

**NORTH COLORADO MEDICAL CENTER**

**MEDICAL STAFF**

**CORRECTIVE ACTION/FAIR HEARING PLAN**

**MEDICAL STAFF  
CORRECTIVE ACTION/FAIR HEARING PLAN**

**TABLE OF CONTENTS**

I.	DEFINITIONS	1
II.	CORRECTIVE ACTION PLAN	2
	2.1 Corrective Action	2
	2.2 Non-Reviewable Action	7
	2.3 Precautionary Suspension of Clinical Privileges	8
	2.4 Automatic Suspension or Limitation	9
	2.5 Enforcement and Continuity of Patient Care	13
	2.6 Confidentiality	13
	2.7 Reporting	13
III.	FAIR HEARING PLAN	13
	3.1 Initiation of Hearing	13
	3.2 Notice of Time and Place for Hearing	16
	3.3 Appointment of Hearing Committee and Hearing Officer	17
	3.4 List of Witnesses	18
	3.5 Statements in Support	19
	3.6 Exhibits	19
	3.7 Duty to Notify of Noncompliance	19
	3.8 Pre-Hearing Conference	19
	3.9 Hearing Procedure	20
	3.10 Hearing Committee Report and Further Action	24
IV.	APPELLATE REVIEW	25
V.	GENERAL PROVISIONS	25
	5.1 Number of Reviews	25
	5.2 Confidentiality, Releases and Immunity from Liability	25
VI.	ADOPTION AND AMENDMENT	26

## **ARTICLE I DEFINITIONS**

- 1.1 The term "Medical Staff" means all Practitioners who hold a valid Colorado license and who have been appointed to membership on the Medical Staff and granted clinical privileges by the Board of Directors to attend patients in NCMC. The term "Medical Staff" also shall include members of the Emeritus Staff.
- 1.2 The term "Member" means any Practitioner who has been appointed to membership on the Medical Staff by the Board of Directors.
- 1.3 The term "Board of Directors" means the governing body of Banner, or any subcommittee thereof, as may be designated by the governing body of Banner, unless otherwise specified.
- 1.4 The term "Credentials Committee" means the credentials committee of the Medical Staff, the composition and responsibility of which are set forth in the Medical Staff Bylaws and the Organization and Functions Manual.
- 1.5 The term "Medical Executive Committee" means the executive committee of the Medical Staff.
- 1.6 The term "Chief Executive Officer" means the individual, or his/her designee, appointed by the President of Banner, or his/her designee, to act on Banner's behalf in the overall management of NCMC.
- 1.7 The term "Practitioner" means a doctor of medicine, a doctor of osteopathy, a doctor of dental medicine, a doctor of dental surgery, or a podiatrist.
- 1.8 The term "NCMC" means North Colorado Medical Center, an acute care hospital located at 1801 16th Street, Greeley, Colorado.
- 1.9 The term "Chief of Staff" means the chief administrative officer of the Medical Staff.
- 1.10 The term "Special Notice" means written notification delivered in person or sent by certified or registered mail, return receipt requested. In the event Special Notice is sent to a Member by certified or registered mail, return receipt requested, it shall be sent to the office address and the home address on file for such Member in the Medical Staff Office.  
  
Receipt of Special Notice shall be effective upon personal delivery. Receipt of Special Notice sent by certified or registered mail, return receipt requested, shall be evidenced by the return receipt. Refusal of written notification sent by certified or registered mail, return receipt requested, shall be deemed to constitute receipt of Special Notice.
- 1.11 The term "Banner" means Banner Health, an Arizona non-profit corporation, the operator of NCMC and the entity responsible for all aspects of NCMC's operation.
- 1.12 The term "Medical Staff Bylaws" refers to the major written statements governing the Medical Staff and the Members.

- 1.13 The term "Medical Staff Rules" refers to the written statements regulating the conduct of the Medical Staff and the Departments within the broad guidelines provided by the Medical Staff Bylaws.
- 1.14 The term "Applicant" means any Practitioner who has applied for initial appointment to the Medical Staff or any Member who has applied for reappointment to the Medical Staff, additional clinical privileges or a change in Medical Staff category.
- 1.15 All capitalized terms used in this Corrective Action/Fair Hearing Plan and not otherwise defined herein shall have the meaning ascribed to such terms in the Medical Staff Bylaws.

## **ARTICLE II CORRECTIVE ACTION PLAN**

### **2.1 Corrective Action**

#### **(a) Informal Resolution Preferred**

Resolution of any controversy or request for an investigation regarding a Member's compliance with the Medical Staff Bylaws or the Medical Staff Documents shall, if possible, be accomplished by an informal, intra-professional review procedure by the appropriate Medical Staff committee.

#### **(b) Initiation of Corrective Action**

Whenever the personal or professional conduct or activities of any Member (i) do not appear to meet the standards required by the Medical Staff Bylaws or the Medical Staff Documents or (ii) are, or are reasonably likely to be, detrimental to the quality of patient care or safety, a substantial hindrance to the delivery of quality patient care by others, disruptive to NCMC operations or an impairment to the community's confidence in NCMC or the Medical Staff, a request for corrective action against such Member may be initiated by any committee of the Medical Staff, the appropriate Department Chair, the Chief of Staff, the Chief Executive Officer, or the Board of Directors.

The request for corrective action shall be submitted to the Credentials Committee, shall be in writing, and shall be supported by reference to the specific activities or professional conduct that constitute the grounds for the request. No anonymous or oral requests for corrective action shall be considered.

Upon receipt of a request for corrective action, the Chair of the Credentials Committee shall promptly notify the Chief of Staff and the Chief Executive Officer in writing of such request and shall continue to keep them fully informed of all action taken in conjunction therewith.

A case file shall be established that shall serve as the single repository for all information relating to the request for corrective action. It shall be the responsibility of the Director of the Medical Staff Office to maintain the file, to

receive and retain all information relating to the request for corrective action and to assure the confidentiality of the case file. Access to the case file shall be limited to only those persons whose position or function requires them to have access to the case file and the information contained therein, as determined by the Chief Executive Officer and/or the Chief of Staff. The affected Member shall have access to information relating to the corrective action as otherwise provided by this Corrective Action/Fair Hearing Plan.

