

# **MEDICAL STAFF FAIR HEARING PLAN**

**Martin Memorial Medical Center, Inc.  
Stuart, Florida**

**Last Amended October 25, 2012**

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### **DEFINITIONS**

The definitions applicable in this Fair Hearing Plan are those stated in the Medical Staff Bylaws.

**PART ONE. INITIATION OF HEARING**

**1.1 TRIGGERING EVENTS**

**1.1-1 ACTIONS OR RECOMMENDATIONS**

Subject to the exceptions set forth in Section 1.1-3 below, the following actions or recommendations, if deemed adverse under Section 1.1-2 below, entitle the practitioner to a hearing upon timely and proper request as provided in Section 1.3:

- (a) Denial to an applicant not currently a member of the Staff, of Staff appointment requested Department/Service affiliation, or requested clinical privileges, except that a decision by the Board not to invite a Practitioner to apply for the Invitational Staff for reasons unrelated to the Practitioner's credentials or the quality of patient care shall not entitle the Practitioner to a hearing;
- (b) Denial of reappointment, except that a decision by the Board not to invite a current Invitational Staff member to reapply for that category for reasons unrelated to the Practitioner's credentials or the quality of patient care shall not entitle the Practitioner to a hearing;
- (c) Suspension of Staff membership, provided that summary suspension entitles the practitioner to request a hearing only as specified in subsection (m) of this Section 1.1-1;
- (d) Revocation of Staff membership;
- (e) Denial of requested advancement in Staff status from Associate to Active to a current Attending Staff member; however, a Staff member shall not be entitled to a hearing when the provisional period is extended;
- (f) Reduction in Staff category;
- (g) Special limitation of the right to admit patients not related to the adoption or implementation of an administrative or Medical Staff policy within the Hospital as a whole or within one (1) or more specific Departments/Services;
- (h) Denial of requested clinical privileges to a current Staff member;
- (i) Reduction in clinical privileges;
- (j) An individually imposed requirement of prior or concurrent consultation or direct supervision, except that an individually imposed requirement of prior or concurrent consultation required of a Staff member as part of the preceptorship program shall not entitle the practitioner to a hearing;
- (k) Suspension of clinical privileges, provided that summary suspension entitles the practitioner to request a hearing only as specified in subsection (m) of this Section 1.1-1;

- (l) Revocation of clinical privileges; or
- (m) Summary suspension of Medical Staff membership or clinical privileges, provided that the recommendation of the Medical Executive Committee or action by the Board under Section 5.2 of the Credentialing Procedures Manual is to continue the suspension or to take other action which would entitle the practitioner to request a hearing under this Section 1.1-1.

**1.1-2 WHEN DEEMED ADVERSE**

An action or recommendation listed in Section 1.1-1 above is deemed adverse to the practitioner only when it has been:

- (a) recommended by the Medical Executive Committee; or
- (b) taken by the Board of Directors under circumstances where no prior right to request a hearing existed.

**1.1-3 EXCEPTIONS TO HEARING RIGHTS**

- (a) Certain Actions or Recommendations: Notwithstanding any provision in this Fair Hearing Plan, in the Medical Staff Bylaws, or in the Credentialing Procedures Manual to the contrary, the following actions or recommended actions do not entitle the practitioner to a hearing:
  - (1) the issuance of a verbal warning;
  - (2) a letter of reprimand;
  - (3) the imposition of a direct supervision or consultation requirement as a condition attached to the exercise of clinical privileges during a provisional period;
  - (4) the imposition of a probationary period involving review of cases but with no requirement either for direct, concurrent supervision or for mandatory consultation;
  - (5) the imposition of a requirement of prior or concurrent consultation prior to the exercise of any clinical privilege required of a member of the Staff as part of the preceptorship program;
  - (6) the removal of a practitioner from a medico-administrative office within the Hospital unless a contract or employment arrangement provides otherwise; and
  - (7) any other action or recommendation not listed in Section 1.1-1 above.
- (b) Other Situations: An action or recommendation listed in Section 1.1-1 above does not entitle the practitioner to a hearing when it is:
  - (1) voluntarily imposed or accepted by the practitioner;
  - (2) automatic pursuant to any provision of the Medical Staff Bylaws and related manuals or the General Staff Rules and Regulations; or
  - (3) taken or recommended with respect to temporary privileges.
- (c) Any Allied Health Practitioner might be subject to disciplinary and corrective action, and his or her permission to provide services may be suspended,

