

MEDICAL STAFF BYLAWS
Of
THE NEBRASKA METHODIST HOSPITAL

2016

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**MEDICAL STAFF BYLAWS
OF
THE NEBRASKA METHODIST HOSPITAL**

PREAMBLE

The Nebraska Methodist Hospital ("NMH") is a Nebraska nonprofit corporation which owns and operates a licensed acute care hospital located at 8303 Dodge Street in Omaha, Nebraska ("Methodist Hospital") and a separately licensed acute care hospital located at 707 North 190th Plaza, in Omaha, Nebraska (the "Women's Hospital") (together referred to as "NMH" or "NMH Hospital(s)"). NMH and the members of its Medical Staff who provide services at Methodist Hospital and the Women's Hospital desire to form a single medical staff (the "NMH Medical Staff") to provide patient care, education, and research at both hospitals.

The ultimate authority to discharge the purposes stated herein is vested in the NMH Board of Directors, and it is recognized that the Medical Staff is responsible to the Board for the quality of medical care in the NMH Hospitals and must accept and discharge this responsibility. The cooperative efforts of the Board, NMH Administration, and the NMH Medical Staff are required to fulfill this obligation to NMH's patients.

The Medical Staff is an organizational unit of NMH, organized for the purposes and with the authority described in these Bylaws. The Medical Staff is not a separate legal entity or association and is not capable of suing or being sued in its own name. Members of the Medical Staff performing functions described under these Bylaws and in accordance with these Bylaws do so as representatives of NMH.

Recognizing that the best interests of the patient are promoted by concerted effort and cooperation, the practitioners practicing at NMH hereby organize themselves into a Medical Staff in conformity with the Articles of Incorporation and Bylaws of NMH and the following Medical Staff Bylaws.

These Medical Staff Bylaws, together with Rules and Regulations and other Medical Staff documents, refer to optimal or ideal standards of care and conduct in order to encourage all charged with patient care responsibilities to strive harder. Accordingly, they do not create or reflect a legal standard of care, and they do not reflect the applicable community standard of care.

DEFINITIONS

As used throughout these Bylaws and the Rules and Regulations, the terms listed below shall have the following meanings:

- a. **"Administrator"** means the President and Chief Executive Officer of NMH or his designee.
- b. **"Board"** means the Board of Directors of NMH.

- c. **"Chief of Staff"** means the President of the Medical Staff.
- d. **"Clinical Privileges" or "Privileges"** means the permission granted by the Board (on recommendation of the Medical Staff) to a practitioner to provide specified diagnostic and/or therapeutic health services and to assume and discharge specified patient care responsibility within the scope of such individual's licensure.
- e. **"Credentialing"** means the process of obtaining, verifying, and assessing the qualifications of a health care practitioner to provide patient care services in a health care setting.
- f. **"Days"** means actual calendar days, counting all weekend days and holidays, whenever time periods expressed in days are stated in these Bylaws, unless specific reference is made to other means of counting.
- g. **"Incident Report"** (or risk management or variance report) means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by a health care provider, including both an individual who provides health care and an entity that provides health care, that is created specifically for and collected and maintained for the exclusive use by a Peer Review Committee of a health care entity and that is within the scope of the functions of that committee.
- h. **"Investigation"** means the formal investigative process described in Section 6.6 of these Bylaws.
- i. **"Licensed Independent Practitioner" or "Practitioner"** means any individual permitted by law and by NMH to provide care, treatment, and services without direction or supervision.
- j. **"(The) Nebraska Health Care Quality Improvement Act"** means the Act of that name adopted as LB 431 and approved by the Governor on April 26, 2011, as amended from time to time.
- k. **"Peer Review"** means the procedure by which health care providers evaluate the quality and efficiency of services ordered or performed by other health care providers, including practice analysis, inpatient hospital and extended care facility utilization review, medical audit, ambulatory care review, root cause analysis, claims review, underwriting assistance, and the compliance of a hospital, nursing home or other health care facility operated by a health care provider with the standards set by an association of health care providers and with applicable laws, rules, and regulations plus all functions treated as Peer Review under Nebraska law including, but not limited to the Nebraska Health Care Quality Improvement Act, all activity to assess or study care under Neb. Rev. Stat § 71-3401 to 3403; all activity to enforce and apply the responsibilities of membership, the terms and qualifications for membership, and the terms and qualifications for clinical privileges under these Bylaws; all activity to enforce Hospital policy as it affects a practitioner or practitioners or as such activity is otherwise eligible for immunity under the federal Health Care Quality Improvement Act, 42 U.S.C. § 11101 *et seq.* Peer Review is a cooperative