(c) Initial Review by the Credentials Committee

Upon receipt of a request for corrective action, the Credentials Committee shall consider such request at its next regularly scheduled meeting. If the initial review of such request indicates that the matter does not warrant further attention, the Credentials Committee shall prepare a report to the Chief of Staff and the Chief Executive Officer, and the matter shall be closed without further action. A copy of this report shall be retained in the quality/peer review file of the Member in question.

If additional information is needed to complete the initial review, the Credentials Committee may use one or more "evaluation tools" described below to determine if an investigation is warranted. The use of evaluation tools does not constitute an investigation. Evaluation tools include an interview with the Member, concurrent or retrospective chart review, and/or concurrent observation. A Member's refusal to cooperate in an evaluation by the Credentials Committee constitutes grounds for automatic suspension pursuant to Section 2.4(j) below. The Member has the right to an interview if he/she believes the Credentials Committee should reconsider the use of any such evaluation tool. However, the Member is not entitled to the procedural rights afforded by the Corrective Action/Fair Hearing Plan because of the use of such tools.

If the initial review indicates that the matter merits further consideration, the Credentials Committee shall determine whether to take immediate action on the request for corrective action or to direct that an investigation be undertaken. If the Credentials Committee decides to take action on such request, the process set forth in Sections 2.1(f) through 2.1(h) below shall be followed.

If the Credentials Committee determines that further investigation is necessary, it shall conduct such investigation itself or shall direct that a Special Investigative Committee be appointed to conduct such investigation. Such investigation shall not constitute a hearing, and none of the procedural rules provided in this Corrective Action/Fair Hearing Plan with respect to hearings shall apply.

An investigation shall begin only after a formal determination by the Credentials Committee to do so.

Promptly upon completion of the initial review by the Credentials Committee, the Chair of the Credentials Committee shall, by Special Notice, send to the Member, a written preliminary statement of the general nature of the request for corrective action, the nature of the issues raised and the course of action to be followed, as well as a copy of this Corrective Action/Fair Hearing Plan.

(d) Special Investigative Committee

If the investigation is delegated to a Special Investigative Committee, the Chair of the Credentials Committee shall appoint at least three (3) persons to serve on the Special Investigative Committee, the majority of whom shall be Members. If possible, the members of the Special Investigative Committee shall not be affiliated with, or in direct economic competition with, the Member in question.

The members of the Special Investigative Committee shall elect a member of the Special Investigative Committee to serve as the chair of the Special Investigative Committee. The chair of the Special Investigative Committee shall schedule the meetings of the Special Investigative Committee and shall conduct such meetings in compliance with the Medical Staff Bylaws and this Corrective Action/Fair Hearing Plan.

(e) Conduct of the Investigation

(i) Investigation Process

The purpose of the investigation shall be to provide additional information to the Credentials Committee.

The investigation may consist of, but shall not be limited to, a review of the Member's credentials files, a review of information collected as a result of the Medical Staff quality improvement process, interviews with other Members or NCMC employees, consultations with other Practitioners who are not Members, and a review of any other information that may be relevant to the investigation.

An outside consultant who is not a Member may be retained by the Credentials Committee or the Special Investigative Committee, as the case may be, to assist in the evaluation process.

(ii) Interview with the Member

The Member shall have an opportunity for an interview with the Credentials Committee or the Special Investigative Committee, as the case may be. The Member shall be given, by Special Notice, the time and place for the interview. At such interview, the Member shall be invited to present information relevant to the investigation. A report of such interview shall be made by the Credentials Committee or the Special Investigative Committee, as the case may be, and shall be included along with the report and recommendations of the Credentials Committee or the Special Investigative Committee. If the Member elects not to appear for an interview, this shall be so noted in the report of the Credentials Committee or the Special Investigative Committee, as the case may be.

(iii) Report of the Investigation by the Special Investigative Committee

If the investigation is conducted by a Special Investigative Committee, the Special Investigative Committee shall prepare a written report of the investigation as soon as is practicable after the assignment to investigate has been made. The written report shall contain the findings, conclusions and recommendations of the Special Investigative Committee and shall be submitted to the Credentials Committee. The recommendations may include any of the actions listed in Section 2.1(f) below.

(f) Credentials Committee Report and Recommendations

Following its investigation, or, if a Special Investigative Committee has conducted the investigation, within thirty (30) calendar days following receipt of the report from the Special Investigative Committee, the Credentials Committee shall prepare a written report that shall contain the findings, conclusions and recommendations of the Credentials Committee. Such recommendations may include, without limitation, the following:

- (i) that no corrective action is justified;
- (ii) that a letter of concern, warning, admonition, or reprimand be issued;
- (iii) that conditions for continued appointment be imposed;
- (iv) that the Member obtains additional training or education;
- (v) that the Member be counseled by the Chief of Staff, or his or her designee;
- (vi) that the Member be required to obtain a consultation from another Member with respect to any or all of his/her clinical privileges prior to, or concurrent with, treating patients at NCMC;
- (vii) that the Member's clinical privileges be reduced, modified, or revoked;
- (viii) that the Member's Medical Staff category be changed to another category; or
- (ix) that the Member's Medical Staff membership be revoked.

The Credentials Committee may defer taking action on the request for corrective action if additional time is needed to complete the investigation. If a Special Investigative Committee has conducted the investigation, the Credentials Committee may refer the matter back to the Special Investigative Committee for further consideration, stating the reasons therefore and setting a time limit within which a subsequent report and recommendations shall be submitted.

(g) Medical Executive Committee Action

A copy of the Credentials Committee's report and recommendations, and any minority views, shall be transmitted to the Medical Executive Committee for review. The Medical Executive Committee shall:

- (i) Adopt the recommendation of the Credentials Committee;
- (ii) Refer the matter back to the Credentials Committee or the Special Investigative Committee for further investigation and preparation of responses to specific questions raised by the Medical Executive Committee prior to its final recommendation; or
- (iii) Modify or reject the recommendation of the Credentials Committee and make its own recommendation with respect to the request for corrective action, but only after consultation with the chair of the Credentials Committee.