modified, or terminated. In the event such action occurs, the individual will be allowed an opportunity to discuss the matter with a designated agent of the institution.

**1.2 NOTICE OF ADVERSE ACTION OR RECOMMENDATION**

The Chief Executive Officer shall, within fifteen (15) days of receiving written notice of an adverse action or recommendation under Section 1.1, give the practitioner special notice thereof. The notice shall:

- (a) advise the practitioner of the nature of the proposed action or recommendation, including the reasons for the proposed action or recommendation, and of his/her right to a hearing upon timely and proper request pursuant to Section 1.3 below;
- (b) specify that the practitioner has thirty (30) days after receiving the notice within which to submit a request for a hearing and that the request must satisfy the conditions of Section 1.3;
- (c) state that failure to request a hearing within that time period and in the proper manner constitutes a waiver of rights to a hearing and to an appellate review on the matter that is the subject of the notice;
- (d) state that any higher authority required or permitted under this Plan to act on the matter following a waiver is not bound by the adverse recommendation or action that the practitioner has accepted by virtue of the waiver but may take any action, whether more or less severe, it deems warranted by the circumstances;
- (e) state that upon receipt of his/her hearing request, the practitioner will be notified of the date, time and place of the hearing, the grounds upon which the adverse recommendation or action is based, and a list of witnesses, if any; and
- (f) state that the hearing will be held before a panel of not less than three (3) persons as provided in Section 2.3 of this Plan; that the right to the hearing may be forfeited if the practitioner fails without good cause to appear; and that the practitioner has the right to representation at the hearing by an attorney or other person of the practitioner's choice, 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, to call, examine and cross-examine witnesses, to present evidence determined to be relevant by the presiding officer regardless of its admissibility in a court of law, and to submit a written summary at the close of the hearing.

**1.3 REQUEST FOR HEARING**

The practitioner shall have thirty (30) days after receiving the above notice to file a written request for a hearing. The request must be delivered to the Chief Executive Officer by special notice.

**1.4 WAIVER BY FAILURE TO REQUEST A HEARING**

A practitioner who fails to request a hearing within the time and in the manner specified waives his/her right to any hearing or any 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 or action triggering the Section 1.2 notice. The Chief Executive Officer shall, as soon as reasonably practicable, send the practitioner special notice of each action taken under any of the following Sections and shall notify the Medical Staff President of each such action. The effect of a waiver is as follows:

**1.4-1 AFTER ADVERSE ACTION BY THE BOARD OF DIRECTORS**

A waiver shall constitute acceptance of the action, which shall become effective immediately as the final decision of the Board.

**1.4-2 AFTER ADVERSE RECOMMENDATION BY THE MEDICAL EXECUTIVE COMMITTEE**

A waiver shall constitute acceptance of the recommendation, which shall become and remain effective immediately pending the decision of the Board. The Board shall consider the adverse recommendation as soon as practicable following the waiver. Its action has the following effect:

- (a) If Board In Accord With the Recommendation: If the Board's action accords in all respects with the recommendation, it becomes effective immediately.
- (b) If Board Changes the Recommendation: If, on the basis of the same information and material considered by the MEC in formulating its recommendation, the Board proposes different action, the matter shall be submitted to a joint conference as provided in Section 6.10 of this Plan. The Board's action after receiving the joint conference recommendation shall become effective immediately as the final decision.