effort and includes the activities of officers, directors, agents, and employees of Hospital, as well as members of the Medical Staff and other privileged practitioners, and AHPs.

l. **“Peer Review Committee”** means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee established by the Board of Directors of the Hospital which is a health care provider that does either of the following:

i. Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care provider, including both an individual who provides health care and an entity that provides health care; or

ii. Conducts any other attendant hearing process initiated as a result of a Peer Review Committee’s recommendations or actions.

m. **“Peer Review Records”** means all proceedings, records, minutes and reports to or by a Peer Review Committee and includes, without limitation, reports or descriptions of any complaints or incidents being investigated (including incident or variance reports) and the deliberations, testimony, decisions, conclusions, findings, recommendations, evaluations, work product or opinions of a Peer Review Committee. All such Peer Review Records are deemed to be covered by the provisions of the Nebraska Health Care Quality Improvement Act or the corresponding provisions of any subsequent federal or state statute providing a privilege against disclosure.

n. **“Physician”** means a practitioner who is licensed or permitted to practice medicine or osteopathic medicine and surgery in the state of Nebraska.

o. **“President”** means the President of the NMH Medical Staff unless otherwise indicated.

p. **“Residents”** means individuals who are currently enrolled in a graduate medical education program approved by the Department of Health of the State of Nebraska and who, as part of their educational program, will provide health care services at NMH. As so defined, Residents are not considered to be members of the Medical Staff or to hold privileges.

q. **“Telemedicine”** means the provision of clinical services to patients by physicians and practitioners from a distance via electronic communications. The distant-site telemedicine practitioner provides clinical services to the NMH patient either simultaneously, as may be the case with teleICU services, for example, or non-simultaneously, as may be the case with many teleradiology services. “Simultaneously” means that the clinical services (for example assessment of the patient with a clinical plan for treatment, including any medical orders needed) are provided to the patient in “real time” by the telemedicine practitioner, similar to the actions of an on-site practitioner. “Non-simultaneously” means that, while the telemedicine practitioner still provides clinical services to the patient upon a formal request from the patient’s attending physician, such services may involve after-the-fact interpretation of diagnostic tests in order to provide an assessment of the

patient's condition and do not necessarily require the telemedicine practitioner to directly assess the patient in "real time."

Throughout this document, the pronouns "he," "his," and "him" shall be interpreted as he/she, his/her, or him/her as appropriate.

ARTICLE I NAME/DOCUMENTS/PRINCIPLES

The name of the organized Medical Staff shall be "The Medical Staff of The Nebraska Methodist Hospital." Organizing documents of the Medical Staff, e.g., the Medical Staff Bylaws, Rules and Regulations or Medical Staff Policies, may not be unilaterally approved; the approval of both the Medical Staff and the NMH Board of Directors is required. The Medical Staff Bylaws and other Medical Staff documents and the NMH Bylaws shall not conflict.

The Medical Staff is organized and structured in accordance with the following principles: (i) members of the Medical Staff and other practitioners with independent privileges provide oversight of the care, treatment, and services provided to patients; (ii) the structure of the Medical Staff shall serve to promote a uniform standard of quality patient care, treatment, and services; (iii) the Medical Staff is accountable to the Board of Directors and (iv) applicants for privileges do not have to be members of the Medical Staff.