If the recommended action is non-reviewable pursuant to Section 2.2 below, the Medical Executive Committee shall consider the manner in which the action shall be implemented. The Medical Executive Committee also shall forward any adverse recommendation, and any minority views, to the Board of Directors.

- (h) Notice to the Member
  - (i) If a recommendation for corrective action is made by the Medical Executive Committee, the Chief of Staff shall send to the Member, by Special Notice, a summary of the request for corrective action, the recommendation of the Medical Executive Committee, and a course of action to be followed.
  - (ii) If the recommendation for corrective action is adverse and reviewable, the Member shall be informed in the Special Notice of his or her rights to a fair hearing in accordance with Section 3.1(c) below.

## 2.2 Non-Reviewable Action

Not every recommended action entitles a Member to a formal hearing and/or appeal pursuant to this Corrective Action/Fair Hearing Plan before it is implemented. Specifically, the following actions are non-reviewable under this Corrective Action/Fair Hearing Plan:

- (a) Imposition of an automatic suspension or limitation pursuant to Section 2.4 below;
- (b) Issuance of a warning or a letter of admonition or reprimand;
- (c) Imposition of evaluation tools or monitoring of professional practices, other than direct supervision or mandatory consultation, for a period of six (6) months or less;
- (d) Retrospective chart review;



- (e) Termination or limitation of temporary privileges;
- (f) Proctoring and other requirements imposed during the Member's provisional period;
- (g) Termination of any contract with, or employment by, NCMC or Banner;
- (h) Any recommendation voluntarily accepted by an Applicant or a Member;
- (i) Expiration of membership and clinical privileges for failure to complete an application for membership or clinical privileges;
- (j) Expiration of membership and clinical privileges for failure to complete proctoring within the time period granted by the Medical Staff Bylaws or this Corrective Action/Fair Hearing Plan;
- (k) Expiration of membership and clinical privileges for failure to submit an application for reappointment within the allowable time period;
- (l) Refusal of the appropriate Department, the Credentials Committee, or the Medical Executive Committee to consider a request for appointment, reappointment, change in staff category, Department or section assignment, or clinical privileges within one (1) year of a final adverse decision regarding such request;
- (m) Removal or limitation of call obligations;
- (n) Any requirement to complete an educational assessment;
- (o) Any requirement to complete an educational training program with a duration of less than sixty (60) hours; and
- (p) Any requirement to complete a health and/or psychiatric/psychological assessment and follow-up treatment recommended by the designated or approved healthcare professional.

Where an action that is not reviewable under this Corrective Action/Fair Hearing Plan has been taken against an Applicant or Member, the affected Applicant or Member may request that the Medical Executive Committee review the action, and such Applicant or Member may submit information demonstrating why the action is unwarranted. The Medical Executive Committee, in its sole discretion, shall decide whether to review the submission and whether to take or recommend any action, and the affected Applicant or Member shall have no appeal or other rights in connection with the Medical Executive Committee's decision.

### 2.3 Precautionary Suspension of Clinical Privileges

- (a) Grounds for Precautionary Suspension

The Chief of Staff, the appropriate Department Chair, the Chair of the Credentials Committee or the Chief Executive Officer, acting on behalf of the Board of Directors, shall each have the authority to suspend all or any portion of the clinical privileges of a Member whenever failure to take such action may result in imminent danger to the health and/or safety of any individual or to the orderly operations of NCMC, or threatens to interfere with NCMC's ability or responsibility to provide quality patient care. The Member may be given an opportunity to refrain voluntarily from exercising clinical privileges pending an investigation.

The reason(s) for such precautionary suspension shall be set forth in a written statement prepared by the individual exercising the authority to impose such precautionary suspension. Such precautionary suspension shall be deemed an interim precautionary action and not the ultimate professional review action that may be taken with respect to the suspended Member. It shall not imply any final finding of responsibility for the situation that caused such precautionary suspension.

A precautionary suspension shall become effective immediately upon imposition, shall immediately be reported in writing to the Chief Executive Officer, the Chief of Staff, and the Chair of the Credentials Committee, and shall remain in effect unless or until modified by the Medical Executive Committee or the Board of Directors. The Chief of Staff or the Chief Executive Office shall notify the Member promptly, by Special Notice, of the imposition of the precautionary suspension and of the Member's right to request a review of the precautionary suspension pursuant to Section 2.3(b) below. The Medical Executive Committee also shall be immediately notified of the imposition of the precautionary suspension.

(b) Medical Executive Committee Action

Upon the written request of the suspended Member, a meeting of the Medical Executive Committee, or a subcommittee thereof consisting of no less than five (5) Members appointed by the Chief of Staff, shall be convened as soon as reasonably possible after the imposition of the precautionary suspension to review and consider the action taken. Such review must be requested by the Member within fifteen (15) calendar days of the Member's receipt of Special Notice of the suspension. The Medical Executive Committee, or the subcommittee acting for the Medical Executive Committee, shall recommend to the Board of Directors modification, continuation or termination of the terms of the precautionary suspension and the action, if any, to be taken by the affected Member to have the suspension lifted.

(c) Expedited Hearing Rights

In the event the precautionary suspension is continued, the Chief of Staff or the Chief Executive Officer shall notify the Member of such decision, by Special Notice, and the Member shall have the right to request an expedited hearing pursuant to Section 3.2 below.

## 2.4 Automatic Suspension or Limitation

### (a) Medical Records

An automatic suspension of a Member's clinical privileges shall be imposed upon the issuance of a suspension letter in accordance with the NCMC Physician Suspension Policy. Such automatic suspension shall remain in effect until all delinquent records have been completed. Exceptions to imposition of such suspension may be granted by the Chief of Staff or the Chief Executive Officer in accordance with the NCMC Physician Suspension Policy.

### (b) License

#### (i) Revocation

Whenever a Member's license to practice medicine in Colorado is revoked, the Member's Medical Staff membership and clinical privileges shall be immediately and automatically revoked.