**1.5 ADDITIONAL INFORMATION OBTAINED FOLLOWING WAIVER**

If, after waiver pursuant to Section 1.4, the practitioner or an individual or group functioning directly or indirectly on his/her behalf desires to provide additional factual information in favor of the practitioner to the Board, the Board shall not consider the information unless it concludes that the information was not reasonably discoverable in time for presentation to or consideration by the party taking the initial adverse action. If new factual information is submitted to the Board which was not available to or considered by the Medical Executive Committee and which is adverse to the practitioner, the Board shall not consider the information in reaching its final decision unless it first affords the practitioner an opportunity to request a hearing. If the practitioner requests a hearing, the request shall comply with the provisions of Section 1.3. The hearing shall be conducted in accordance with the provisions of this Plan but shall be limited in scope to findings of fact surrounding both the new information and the findings and recommendations of the Medical Executive Committee made prior to the practitioner's initial waiver.



## **PART TWO. HEARING PREREQUISITES**

### **2.1 NOTICE OF TIME AND PLACE FOR HEARING**

Upon receiving a timely and proper request for hearing, the Chief Executive Officer shall notify the Medical Staff President or the Chairperson of the Board, depending on whose recommendation or action prompted the hearing request. The Medical Staff President or Chairperson of the Board, as appropriate, shall then schedule a hearing. The Chief Executive Officer shall send the practitioner special notice of the time, place and date of the hearing. The hearing date shall be not less than thirty (30) days nor more than forty-five (45) days from the date of the special notice of the hearing; provided, however, that a hearing for a practitioner who is under suspension then in effect may be held sooner than thirty (30) days from the date of the special notice of the hearing.

### **2.2 STATEMENT OF ISSUES AND EVENTS**

The notice of hearing must contain a concise statement of the practitioner's alleged acts or omissions, a list by number of the specific or representative patient records in question, and/or the other reasons or subject matter forming the basis for the adverse action which is the subject of the hearing.

### **2.3 APPOINTMENT OF HEARING PANEL**

When a hearing has been requested in accordance with Section 1.3 above, the Chief Executive Officer, after considering any recommendations of the Medical Staff President or the Chairperson of the Board, shall appoint a hearing panel composed of not less than three (3) members, and shall designate a chairperson thereof. The hearing panel shall be composed of either members of the Attending or Invitational Staffs who have not participated actively in consideration of the matter involved at any previous level. Knowledge of the reasons or subject matter forming the basis for the adverse action or recommendation which gave rise to the request for a hearing shall not preclude a member of the Medical Staff or other person from serving as a member of the hearing panel. No person shall be appointed to the hearing panel who is in direct economic competition with the practitioner involved or who otherwise has a direct, personal interest in the outcome of the hearing such that, in the opinion of the Chief Executive Officer, his/her impartiality is in doubt.

### **2.4 LIST OF WITNESSES**

At least ten (10) days prior to the scheduled date for commencement of the hearing, each party shall give the other party a list of the names of the individuals who, as far as is then reasonably known, will give testimony or evidence in support of that party at the hearing. Such list shall be amended as soon as possible when additional witnesses are identified. The hearing panel may permit a witness who has not been listed in accordance with this Section 2.4 to testify if it finds that the failure to list such witness was justified, that such failure did not prejudice the party entitled to receive such list, or that the testimony of such witness will materially assist the hearing panel in making its report and recommendation under Section 4.1 of this Plan.

### **2.5 IDENTIFICATION AND PRODUCTION OF EXHIBITS**

At least five (5) days prior to the scheduled date for commencement of the hearing, each party shall give to the other party a list of all exhibits which, as far as is then reasonably known, will or may be used as evidence in support of that party at the hearing. At such time as the list of exhibits is provided, each party shall make available all such exhibits to the

other party for inspection and copying. Exhibit lists shall be amended as soon as possible when additional exhibits are identified. The hearing panel may permit an exhibit which has been listed in accordance with this Section 2.5 to be admitted as evidence at the hearing if it finds that the failure to list such exhibit was justified, that such failure did not prejudice the party entitled to receive such list, and that the exhibit will materially assist the hearing panel in making its report and recommendation under Section 4.1 of this Plan.

