hearing shall be required at the hearing. A Practitioner who fails, without good cause, to appear and proceed at such hearing shall be deemed to have waived his/her right to such hearing and to any appellate review to which he/she might otherwise have been entitled.

1.10.3 Representation. The Practitioner who requested the hearing shall be entitled to be accompanied by and represented at the hearing by an attorney or other person of the Practitioner's choice. The chair of the MEC or the chair of the Board, depending upon which group's Adverse recommendation or action prompted the hearing, may appoint an attorney and/or one of its members to represent it at the hearing, to present the facts in support of its Adverse recommendation or action, and to examine witnesses. If an attorney is chosen to represent the MEC or Board, then the MEC or Board, as applicable, may also appoint one of its members to present the facts in support of its Adverse recommendation or action.

1.10.4 Practitioner Testimony. If the Practitioner who requested the hearing does not testify on his/her own behalf, he/she may be called and examined as if under cross examination.

1.10.5 Procedure and Evidence. At the hearing, the rules of law relating to examination of witnesses or presentation of evidence need not be strictly enforced except that oral evidence shall be taken only on oath or affirmation administered by any person designated by the presiding officer and entitled to notarize documents in the State of Ohio. The hearing officer or hearing panel, as applicable, may consider any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs regardless of whether such evidence would be admissible in a court of law.

1.10.6 Information Pertinent to Hearing. In reaching a decision, the hearing panel or hearing officer, as applicable, may take official note at any time for evidentiary purposes of any generally accepted technical or scientific principles relating to the matter at hand and of any facts that may be judicially noticed by Ohio courts. The parties to the hearing shall be informed of the principles or facts to be noticed and the same shall be noted in the hearing record. A party shall be given the opportunity to request that a principle or fact be officially noticed or to refute any officially noticed principle or fact by evidence or by written or oral presentation of authority in such manner as determined by the hearing officer or panel.

1.10.7 Burden of Proof. At the hearing, the MEC (or Board, as applicable) and the Practitioner may make opening statements. Following the opening statements, the MEC (or Board, as applicable) shall present its evidence first, establishing the basis for its recommendation or action. The MEC (or Board, as applicable) shall also have the right to present rebuttal witnesses following the presentation of the Practitioner's case. The Practitioner has the burden of proving, by clear and convincing evidence, that the Adverse recommendation or action that prompted the hearing was arbitrary, capricious, or not supported by substantial, credible evidence. Each party shall, prior to or during the hearing, be entitled to submit memoranda concerning any issue of procedure or fact and such memoranda shall become a part of the hearing record. The parties may make

closing statements following the introduction of all of the evidence and submit a written statement at the close of the hearing.

1.10.8 Record of Hearing. A record of the hearing shall be kept of sufficient accuracy that an informed and valid judgment can be made by any group that may later be called upon to review the record and render a recommendation or decision in the matter. The hearing panel or hearing officer, as applicable, shall arrange for a court reporter to transcribe the hearing. Upon request, the Practitioner shall be entitled to obtain a copy of the record at his/her own expense.

1.10.9 Postponement. Prior to the beginning of the hearing, the Medical Staff President or Chief Operating Officer, as applicable, in discussion with the hearing officer or hearing panel, shall determine whether requests for postponement of a hearing should be granted. The presumption shall be that the hearing will go forward on its scheduled date in the absence of a showing of good cause. Once the hearing has begun, the hearing officer or hearing panel shall be responsible for determining whether any continuances should be granted based upon the same standard.

1.10.10 Recesses, Conclusion & Adjournment. The hearing panel or hearing officer, as applicable, may recess the hearing and reconvene it without additional notice for the convenience of the participants, to obtain new or additional evidence, or if consultation is required for resolution of the matter. When presentation of oral and written evidence is complete, the hearing shall be closed. The hearing shall be adjourned upon receipt by the hearing officer/panel of the transcript of the proceedings and any closing written statements, whichever occurs later. The hearing panel or officer shall thereafter deliberate outside the presence of the parties and at such time and in such location as is convenient.