#### (ii) Restriction

Whenever a Member's license to practice medicine in Colorado is limited or restricted in any way, the Member's clinical privileges that are within the scope of the limitation or restriction shall be similarly immediately and automatically restricted.

#### (iii) Suspension

Whenever a Member's license to practice medicine in Colorado is suspended, the Member's Medical Staff membership and clinical privileges shall be automatically suspended for the term of the licensure suspension.

#### (iv) Probation

Whenever a Member is placed on probation by a licensing authority, the Member's Medical Staff membership and clinical privileges shall become subject to the same terms and conditions of the probation.

#### (v) Expiration

Whenever a Member's license to practice medicine in Colorado expires, the Member's Medical Staff membership and clinical privileges shall be automatically suspended for the term of the expiration of the licensure.

### (c) Controlled Substance Registration

Whenever a Member's DEA or other controlled substances registration is revoked, restricted or suspended, the Member's right to prescribe medications covered by the registration shall be similarly revoked, restricted or suspended.

Whenever a Member's DEA or other controlled substances registration expires, the Member's right to prescribe medications covered by the registration shall be automatically suspended for the term of the expiration of the registration.

(d) Exclusion from Federal Programs

Whenever a Member is excluded from Medicare, Medicaid, Colorado Access or other federally-funded healthcare programs, the Member's Medical Staff membership and clinical privileges shall be automatically suspended. An affected Member may request reinstatement during a period of ninety (90) calendar days following suspension, upon presentation of proof of ability to participate in such federally-funded healthcare programs. Thereafter, such Member shall be deemed to have voluntarily resigned from the Medical Staff and must reapply for Medical Staff membership and clinical privileges. Exclusion from Medicare, Medicaid, Colorado Access or other federally-funded healthcare programs is not the same as voluntary non-participation in such programs.

(e) Professional Liability Insurance

A Member's Medical Staff membership and clinical privileges shall be immediately suspended for failure to maintain the minimum amount of professional liability insurance required by the Credentials Policy and Procedures Manual. An affected Member may request reinstatement during a period of ninety (90) calendar days following suspension, upon presentation of proof of adequate insurance. Thereafter, such Member shall be deemed to have voluntarily resigned from the Medical Staff and must reapply for Medical Staff membership and clinical privileges.

(f) Freedom from Infectious Tuberculosis

A Member's Medical Staff appointment and clinical privileges shall be immediately suspended for failure to provide evidence of freedom from active infectious tuberculosis as required by law and NCMC policy. An affected Member may request reinstatement during a period of ninety (90) calendar days following suspension upon presentation of evidence of freedom from active infectious tuberculosis. Thereafter, such Member shall be deemed to have voluntarily resigned from the Medical Staff and must reapply for Medical Staff membership and clinical privileges.

(g) Failure to Satisfy Special Attendance Requirement

A Member who, without good cause, fails to appear at a meeting where his/her special attendance is required, in accordance with Section 10.7.3 of the Medical Staff Bylaws, shall be automatically suspended from exercising all clinical privileges. Failure to appear within sixty (60) calendar days of the imposition of an automatic suspension shall result in the Member being deemed to have voluntarily resigned from the Medical Staff. Thereafter, the affected Member must reapply for Medical Staff membership and clinical privileges.

(h) Failure to Pay Medical Staff Dues

A Member who fails to pay any required Medical Staff dues by the date specified by the Medical Executive Committee shall be deemed to have resigned voluntarily from the Medical Staff and must reapply for Medical Staff membership and clinical privileges.

(i) Failure to Execute Releases or Provide Requested Information

A Member who fails to execute a release, as more particularly described in Section 11.6 of the Medical Staff Bylaws, or who fails to provide documentation or other information during a term of appointment when requested by the appropriate Department Chair, the Chair of the Credentials Committee, the Chair of the Peer Review Committee, the Chair of the Physicians' Health and Conduct Committee, or the Chief of Staff shall be automatically suspended. If the release is executed and/or documents provided within thirty (30) calendar days from the receipt of Special Notice regarding the suspension, the Member shall be reinstated. Thereafter, the Member shall be deemed to have resigned voluntarily from the Medical Staff and must reapply for Medical Staff membership and clinical privileges.

(j) Failure to Participate in an Evaluation

A Member who fails to participate in an evaluation of his/her qualifications for Medical Staff membership and/or clinical privileges at the request of the Credentials Committee pursuant to Section 2.1(b) above shall automatically be suspended. If, within thirty (30) days of the automatic suspension, the Member agrees in writing to participate in the evaluation and does participate constructively, as determined by the Chair of the Credentials Committee, the Member shall be reinstated. Examples of failure to participate constructively include, but are not limited to, refusal of the Member to interview with the Credentials Committee, failure of the Member to provide requested information and refusal of the Member to cooperate with a designated observer. Thereafter, such Member shall be deemed to have resigned voluntarily from the Medical Staff and must reapply for Medical Staff membership and clinical privileges.

(k) Failure to Complete Assessments and Provide Results

A Member who fails to complete a required educational assessment, a required educational training program with a duration of less than sixty (60) hours, and/or a required health (including psychiatric/psychological health) assessment and follow-up treatment or who fails to provide a report of such findings shall automatically be suspended. If the assessment or program is completed, or the report is provided, within thirty (30) calendar days of the notice of suspension, the Member shall be reinstated. Thereafter, such Member shall be deemed to have resigned voluntarily from the Medical Staff and must reapply for Medical Staff membership and clinical privileges.

(l) Conviction of a Felony

The clinical privileges and Medical Staff membership of a Member who is convicted of, enters a plea of guilty to or a plea of no contest to any felony upon approval of this provision by the Board, on or after March 9, 2011 shall be immediately and automatically revoked.

2.5 Enforcement and Continuity of Patient Care

Immediately upon the imposition of a precautionary suspension or upon the occurrence of an automatic suspension or limitation, the appropriate Department Chair or, if unavailable, the Chief of Staff, shall assign to another Member with appropriate clinical privileges the responsibility of caring for the suspended Member's patients in NCMC. Such assignment shall be effective until such time as all of the affected patients are discharged. The wishes of the patients shall be considered in the selection of the alternate Member.