### **PART THREE. HEARING PROCEDURE**

#### **3.1 PERSONAL PRESENCE**

The personal presence of the practitioner is required throughout the hearing, unless such personal presence is excused for any specified time by the hearing panel. The presence of the practitioner's counsel or other representative does not constitute the personal presence of the practitioner. A practitioner who fails without good cause to be present throughout the hearing unless excused or who fails to proceed at the hearing in accordance with this Fair Hearing Plan shall be deemed to have waived his/her rights in the same manner and with the same consequence as provided in Section 1.4 and in Section 1.5, if applicable.

#### **3.2 PRESIDING OFFICER**

The hearing officer, if appointed pursuant to Section 7.1 of this Plan, or if not appointed, the hearing panel chairperson, shall be the presiding officer. The presiding officer shall maintain decorum and assure that all participants have a reasonable opportunity to present relevant oral and documentary evidence. He/She shall determine the order of procedure during the hearing and make all rulings on matters of law, procedure, and the admissibility of evidence. The presiding officer shall not act as a prosecuting officer or as an advocate to any party to the hearing. If a hearing officer is appointed, he/she shall not be entitled to vote. If the chairperson of the hearing panel serves as the presiding officer, he/she shall be entitled to vote.

#### **3.3 REPRESENTATION**

The practitioner may be accompanied and represented at the hearing by a member of the Medical Staff in good standing, by a member of his/her local professional society, by an attorney, or by another person of his/her choice. He/She shall inform the Chief Executive Officer in writing of the name of that person at least ten (10) days prior to the hearing date. The body whose adverse recommendation or action prompted the request for hearing shall appoint an individual to represent it. Such individual may be an attorney, a member of said body, or any other person designated by said body.

#### **3.4 RIGHTS OF PARTIES**

During the hearing, each party shall have the following rights, subject to the rulings of the presiding officer on matters of law, procedure and 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:

- (a) call and examine witnesses;
- (b) introduce exhibits;
- (c) cross-examine any witness on any matter relevant to the issues;
- (d) impeach any witness; and
- (e) rebut any evidence.

If the practitioner does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.

**3.5 PROCEDURE AND EVIDENCE**

The process set forth in this Fair Hearing Plan is intended to resolve within the Hospital itself matters bearing on the professional conduct, competency and character of practitioners and is not intended to be conducted as a formal legal proceeding. The hearing need not be conducted according to rules of law relating to the examination of witnesses or presentation of evidence. In the discretion of the presiding officer, any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs may be considered, regardless of the admissibility of such evidence in a court of law. Each party shall be entitled, prior to or during the hearing, to submit memoranda concerning any issue of law or fact, and those memoranda shall become part of the hearing record. The hearing panel may require such memoranda to be filed at a time specified by the hearing panel. The hearing panel may ask questions of witnesses, call additional witnesses or request documentary evidence if it deems it appropriate.

**3.6 OFFICIAL NOTICE**

In reaching a decision, the hearing panel may take official notice, either before or after submission of the matter for decision, of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noticed by the courts of the State of Florida. Participants in the hearing shall be informed of the matters to be noticed and those matters shall be noted in the hearing record. Either party shall have the opportunity to request that a matter be officially noticed and to refute any officially noticed matter by written or oral presentation of authority, in a manner to be determined by the hearing committee. Reasonable additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

**3.7 BURDEN OF PROOF**

When a hearing relates to Section 1.1-1(a), (e), or (h), the practitioner has the burden of coming forward with evidence and proving that the adverse action or recommendation lacks any substantial factual basis or is otherwise arbitrary, unreasonable, or capricious. In all other circumstances, the body whose adverse action or recommendation occasioned the hearing shall have the burden of coming forward with evidence in support thereof. Thereafter the practitioner shall have the burden of coming forward with evidence and proving that the adverse action or recommendation lacks any substantial factual basis or is otherwise arbitrary, unreasonable, or capricious.