1.11 Report of the Hearing Panel or Hearing Officer and Further Action.

1.11.1 Hearing Officer/Panel. Within thirty (30) days after the hearing adjourns, the hearing officer or hearing panel shall report, in writing, its findings and recommendation (including a statement of the basis for such recommendation) (Report) with specific references to the hearing record, as necessary, and shall forward the Report, along with the hearing record (including the documentation introduced at the hearing and considered by the hearing officer/panel), to the body whose Adverse recommendation or action occasioned the hearing. The Report shall be based exclusively upon the written and oral evidence presented at the hearing and any memoranda submitted by the parties.

1.11.2 Final Recommendation/Action. Within twenty (20) days after receipt of the Report, the body whose Adverse recommendation/action gave rise to the hearing shall consider the same and affirm, modify, or reverse its original Adverse recommendation or action in the matter.

(a) Favorable Recommendation or Action

(i) If, after exhaustion of hearing rights, the MEC's recommendation is favorable to the Practitioner, such recommendation will be forwarded to the Board. The Board may adopt or reject any portion of the MEC's recommendation that was favorable to the Practitioner or refer the matter back to the MEC for additional consideration. Any such referral shall state the reason(s) for the requested reconsideration, set a time limit within which a subsequent recommendation must be made to the Board, and may include a directive that an additional hearing be conducted to clarify issues that are in doubt. After receipt of such subsequent recommendation, and any new evidence in the matter, the Board shall take action.

(ii) A favorable determination by the Board after exhaustion of hearing rights (whether as the body whose Adverse recommendation/action was the basis for the hearing or in affirmance of a favorable recommendation by the MEC) shall be effective as the Board's final decision and the matter shall be considered closed.

(b) Adverse Recommendation/Action

(i) If, after exhaustion of hearing rights, the MEC's/Board's recommendation/action continues to be Adverse to the affected Practitioner and the Report is substantially consistent with such Adverse recommendation/action (as determined by the Board in its sole discretion) then there shall be no right of further review and the Board shall render its final decision.

(ii) If, after exhaustion of hearing rights, the MEC's/Board's recommendation/action continues to be Adverse to the affected Practitioner and the Report is substantially inconsistent with such Adverse recommendation/action (as determined by the Board in its sole discretion), then the Practitioner shall be entitled, upon timely and proper request, to an appellate review of the matter pursuant to Article II before the Board renders its final decision.

1.11.3 Notice of Result

(a) The Chief Operating Officer shall, by Special Notice, promptly provide the affected Practitioner with a copy of the Report and shall notify the Practitioner of the outcome of the fair hearing process.

(i) If the recommendation/action after exhaustion of hearing rights is favorable to the affected Practitioner, and the Board concurs

with such recommendation/action pursuant to Section 1.11.2 (a), the notice shall so state advising the affected Practitioner that the Board has rendered a final decision and the matter is now closed.

(ii) If the recommendation/action after exhaustion of hearing rights is Adverse to the affected Practitioner and the Report is substantially consistent with such Adverse recommendation/action pursuant to Section 1.11.2 (b)(i), the notice shall inform the Practitioner that there shall be no right of further review and the Board shall render its final decision.

(iii) If the recommendation/action after exhaustion of hearing rights is Adverse to the affected Practitioner and the Report is substantially inconsistent with such Adverse recommendation/action pursuant to Section 1.11.2 (b)(ii), the notice shall inform the Practitioner of his/her right to request an appellate review of the matter pursuant to Article II before a final decision regarding the matter is rendered.

ARTICLE II APPELLATE REVIEW PROCEDURE

2.1 Initiation and Prerequisites of Appellate Review

2.1.1 Request for Appellate Review

(a) A Practitioner shall have ten (10) days after receiving notice of his/her right to request an appellate review to submit a written request for such review. The request must include a statement of the reasons for appeal and the specific facts or circumstances that justify further review. Such request shall be directed to the Board in care of the Chief Operating Officer by Special Notice.