It shall be the duty of all Members to cooperate with the Chief of Staff, the appropriate Department Chair, the Medical Executive Committee and the Chief Executive Officer in enforcing all precautionary and automatic suspensions.

2.6 Confidentiality

- (a) All proceedings conducted pursuant to this Corrective Action/Fair Hearing Plan shall be privileged and confidential pursuant to applicable federal and state laws, rules and regulations. Such proceedings and final action by the Board of Directors pursuant to this Corrective Action/Fair Hearing Plan shall not be disclosed except in accordance with reporting requirements imposed by applicable federal and state laws, rules and regulations.
- (b) All Members participating in the proceedings outlined in this Corrective Action/Fair Hearing Plan acknowledge that confidentiality is required.

2.7 Reporting

NCMC shall comply with any applicable reporting requirements under the Health Care Quality Improvement Act of 1986, including required reporting to the National Practitioner Data Bank, and under the Colorado Revised Statutes. NCMC also shall comply with the Banner Sharing of Information Policy.

**ARTICLE III  
FAIR HEARING PLAN**

3.1 Initiation of Hearing

- (a) Recommendations or Actions

The following recommendations or actions shall be deemed adverse and shall entitle the Applicant or Member affected thereby to a hearing, upon timely and

proper request for the same, unless such recommendation or action would be non-reviewable pursuant to Section 2.2 above:

- (i) Denial of initial Medical Staff appointment.
  - (ii) Denial of Medical Staff reappointment.
  - (iii) Involuntary revocation of Medical Staff membership.
  - (iv) Denial of requested clinical privileges.
  - (v) Involuntary reduction in, or limitation of, clinical privileges, including imposition of individual mandatory concurring consultation requirements.
  - (vi) Involuntary revocation of clinical privileges.
  - (vii) Suspension of Medical Staff membership and/or clinical privileges for more than fourteen (14) calendar days (other than by automatic suspension).
  - (viii) Denial of requested modification of Medical Staff category.
  - (ix) Reduction of Medical Staff category.
  - (x) Involuntary limitation of admitting privileges.
  - (xi) Denial of requested Department (or service) assignment.
- (b) When Deemed Adverse

A recommendation or action listed in Section 3.1 above shall be deemed adverse only when it has been:

- (i) Recommended by the Medical Executive Committee;
  - (ii) Taken by the Board of Directors, if contrary to a favorable recommendation from the Medical Executive Committee and under circumstances where no specific right to a hearing existed;
  - (iii) A suspension continued in effect after review by the Medical Executive Committee or the Board of Directors, as the case may be; or
  - (iv) Taken by the Board of Directors on its own initiative without benefit of a prior recommendation by the Medical Executive Committee.
- (c) Notice of Adverse Recommendation or Action

An Applicant or Member against whom adverse action has been taken, or against whom an adverse recommendation has been made, shall promptly

receive Special Notice of such action or recommendation from the Chief Executive Officer. Such Special Notice shall:

- (i) Advise the Applicant or Member that an adverse action has been taken or is proposed to be taken against the Applicant or Member;
- (ii) Contain a concise statement of the Applicant's or Member's alleged acts and omissions, a list of the specific patient records in question, and/or the other reasons or subject matter forming the basis for the adverse action or recommendation that is the subject of the hearing;
- (iii) Advise the Applicant or Member of his/her right to a hearing pursuant to the provisions of this Corrective Action/Fair Hearing Plan, upon timely and proper request for same;
- (iv) Specify that the Applicant or Member shall have thirty (30) calendar days following receipt of the Special Notice within which to request a hearing, which request shall be in writing and delivered to the Chief Executive Officer in person or by certified or registered mail;
- (v) State that failure to request a hearing within the above stated time period and in the proper manner constitutes a waiver of rights to any hearing or appellate review on the matter that is the subject of the Special Notice;
- (vi) Specify the hearing rights to which the Applicant or Member is entitled, which may be done by furnishing the Applicant or Member with a copy of this Corrective Action/Fair Hearing Plan; and
- (vii) State that after receipt of the request for a hearing, the Applicant or Member shall be notified of the date, time, and place of the hearing.

(d) Modification of Recommendation

The Medical Executive Committee or the Board of Directors, as the case may be, may modify its proposed adverse recommendation or action, or the grounds for such recommendation or action, and shall notify the Applicant or Member of all additions or deletions.

(e) Request for a Hearing

The Applicant or Member shall have thirty (30) calendar days following his/her receipt of Special Notice pursuant to Section 3.1(c) above to submit a written request for a hearing. Such request shall be in writing and delivered to the Chief Executive Officer in person or by certified or registered mail.

(f) Waiver by Failure to Request a Hearing

An Applicant or Member who fails to request a hearing within the time and in the manner specified in Section 3.1(e) above shall be deemed to waive his/her right to any hearing or appellate review to which he/she might otherwise have been



entitled. Such waiver shall apply only to the matters that were the basis for the adverse recommendation triggering the Special Notice. A waiver shall constitute acceptance of the recommendation and action, which shall immediately be transmitted to the Board of Directors for a final decision. The Chief Executive Officer shall promptly send the Applicant or Member Special Notice of the decision of the Board of Directors and also shall notify the Chief of Staff of such decision.

(g) Waiver by Failure to Participate Constructively in the Hearing Process

An Applicant or Member who fails to participate constructively in the hearing process shall be deemed to have waived his/her right to any hearing or appellate review to which he/she might otherwise have been entitled. The Presiding Officer must inform the Applicant or Member that a waiver is being considered and must give the Applicant or Member reasonable opportunity to participate constructively prior to ruling that his/her hearing rights have been waived. Examples of failure to participate constructively include, but are not limited to, refusal of the Applicant or Member to be sworn in or to answer questions posed by the hearing committee, failure to proceed with the hearing, and failure to abide by a ruling of the Presiding Officer. The waiver has the same force and effect as provided in Section 3.1(f) above. An Applicant or Member who has been deemed to have waived his/her right to a hearing may request that the Medical Executive Committee or the Board of Directors, as the case may be, review the ruling and may submit information demonstrating why the ruling is unwarranted. Such request and information in support of the Applicant's or Member's position must be submitted, if at all, within ten (10) calendar days of the ruling. The Medical Executive Committee or the Board of Directors, as the case may be, shall decide whether to reinstate the Applicant's or Member's hearing rights, and the Applicant or Member shall have no appeal or other rights in connection with the decision of the Medical Executive Committee or the Board of Directors, as the case may be.