**3.8 HEARING RECORD**

A record of the hearing shall be kept. The hearing panel shall determine whether this shall be done by use of a court reporter, or a tape recording of the proceedings. The hearing panel may, but is not required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated by it and entitled to notarize documents in the State of Florida.

**3.9 POSTPONEMENT**

Requests for postponement or continuance of a hearing may be granted by the presiding officer or hearing panel only upon a timely showing of good cause.

**3.10 PRESENCE OF HEARING PANEL MEMBERS AND VOTE**

A majority of the hearing panel members must be present throughout the hearing and deliberations. If a hearing panel member is absent from any part of the hearing

deliberations, the presiding officer, may rule that such member may not participate further in the hearing or deliberations or in the decision of the hearing panel.

**3.11 RECESSES AND ADJOURNMENT**

The hearing panel may recess and reconvene the hearing without special notice for the convenience of the participants. Upon conclusion of the presentation of oral and written evidence, the hearing shall be adjourned. The hearing panel shall, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

## **PART FOUR. HEARING PANEL REPORT AND FURTHER ACTION**

### **4.1 HEARING PANEL REPORT**

Within twenty (20) days after adjournment of the hearing, the hearing panel shall make a written report of its findings and recommendations with such reference to the hearing record and other matters considered as it deems appropriate. The report shall contain a summary of the basis of the decision. If the practitioner sustains his/her burden under Section 3.7 above of proving that the adverse action or recommendation lacks any substantial factual basis or is otherwise arbitrary, unreasonable or capricious, the hearing panel shall recommend for the practitioner; in all other cases, the hearing panel shall recommend against the practitioner. The hearing panel shall forward the report along with the record and other documentation to the body whose adverse action or recommendation occasioned the hearing. The practitioner shall also be given a copy of the report.

### **4.2 ACTION ON HEARING PANEL REPORT**

Within twenty (20) days after receiving the hearing panel report, the body whose adverse action or recommendation occasioned the hearing shall consider said report and shall determine its result which may be to affirm, modify or reverse its action or recommendation. It shall transmit the result, together with the hearing record, the hearing panel report and all other documentation considered, to the Chief Executive Officer.

### **4.3 NOTICE AND EFFECT OF RESULT**

#### **4.3-1 NOTICE**

As soon as is reasonably practicable, the Chief Executive Officer shall send a copy of the result including a summary of the basis for the decision, to the practitioner by special notice and to the Medical Staff President.

#### **4.3-2 EFFECT OF FAVORABLE RESULT**

- (a) Adopted by the Board of Directors: If the Board of Directors' result under Section 4.2 is favorable to the practitioner, it shall become effective immediately as the final decision in the matter.
- (b) Adopted by the Medical Executive Committee: If the MEC's result is favorable to the practitioner, the Chief Executive Officer shall forward it as soon as is reasonably practicable, together with all supporting documentation, to the Board which may adopt or reject the result in whole or in part, or refer the matter back to the MEC for further reconsideration. Any referral back shall state the reasons, set a time limit within which a subsequent recommendation must be made, and may include a directive for an additional hearing. After receiving a subsequent recommendation and any new evidence, the Board shall take action. If the Board's action is adverse, the special notice shall inform the practitioner of his/her right to request an appellate review. The Chief Executive Officer shall, as soon as is reasonably practicable, send the practitioner special notice informing him/her of each action taken under this Section.

**4.3-3 EFFECT OF ADVERSE RESULT**

If the result of the Medical Executive Committee or Board of Directors under Section 4.2 continues to be adverse to the practitioner, the special notice shall inform him/her of his/her right to request an appellate review as provided in Part Five of this Plan.