(b) The grounds for appeal shall be limited to the following:

(i) The recommendation (after exhaustion of hearing rights) of the body whose Adverse recommendation/action gave rise to the hearing and appellate review was made arbitrarily, capriciously, or with prejudice, and/or,

(ii) The recommendation (after exhaustion of hearing rights) of the body whose Adverse recommendation/action gave rise to the hearing and appellate review was not supported by substantial, credible evidence introduced at the hearing and considered by the hearing officer/panel.

(c) If the Practitioner wishes an attorney to represent him/her at any appellate review appearance permitted, his/her request for appellate review shall so state.

(d) The request shall also state whether the Practitioner wishes to present oral arguments to the appellate review body. Such request may be granted or denied at the sole discretion of the appellate review committee.

2.1.2 Waiver by Failure to Request Appellate Review. A Practitioner who fails to request an appellate review in accordance with Section 2.1.1 waives any right to such review. The Adverse recommendation or action shall thereafter be presented to the Board for final decision. The Practitioner shall be informed of the Board's final decision by Special Notice.

2.1.3 Notice of Time and Place for Appellate Review

(a) Upon receipt of a timely request for appellate review, the Chief Operating Officer shall deliver such request to the Board. As soon as practicable, the Chief Operating Officer shall schedule and arrange for the appellate review, shall advise the body whose Adverse recommendation/action gave rise to the hearing and appellate review of

the date by which its written statement in response to that of the Practitioner's must be submitted to the appellate review committee and, if a request for oral arguments has been made, whether such request has been granted.

(b) If oral arguments are permitted, the Chief Operating Officer shall also notify the parties, by Special Notice, of the date, time, and place of the review.

2.1.4 Appellate Review Committee. Appellate review shall be conducted by a review committee composed of at least three (3) members of the Board appointed by the Board chair. One of the panel members shall be designated as chair. To the extent possible, the appellate review committee shall include a Board member who is a Medical Staff Member appointed to the active Medical Staff category and granted Privileges at the Hospital. All members of the appellate review committee shall be required to consider the appeal with good faith and objectivity.

2.1.5 Presiding Officer. The chair of the appellate review committee shall be the presiding officer. He/she shall determine the order of procedure during the appellate review, make all required rulings, and maintain decorum.

2.2 Appellate Review Procedure

2.2.1 Nature of Proceedings

(a) The proceedings of the appellate review committee shall be based upon the record of the hearing before the hearing officer/panel, the Report, and all subsequent results and actions thereon.

(b) The appellate review committee shall also consider any written statements submitted pursuant to Section 2.2.2 and such other information as may be presented pursuant to Section 2.2.3 and Section 2.2.4.

2.2.2 Written Statements. The Practitioner's statement should describe the facts, conclusions, and procedural matters with which he/she disagrees and the reasons for such disagreement. The body whose Adverse recommendation/action occasioned the appellate review should submit a written statement in support of its Adverse recommendation/action addressing the basis upon which it believes such recommendation/action should be upheld.

2.2.3 Oral Arguments. If oral arguments are permitted, the appellate review committee may place reasonable time limits on such arguments and may further determine whether such arguments will be presented separately or with representatives of both parties in the room. Any party or representative so appearing shall be required to answer questions put to him/her by any member of the appellate review committee.

2.2.4 Consideration of New/Additional Evidence

(a) If a party wishes to introduce new/additional evidence not raised or presented during the fair hearing and not otherwise reflected in the record, the party must make such request in writing at the time he/she submits a request for appellate review pursuant to Section 2.1.1.

(b) The party may introduce such evidence at the appellate review only if expressly permitted by the appellate review committee, in its sole discretion, and only upon a clear showing by the party requesting consideration of the evidence that it is new, relevant evidence not previously available at the time of the hearing or that a request to admit relevant evidence was previously erroneously denied.