3.2 Notice of Time and Place for Hearing

Upon receipt of a timely and proper request for a hearing, the Chief Executive Officer shall deliver the request to the Chief of Staff or the Chair of the Board of Directors, depending upon which body took the action that prompted the request for a hearing, who shall schedule the hearing. At least thirty (30) calendar days prior to the hearing, the Chief Executive Officer shall send the Applicant or Member Special Notice of the time, place and date of the hearing. The hearing date shall be set for not less than thirty (30) calendar days or more than sixty (60) calendar days from the date of the Special Notice of the hearing; provided, however, that an Applicant or Member who is under suspension then in effect may request an expedited hearing. Upon receipt of a written request for an expedited hearing from the Applicant or Member, such hearing must be held as soon as the arrangements may reasonably be made, but not later than thirty (30) calendar days after the receipt of the request for the expedited review. Furthermore, any time limits set forth in this Section 3.2 or in any other provision of this Corrective Action/Fair Hearing Plan may be extended or shortened by mutual agreement of the Applicant or Member and the Chief Executive Officer.

### 3.3 Appointment of Hearing Committee and Hearing Officer

(a) By the Medical Staff

A hearing occasioned by a Medical Executive Committee recommendation pursuant to Section 3.1 above shall be conducted by a hearing committee appointed by the Chief of Staff. The hearing committee shall be composed of at least three (3) Practitioners, who preferably shall be Members, but other qualified Practitioners may be appointed to serve on the hearing committee, as necessary. If the Chief of Staff is in direct economic competition with the Applicant or Member, the Chief Executive Officer shall appoint the members of the hearing committee. One of the members so appointed shall be designated by the Chief of Staff as chair of the hearing committee.

(b) By the Board of Directors

A hearing occasioned by an adverse action of the Board of Directors pursuant to Section 3.1 above shall be conducted by a hearing committee appointed by the Chair of the Board of Directors and composed of at least three (3) persons, at least one of who shall be a member of the Board of Directors. One of the members so appointed shall be designated by the Chair of the Board of Directors as chair of the hearing committee.

(c) Service on Hearing Committee

A Practitioner or a member of the Board of Directors shall not be disqualified from serving on a hearing committee solely because he/she has heard of the matter or has knowledge of the facts involved or what he/she supposes the facts to be. No member of a hearing committee shall be a Practitioner in direct economic competition with the Applicant or Member for whom the hearing is held, or a Member who has either requested, or has served on a body that has recommended, the adverse action.

All members of a hearing committee shall be required to consider and decide the case with good faith objectivity.

(d) Applicant's or Member's Right to Object

The Chief of Staff or the Chief Executive Officer shall notify the Applicant or Member of the names of the hearing committee members and the date by which the Applicant or Member must object, if at all, to the appointment of any member(s), which date shall be three (3) calendar days from the date of the notification. Such objection must be in writing and must include the basis for the objection. If the individual who appointed the hearing committee determines that the objection is reasonable, such individual may designate alternative member(s) and shall notify the Applicant or Member of such new member(s). The Applicant or Member may object to any new member(s) by giving written notice of the objection and the reasons therefor in accordance with the requirements of this Section 3.3(d).

(e) Hearing Officer

The Chief Executive Officer, upon the request of the Chief of Staff, or upon his/her own initiative, in the event of a hearing occasioned by an adverse action of the Medical Executive Committee, or upon the request of the Chair of the Board of Directors, in the event of a hearing occasioned by an adverse action of the Board of Directors, may appoint a hearing officer to conduct a hearing. The hearing officer shall serve as the Presiding Officer, maintain decorum, and rule on matters of law, procedure, and the admissibility of evidence, including the admissibility of testimony and exhibits. The hearing officer may participate in the deliberations and assist in the preparation of a written decision, but may not act as an advocate or advisor for either party and may not vote. The hearing officer need not be a Member or a physician and may not be in direct economic competition or affiliation with the Applicant or Member. The hearing officer may, but need not, be an attorney, but shall be experienced in conducting hearings.

3.4 List of Witnesses

At least ten (10) calendar days prior to the scheduled date for commencement of the hearing, each party shall give to the other party a list of the names of the individuals who, as far as is then reasonably known, shall give testimony or evidence in support of such party at the hearing. The list shall contain only the names of individuals who can provide testimony relevant to the grounds for the adverse recommendation or action. Such lists shall be amended as soon as possible after additional witnesses are identified. The Presiding Officer may permit a witness who has not been listed in accordance with this Section 3.4 to testify if he/she finds that the failure to list such witness was justified, that such failure did not prejudice the party entitled to receive the name of such witness, and that the testimony of such witness shall materially assist the hearing committee in making its report and recommendation under Section 3.10 below. The Applicant or Member and the representative of the Medical Executive Committee or the Board of Directors, as the case may be, shall be permitted to testify regardless of whether identified as a witness.

Neither the affected Applicant or Member nor any other person acting on his/her behalf, including, without limitation, his/her counsel, shall contact any NCMC employees who appear on witness list of the Medical Executive Committee or the Board of Directors, as the case may be, or any Member or other individual who serve or served on any committees involved in the recommendation or action concerning the subject matter of the hearing, unless specifically agreed upon by counsel.

The affected Applicant or Member may not present evidence of competency or character by presenting testimony, endorsements or opinions of his/her patients.

3.5 Statements in Support

If a statement in support of a party's position is to be submitted to the hearing committee, such party shall supply five (5) copies of such statement to the Medical Staff Office at least five (5) calendar days prior to the scheduled date for commencement of the hearing. The party also shall supply two (2) copies of the statement to the other party and his/her representative. The Medical Staff Office shall distribute the statements (if

any) to the members of the hearing committee at least three (3) calendar days prior to the scheduled date of the commencement of the hearing. Nothing in this Section 3.5 shall preclude the Medical Executive Committee or the Board of Directors, as the case may be, or its representative(s) from submitting procedural information to the hearing committee.