**PART FIVE. INITIATION AND PREREQUISITES OF APPELLATE REVIEW**

**5.1 REQUEST FOR APPELLATE REVIEW**

A practitioner shall have fifteen (15) days after receiving special notice of an adverse result pursuant to Section 4.3 to file a written request for an appellate review. The request must be delivered to the Chief Executive Officer by special notice. If the practitioner wishes to be represented by an attorney at any appellate review appearance that may be granted under Section 6.4, his/her request for appellate review must so state.

**5.2 WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW**

A practitioner who fails to request an appellate review within the time and in the manner specified in Section 5.1 shall have waived any right to appellate review. The waiver has the same force and effect as provided in Section 1.4 and Section 1.5, if applicable.

**5.3 NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW**

The Chief Executive Officer shall deliver a timely and proper request for appellate review to the Chairperson of the Board. As soon as reasonably practicable, the Chairperson of the Board shall schedule an appellate review to commence not less than twenty (20) days nor more than forty (40) days after the Chief Executive Officer received the request; provided, however, that an appellate review for a practitioner who is under a suspension then in effect shall be held as soon as the arrangements for it may be reasonably made, but not later than fourteen (14) days after the Chief Executive Officer received the request. At least ten (10) days prior to the appellate review, the Chief Executive Officer shall send the practitioner special notice of the time, place and date of the review. The time for the appellate review may be extended by the Chairperson of the Board for good cause.

**5.4 APPELLATE REVIEW BODY**

The appellate review may be conducted by the Board as a whole or a committee appointed by the Chairperson of the Board who designates one (1) of the committee members as chairperson.



## **PART SIX. APPELLATE REVIEW PROCEDURE**

### **6.1 NATURE OF PROCEEDINGS**

The proceedings by the review body are a review based upon the hearing record, the hearing panel's report, all subsequent results and actions, the written statements, if any, provided below and any other material that may be presented and accepted.

### **6.2 WRITTEN STATEMENTS**

The practitioner may submit a written statement detailing the findings of fact, conclusions and procedural matters with which he/she disagrees and his/her reasons. This written statement may cover any matters raised at any step in the hearing process. The statement shall be submitted to the appellate review body and to the group whose adverse action or recommendation occasioned the review through the Chief Executive Officer at least five (5) business days prior to the scheduled date of the review, except if the time limit is waived by the review body or its presiding officer. A similar statement may be submitted by the group whose adverse action or recommendation occasioned the review, and if submitted, the Chief Executive Officer shall provide a copy to the practitioner and to the appellate review body at least three (3) business days prior to the scheduled date of the appellate review.

### **6.3 PRESIDING OFFICER**

The chairperson of the appellate review body is the presiding officer. He/She shall determine the order of procedure during the review, make all required rulings, and maintain decorum.

### **6.4 ORAL STATEMENTS**

The appellate review body, in its sole discretion, may allow the parties or their representatives to personally appear and make oral statements in favor of their positions. Any party or representative appearing shall be required to answer questions put by any member of the review body.

### **6.5 CONSIDERATION OF NEW OR ADDITIONAL MATTERS**

New or additional matters or evidence not raised or presented during the original hearing or in the hearing report and not otherwise reflected in the record may be introduced at the appellate review only in the discretion of the review body and only if the party requesting consideration of the matter or evidence shows that it could not have been discovered in time for the initial hearing. The requesting party shall provide, through the Chief Executive Officer, a written, substantive description of the matter or evidence to the appellate review body and the other party prior to its being introduced at the review. Any such new or additional matters or evidence shall be subject to the same rights of cross-examination, impeachment and rebuttal provided at the hearing pursuant to Section 3.4 above.

### **6.6 POWERS**

The appellate review body has all the powers granted to the hearing panel, and any additional powers that are reasonably appropriate to or necessary for the discharge of its responsibilities.