ARTICLE II PURPOSES

The purposes and objectives for which this Medical Staff is organized shall be:

- a. To promote high standards of diagnosis and medical care at NMH hospitals commensurate with the ability, training, and resources of this Medical Staff and of NMH and its professional staff.
- b. To provide a means whereby problems of a medical/administrative nature may be discussed by the Medical Staff with the Board of Directors and the Administration of NMH.
- c. To encourage a high level of professional performance and patient care from all practitioners authorized to practice at NMH through the appropriate delineation of the clinical privileges that each practitioner may exercise at NMH and through reviews and evaluations of each practitioner's performance at NMH.
- d. To discharge delegated peer review responsibility on behalf of, and subject to the final authority of, the Board of Directors.
- e. To provide oversight of care, treatment, and services provided by practitioners with privileges in order to promote a uniform quality of patient care, treatment, and services at NMH.

**ARTICLE III
MEDICAL STAFF MEMBERSHIP AND PRIVILEGES**

SECTION 3.1 MEMBERSHIP AND PRIVILEGES GENERALLY. Membership and privileges on the NMH Medical Staff have separate qualifications, requirements, and prerogatives and may be requested and granted independent of one another. Certain licensed independent (non-physician) practitioners are eligible to request specific clinical privileges without membership. Similarly, the membership category of Ambulatory Staff is eligible strictly for outpatient privileges and Honorary/Administrative Staff have no privileges.

SECTION 3.2 NATURE OF MEDICAL STAFF MEMBERSHIP. Membership on the NMH Medical Staff shall be extended only to practitioners who continuously meet the qualifications, standards, and requirements set forth in these Bylaws. The prerogatives of membership and of each individual member are expressly limited by these Bylaws and the corporate Bylaws of NMH. Each member and each applicant for membership shall, as a condition for membership, meet the qualifications of Section 3.3 of this Article, and meet the qualifications in these Bylaws for the classification of Medical Staff to which the practitioner is or will be assigned.

SECTION 3.3 QUALIFICATIONS FOR MEMBERSHIP. The following constitute continuing qualifications for membership on the Medical Staff of NMH. Each member and applicant for membership shall:

- a. **Licensure**. Be currently licensed to practice his profession in the State of Nebraska.
- b. **Medicare Certification**. Be a category of practitioner defined as a “physician” under the Medicare regulations as qualified to certify to the medical necessity of hospitalization and services to support reimbursement under Medicare, Medicaid, and other programs.
- c. **Working Relationships**. Consistently carry out assigned patient care, committee, departmental, and staff responsibilities, and work cooperatively and responsibly with colleagues, the Medical Staff, NMH, and its administrative and professional staff.
- d. **Governing Instruments**. Agree to be bound and thereafter abide by the Articles of Incorporation and corporate Bylaws of NMH and the Bylaws and Rules and Regulations of the Medical Staff.
- e. **Professional Conduct**. Avoid conduct which reflects adversely on professional fitness (or findings that such conduct has occurred) or the sanction of exclusion by the Office of Inspector General; and cooperate with NMH in carrying out its corporate compliance program; and all compliance committee activities, plans, and programs.