### 3.6 Exhibits

At least ten (10) calendar days prior to the scheduled date for commencement of the hearing, each party shall give the other party a copy of all exhibits, as far as then reasonably known, that shall be introduced during the hearing. Documents previously provided to a party need not be resupplied. The Presiding Officer may permit the introduction of an exhibit that has not been provided in accordance with this Section 3.6 if he/she finds that the failure to provide such exhibit was justified, that such failure did not prejudice the party entitled to receive such exhibit, and that such exhibit shall materially assist the hearing committee in making its report and recommendation under Section 3.10 below.

Except as set forth in this Corrective Action/Fair Hearing Plan, there is no right to any discovery in connection with the hearing.

### 3.7 Duty to Notify of Noncompliance

If the Applicant or Member believes that there has been a deviation from the procedures required by this Corrective Action/Fair Hearing Plan or applicable law, the Applicant or Member must promptly notify the Chief of Staff or the Chair of the Board of Directors, through the Chief Executive Officer, of such deviation, including a citation to the applicable provision of this Corrective Action/Fair Hearing Plan or the Medical Staff Bylaws or to applicable law. If the Chief of Staff or the Chair of the Board of Directors, as the case may be, agrees that a deviation has occurred, is substantial and has created demonstrable prejudice, he/she shall correct such deviation.

### 3.8 Pre-Hearing Conference

The Presiding Officer may require counsel for both the Applicant or Member and the Medical Executive Committee or the Board of Directors, as the case may be, to participate in a pre-hearing conference for purposes of resolving all procedural questions in advance of the hearing. The Presiding Officer may specifically require that:

- (a) All documentary evidence to be submitted by the parties be presented at this conference and that any objections to the documents shall be made at that time, and the Presiding Officer shall resolve such objections;
- (b) Evidence unrelated to the reasons for the unfavorable recommendation or unrelated to the Applicant's or Member's qualifications for appointment or the relevant clinical privileges be excluded;
- (c) The names of all witnesses and a brief statement of their anticipated testimony be submitted;

- (d) The time granted to each witness' testimony and cross-examination be agreed upon, or determined by the Presiding Officer, in advance; and
- (e) Witnesses and documentation not provided and agreed upon in advance of the hearing may be excluded from the hearing.

### 3.9 Hearing Procedure

#### (a) Presence at Hearing

The right to a hearing shall be waived if the Applicant or Member fails, without good cause, to appear. The personal presence of the Applicant or Member who requested the hearing is required throughout the hearing. The presence of the Applicant's or Member's counsel or other representative does not constitute the personal presence of the Applicant or Member. An Applicant or Member who fails, without good cause, as determined by the hearing committee, to be present throughout such hearing shall be deemed to have waived his/her rights in the same manner and with the same consequences as provided in Section 3.1(f) above.

#### (b) Postponements and Extensions

Postponements of meetings and extensions beyond the time limits expressly permitted may be requested by either party, and granted, with good cause, by the Presiding Officer or by the mutual agreement of both parties. Requests for postponement or continuance of a hearing shall be granted by the Presiding Officer only upon a timely showing of good cause.

#### (c) Presiding Officer

In the absence of a hearing officer, the chair of the hearing committee shall serve as the Presiding Officer. The Presiding Officer shall insure that all participants in the hearing have a reasonable opportunity to be heard and to present oral and documentary evidence and that decorum is maintained. The Presiding Officer shall be entitled to determine the order of procedure during the hearing and shall have the authority and discretion, in accordance with this Corrective Action/Fair Hearing Plan, to make all rulings on questions that pertain to matters of the conduct of the hearing and to the admissibility of evidence. If acting as the Presiding Officer, the chair of the hearing committee shall not act as an advocate for any party to the hearing, but shall be entitled to vote.

#### (d) Representation

The Applicant or Member who requested the hearing may be represented at the hearing by legal counsel, if the Applicant or Member so chooses, or any other person of the Applicant's or Member's choice.

The Medical Executive Committee or the Board of Directors, as the case may be, shall appoint a representative, who may, but need not, be one of its members, to represent it at the hearing. The Medical Executive Committee or the Board of

Directors, as the case may be, also may be represented by legal counsel, without regard as to whether the Applicant or Member is so represented.

(e) Conduct of Hearing

The party whose adverse recommendation or action prompted the hearing shall present evidence in support of its recommendations or action. The Applicant or Member who requested the hearing shall have the obligation of presenting evidence to challenge the adverse recommendation or action and showing that the adverse recommendation or action is not appropriate.

(f) Rights of Parties

During the hearing, each party shall have the following rights, subject to the rulings of the Presiding Officer on the admissibility of evidence, and provided that such rights shall be exercised in a manner so as to permit the hearing to proceed efficiently and expeditiously:

- (i) Call and examine witnesses;
- (ii) Introduce exhibits and present relevant evidence;
- (iii) Cross-examine any witness on any matter relevant to the issues;
- (iv) Impeach any witness;
- (v) Rebut any evidence;
- (vi) Submit a written statement in support of such party's position if such statement is tendered pursuant to Section 3.5 above or is requested by the hearing committee; and
- (vii) Have a record made of the hearing, copies of which may be obtained by the Applicant or Member upon payment of any reasonable charges associated with the preparation thereof.

If the Applicant or Member who requested the hearing does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. After the reconsideration of the recommendation by the Medical Executive Committee or the Board of Directors, as the case may be, the Applicant or Member has the right to receive the written recommendations of the hearing committee and either the Medical Executive Committee or the Board of Directors, as the case may be, both of which shall include a statement of the basis for the decision.