(c) In the exceptional circumstance where the appellate review committee determines to hear such evidence, the appellate review committee shall further have the ability to adjourn the appellate review and remand the matter back to the hearing officer/panel.

(i) In such event, the hearing shall be reopened as to this evidence only, and the evidence shall be subject to submission and cross-examination and/or counter-evidence.

(ii) The hearing officer/panel shall then prepare a Supplemental Report and submit it to the body whose Adverse recommendation/action gave rise to the hearing and appellate review.

(iii) The body whose Adverse recommendation/action gave rise to the hearing and appellate review will notify the appellate review committee, in writing, through the Hospital Chief Operating Officer, as to whether the Adverse recommendation or action will be amended; and, if so, the nature of the amendment or reason for non-amendment.

(iv) The Hospital Chief Operating Officer shall then provide a copy of the Supplemental Report and the recommendation/action of the body whose Adverse recommendation/action gave rise to the hearing and appellate review to the Practitioner, and the appellate review process shall recommence, as applicable.

2.2.5 Recesses, Deliberation, and Adjournment. The appellate review committee may adjourn the review proceeding and reconvene the same without additional notice if it deems such adjournment necessary for the convenience of the participants, to obtain new or additional evidence, or for consultation. Upon receipt of written statements and conclusion of oral arguments, if allowed, the appellate review shall be closed. The appellate review committee shall thereafter deliberate outside the presence of the parties, at such time and in such

location as is convenient to the review committee, and shall render a written recommendation that contains a concise statement of the reasons for the recommendation to the Board.

2.2.6 The appellate review shall be adjourned at the conclusion of the appellate review committee's deliberations.

2.2.7 Board Final Action

(a) Within thirty (30) days after receipt of the appellate review committee's recommendation, the Board shall render its decision. The Board shall make the decision the Board believes appropriate consistent with its fiduciary duty to the Hospital.

(b) If the Board's decision is in accordance with the MEC's final recommendation, the decision shall be immediately effective, final, and not subject to further referral or review.

(c) If the Board's decision is contrary to the MEC's final recommendation, the Board shall refer the matter to the Joint Conference Committee for review and recommendation to the Board prior to the Board issuing its final decision.

(i) The Joint Conference Committee shall make every reasonable effort to meet and to respond to the Board with the Joint Conference Committee's recommendation within ten (10) days of being notified by the Board.

(ii) The Board shall then render its decision which shall be immediately effective, final, and not subject to further referral or review.

2.2.8 The Chief Operating Officer will promptly notify the Practitioner (by Special Notice) and the Medical Staff President of the Board's final decision which shall include a statement of the basis for the decision.

2.2.9 The Chief Operating Officer shall report any final action taken by the Board pursuant to this Policy to the appropriate authorities as required by law and in accordance with applicable Hospital procedures regarding the same.

2.3 General Provisions

2.3.1 Waiver: If at any time after receipt of notice of an Adverse recommendation, action or result, the affected Practitioner fails to satisfy a request, make a required appearance, or otherwise fails to comply with this Policy, he/she shall be deemed to have voluntarily waived all rights to which he/she might otherwise have been entitled with respect to the matter involved.

2.3.2 Exhaustion of Remedies: A Practitioner must exhaust the remedies afforded by this Policy before resorting to any form of legal action.

2.3.3 Release: By requesting a hearing or appellate review, the Practitioner agrees to be bound by the provisions set forth in the Medical Staff Bylaws regarding confidentiality, reporting immunity, and release of liability.

2.3.4 Representation by Counsel. At such time as the Practitioner, Medical Executive Committee, or Board is represented by legal counsel, then all notices required to be sent herein may be served upon legal counsel and the requirement that such notices be sent by Special Notice is hereby waived. Rather, such notices may be sent by regular first-class U.S. mail, telefax, e-mail, or such other manner as is mutually agreeable to the parties.

ADOPTION & APPROVAL

Adopted by the Medical Executive Committee on: 10/30/2024

Approved by the Hospital Board on: 10/31/2024