- f. **Information.** Provide accurate, current, and thorough information in connection with the appointment, reappointment, and privileging process, or in response to inquiries from the Medical Executive Committee or the Board.
- g. **Financial Relationship.** Certify on each application for appointment or reappointment that neither the practitioner nor any member of the practitioner's immediate family has a disqualifying financial relationship with NMH under the Ethics in Patient Referral Act or similar state or federal legislation, unless NMH consents in writing. Consent will be given or withheld based upon the perceived impact such a relationship could have to NMH and the practitioner under applicable law. For purposes of this provision, "immediate family" is defined to mean spouse, natural or adoptive parent, child, sibling, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and spouse of a grandparent or grandchild.
- h. **Additional Criteria.** Meet such additional criteria for membership, staff category, and privileges as are established by the Board from time to time following consideration by the Medical Staff and by individual clinical departments relating to the exercise of specific clinical privileges. Additional criteria for clinical privileges may include a requirement of specialty board certification or eligibility if the Board or clinical department believes that the same is an important objective indicator of training and competence.
- i. **Documentation.** Document the foregoing qualifications to the satisfaction of the Medical Staff and in the form and manner prescribed in these Bylaws.

Only practitioners who can document current compliance with the foregoing qualifications for membership shall be qualified for membership on the Medical Staff. No practitioner shall be entitled to membership on the Medical Staff merely by virtue of the fact that he is duly licensed to practice a profession in Nebraska or in any other state, or that he is a member of any professional organization, or has in the past, or presently holds membership at this or any other hospital. Practitioners shall be appointed to the Medical Staff only in numbers not exceeding the needs of NMH and the existence of contractual arrangements with other practitioners which may preclude appointment to a particular membership category. No applicant shall be denied membership or clinical privileges on the basis of sex, race, creed, color, national origin, or on the basis of any other criterion lacking professional justification.

SECTION 3.4 NATURE OF PRIVILEGES. Privileges to practice at NMH are granted by the Board to qualified practitioners following investigation and recommendation by the Medical Staff. Application for or acceptance and exercise of privileges constitutes acceptance of the terms and conditions of these Bylaws and the corporate Bylaws of NMH. The prerogatives attendant to holding privileges at NMH are expressly limited by the provisions of these Bylaws and the corporate Bylaws of NMH. Clinical privileges granted to practitioners may be exercised at either or both of the NMH Hospitals subject to the capabilities of each Hospital in terms of capacity, policies, trained staff, appropriate

equipment, and other resources necessary to perform the privileges in a safe and effective manner.

SECTION 3.5 QUALIFICATIONS FOR PRIVILEGES.

- a. **Licensure.** Be currently licensed to practice his profession in the State of Nebraska.
- b. **Medications.** If applicable to licensure, hold current authority to prescribe and administer all medications in this state, including controlled substances, typically used by practitioners in the same field.
- c. **Current Competence.** Possess demonstrated competence, including current knowledge, judgment, and technique in his specialty area and for all privileges held or applied for, including but not limited to competence in patient care, medical clinical knowledge, practice-based learning, and improvement; interpersonal and communications skills; professionalism; and system-based practice.
- d. **Information.** Provide accurate, current, and thorough information in connection with the appointment, reappointment, and privileging process, or in response to inquiries from the Medical Executive Committee, another Medical Staff Committee, or the Board.
- e. **Cooperation in Peer Review.** Cooperate in any required review of his (or another's) credentials, qualifications, or compliance with these Bylaws; and refrain from directly or indirectly interfering, obstructing, or hindering any such review, whether by threat of harm or liability, by withholding information, by refusing to serve or participate in assigned responsibilities or otherwise.
- f. **Health.** Be free of, or have fully under control, any significant physical, mental, or behavioral impairment that interferes with, or presents a substantial probability of interfering with, patient care, the exercise of privileges, the assumption and discharge of required responsibility, or cooperative working relationships.
- g. **Health Assessment.** Cooperate openly and fully in any required health assessment.
- h. **Independent Practitioner.** Be an independent (rather than a dependent or derivative) practitioner under state law or a physician assistant who does not require concurrent review or direct supervision. In general, a practitioner is an independent practitioner for the purposes of meeting qualifications for privileges under these Bylaws if:
 - (1) The practitioner is licensed to provide a defined body of health services by a licensing board or licensing authority of the State of Nebraska; and