### **6.7 PRESENCE OF MEMBERS AND VOTE**

A majority of the members of the review body must be present throughout the appellate review and deliberations. If a member is absent from any part of the proceedings, the chairperson of the review body, in his/her discretion, may rule that the member shall not be

permitted to participate further in the appellate review or deliberations or in the decision of the review body.

**6.8 RECESSES AND ADJOURNMENTS**

The review body may recess and reconvene the proceedings without special notice for the convenience of the participants. At the conclusion of the oral statements, if allowed, the appellate review shall be adjourned. The review body shall then, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

**6.9 ACTION TAKEN**

Within thirty (30) days after adjournment pursuant to Section 6.8 above, the review body shall prepare its report and recommendation with the result as provided below.

**6.9-1 REVIEW BODY IN ACCORD WITH MEDICAL EXECUTIVE COMMITTEE**

If the review body's decision is in accord with the MEC's last recommendation in the matter, if any, it is forwarded to the Board of Directors for action as provided herein. If the Board of Directors acted as the review body, its action shall be the final decision in the matter. If the PAC or an ad hoc committee acted as the review body and the Board of Directors, on receiving the PAC's or ad hoc committee's report, determines to change the action, the matter shall be referred to a joint conference as provided in Section 6.10. The Board of Directors' action after receiving this joint conference recommendation shall be effective immediately as the final decision in the matter. The Chief Executive Officer sends notice of each action taken under this provision to the practitioner by special notice and to the Medical Staff President for transmittal to the appropriate Staff authorities.

**6.9-2 REVIEW BODY NOT IN ACCORD WITH MEDICAL EXECUTIVE COMMITTEE**

If the review body's action has the effect of changing the MEC's last recommendation, if any, the matter is referred to a joint conference as provided in Section 6.10. The joint conference recommendation shall be submitted to the Board of Directors. The Board of Directors shall take action which shall become effective immediately as the final decision in the matter. The Chief Executive Officer sends notice of each action taken under this provision to the Medical Staff President for transmittal to the appropriate Staff authorities and to the practitioner by special notice.

**6.10 JOINT CONFERENCE REVIEW**

Within ten (10) days after receiving a matter referred to it under this Plan, a joint conference of equal numbers of Medical Staff and Board members shall convene to consider the matter and shall submit its recommendations to the Board of Directors. The joint conference shall be composed of a total of six (6) members selected in the following manner: three (3) members of the Board of Directors appointed by the Chairperson of the Board and three (3) Medical Staff members appointed by the Medical Staff President.

**PART SEVEN. GENERAL PROVISIONS**

**7.1 HEARING OFFICER APPOINTMENT AND DUTIES**

The use of a hearing officer to preside at the evidentiary hearing is optional and is to be determined by the Chairperson of the Board after consultation with the Chief Executive Officer and the Medical Staff President. A hearing officer may or may not be an attorney at law but must be experienced in and recognized for conducting hearings (e.g., arbitration proceedings, employee labor disputes and/or grievance procedures, administrative procedures, military court-martials or like proceedings, and so on) in an orderly, efficient and non-partisan manner.

**7.2 NUMBER OF HEARINGS AND REVIEWS**

Notwithstanding any other provision of the Medical Staff Bylaws, of the Credentialing Procedures Manual or of this Plan, no practitioner shall be entitled to more than one (1) hearing or to more than one (1) appellate review with respect to the subject matter that is the basis of an adverse recommendation or action triggering the right.

**7.3 RELEASE**

By requesting a hearing or appellate review under this Plan, a practitioner agrees to be bound by the provisions of the Medical Staff Bylaws relating to immunity from liability.

**PART EIGHT. AMENDMENT**

**8.1 AMENDMENT**

This Fair Hearing Plan may be amended or repealed, in whole or in part, in the same manner as provided in Article Thirteen of the Medical Staff Bylaws.