(g) Procedures and Evidence

The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. At the discretion of the Presiding Officer, any relevant evidence may be considered. During the hearing,

each party shall be entitled to submit a statement of support concerning any issue of law or fact, if such statement was tendered pursuant to Section 3.5 above or was requested by the hearing committee, and such statements shall become a part of the hearing record. The hearing committee may ask questions of witnesses, call additional witnesses, or request documentary evidence if it deems it appropriate. The Presiding Officer may, but shall not be required to, order that oral evidence be taken only on oath or affirmation administered by any person designated by him/her and entitled to notarize documents or administer oaths.

Evidence presented at the hearing may include, but need not be limited to, the following:

- (i) Oral or written testimony or deposition of witnesses, including experts;
  - (ii) Briefs, memoranda, or other documentation of points and reference to authorities presented in connection with the hearing, if such documentation is tendered pursuant to Section 3.5 above or is requested by the hearing committee;
  - (iii) Any relevant material contained in NCMC's credentials files regarding the Applicant or Member who requested the hearing;
  - (iv) Any application forms and informational material associated with the application and credentialing process;
  - (v) Quality improvement documentation;
  - (vi) All officially noticed information; and
  - (vii) Any other relevant materials.
- (h) Official Notice

The hearing committee may take official notice of any generally accepted technical or scientific reference or generally known fact relating to the issues under consideration. The parties to the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record of the hearing. Each party shall be given opportunity, on timely and proper request, to request that a matter be officially noticed and to refute officially noticed matters by evidence or by written or oral presentation of the authority. The manner of such refutation shall be determined by the Presiding Officer.

- (i) Burden of Proof

The Medical Executive Committee or the Board of Directors, as the case may be, has the initial obligation to present evidence in support of the adverse action or recommendation. Thereafter, the Applicant or Member has the burden of demonstrating, by preponderance of the evidence, that the adverse action or

recommendation lacks any substantial factual basis or is otherwise arbitrary, unreasonable, or capricious.

(j) Record of Hearing

A record of the hearing shall be kept. A court reporter shall be used for making the record.

(k) Recesses and Adjournment

The hearing committee may, exclusively at its discretion and without Special Notice, recess the hearing and reconvene the hearing for the convenience of the parties, which shall include consideration of the duration of the hearing, or for the purpose of obtaining new or additional evidence or consultation. Upon conclusion of the presentation of oral and written evidence, the hearing shall be adjourned. The hearing committee shall thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

(l) Deliberations

In reaching its conclusions of fact and making its recommendations, the hearing committee must act:

- (i) In the reasonable belief that the recommendation is in furtherance of quality health care;
- (ii) After a reasonable effort to obtain the facts of the matter; and
- (iii) In the reasonable belief that the action is warranted by the facts known after reasonable effort to obtain such facts.

### 3.10 Hearing Committee Report and Further Action

(a) Hearing Committee Report

Within ten (10) calendar days after the final adjournment of the hearing, the hearing committee shall prepare a written report of its findings, conclusions and recommendations in the matter, including a statement of the basis for the recommendations, and shall forward the same, together with the hearing record and all other documentation considered by it, to the body whose adverse recommendation or action occasioned the hearing.

(b) Action on Hearing Committee Report

At its next regularly scheduled meeting after receipt of the report of the hearing committee, the body to whom the report is made shall consider the report and affirm, modify or reverse its previous recommendation or action in the matter. The body to whom the report is made also shall have available to it the hearing record and all documentation submitted at the hearing. If the recommendation of the hearing committee differs from the initial recommendation of the Medical



Executive Committee or the Board of Directors, as the case may be, the chair of the hearing committee may be invited to a meeting of the Medical Executive Committee or the Board of Directors, as the case may be, to discuss the findings, conclusions and recommendation of the hearing committee.

(c) Notice of Determination and Effect of Result

(i) Notice

As soon as practicable after action by the Medical Executive Committee or the Board of Directors, as the case may be, the Chief Executive Officer shall send to the Applicant or Member, by Special Notice, a copy of the hearing committee's report and the reconsidered recommendation of the Medical Executive Committee or the Board of Directors, as the case may be. A copy of the report and the recommendation also shall be sent to the Chief of Staff.

(ii) Effect of Favorable Result

When the recommendation of the Medical Executive Committee or the Board of Directors is favorable to the Applicant or Member, the Chief Executive Officer shall promptly forward it, together with all supporting documentation, to the Board of Directors for final action.

(iii) Effect of Adverse Result

If, after the Medical Executive Committee or the Board of Directors, as the case may be, has considered the hearing committee report and the hearing record, its reconsidered recommendation continues to be adverse, the Chief Executive Officer shall promptly so notify the Applicant or Member by Special Notice. The Chief Executive Officer also shall forward such recommendation and documentation to the Board of Directors, but the Board of Directors shall not take any action thereon until after the Applicant or Member has exercised or has been deemed to have waived the right to an appellate review.

#### **ARTICLE IV APPELLATE REVIEW**

Appeals shall be conducted in accordance with the Appellate Review Policies of the Board of Directors, copies of which shall be provided to the Applicant or Member at the time of a request for appellate review or upon request by the Applicant or Member.

#### **ARTICLE V GENERAL PROVISIONS**

##### **5.1 Number of Reviews**

Notwithstanding any other provision of the Medical Staff Bylaws or this Corrective Action/Fair Hearing Plan, no Applicant or Member shall be entitled as a right to more

than one (1) evidentiary hearing and one (1) appellate review with respect to the subject matter that is the basis of the adverse recommendation or action triggering the right.

5.2 Confidentiality, Releases and Immunity from Liability

By requesting a hearing or appellate review under this Corrective Action/Fair Hearing Plan, the Applicant or Member agrees to be bound by the provisions of the Medical Staff Bylaws, including, without limitation, the provisions relating to confidentiality, releases and immunity from liability.

**ARTICLE VI  
ADOPTION AND AMENDMENT**

This Corrective Action/Fair Hearing Plan, or any amendments thereto, shall become effective when adopted by a majority vote of the Medical Executive Committee and approved by the Board of Directors.

---

Approved and recommended to the Board of Directors by the Medical Executive Committee as of the date set forth below:

February 18, 2011

---

Chief of Staff

---

Date

---

Approved and adopted by the Board of Directors as of the date set forth below:

March 9, 2011

---

Secretary, Board of Directors

---

Date

---