(2) The practitioner has authority, by virtue of licensure and other relevant laws, to receive and examine patients, diagnose conditions, prescribe and implement a treatment plan, and prescribe all medications necessary for the treatment of conditions and diagnoses within such practitioner's field of practice, all independent of prior authorization or review, direct supervision, or prescription of another practitioner.

i. **Training.** Have, in the case of physicians, oral surgeons, dentists, psychologists, and podiatrists, successfully completed a minimum clinical residency or fellowship (or combination thereof) in a relevant specialty which is conducted in whole, or in substantial part, in a hospital setting, which is accredited or approved by the appropriate national board and which provides a sufficient quantity of patient care experience in which the applicant has had direct, supervised responsibility in each of the areas in which privileges are requested to establish training and competence. The appropriate national board in each case shall be the board or agency which is itself recognized by the Council on Postsecondary Accreditation of the United States Department of Education to accredit and approve clinical residencies. These shall include, as appropriate, the member boards of the American Board of Medical Specialists (in the case of medical physicians), the certifying boards recognized by the American Osteopathic Association (in the case of osteopathic physicians and surgeons), the Commission on Dental Accreditation (in the case of dentists), the Council of Podiatric Medical Education (in the case of podiatrists), the American Psychological Association (in the case of psychologists), and the equivalent boards or agencies in the case of other fields, if any, which qualify for clinical privileges of NMH in the future. The minimum durations of approved training are:

- (1) Medical physicians and osteopathic physicians and surgeons – three (3) years unless a different period is specified in these Bylaws or the minimum period is enlarged in the departmental policies of the applicable department;
- (2) Dentists – one (1) year;
- (3) Psychologists – one (1) year coupled with a minimum one year postgraduate clinical experience which included a substantial hospital component involving hospital inpatients or outpatients; and
- (4) Podiatrists – two (2) years.

Non-physician practitioners qualifying for privileges shall have completed all clinical training and supervised practice that is required for licensure in the State of Nebraska.

j. **NMH Need.** Practice in a field or specialty which is consistent with the purposes, treatment philosophy, methods, and resources of NMH and for which

NMH has a demonstrable need for practitioners or additional practitioners and for which NMH is equipped and staffed to provide care.

k. **Reimbursement.** Be licensed in a specialty which generally assures NMH that services initiated by or under the authority of the practitioner will be reimbursable under the federal Medicare and Medicaid programs and programs and policies of private insurers and other third-party payors.

l. **Continuous Care.** Reside (office and residence) in such proximity to the NMH hospital(s) at which he practices as to assure his availability to the patient commensurate with the privileges held or applied for; provide or arrange for continuous appropriate care for all patients under his care; and avoid inappropriate delegation of responsibility for diagnosis, treatment or follow-up care. Unless expressly waived by the Credentials Committee, each applicant must designate an alternate practitioner in the applicant's field and specialty who has privileges at same NMH hospital at least coextensive with those held or applied for by the applicant and who has an agreement with the applicant to provide coverage to patients of the applicant when the applicant is unavailable. If requested, waiver will only be available on a very limited basis, e.g., the nature of the specialty does not require continuous care of patients – such as pathology. If the designated alternate practitioner changes, the applicant or practitioner must notify NMH, providing the name of the replacement.

m. **Observation.** Perform a sufficient number of procedures, manage a sufficient number of cases, and have sufficient patient care contact with NMH to permit the Medical Staff to assess current competence for all requested privileges.

n. **Liability Coverage.** Maintain in full force and effect a valid policy of personal professional liability insurance in an amount and containing coverage established by the Board from time to time following consultation with the Medical Staff, and document such coverage to the satisfaction of NMH in the form and manner prescribed.

o. **References.** Furnish favorable recommendations from proctors (where proctors are appointed) and professional colleagues who are in a position to observe and form an informed opinion about the practitioner's qualifications and competence.

p. **Additional Criteria.** Meet such additional criteria for membership, staff category, and privileges as are established by the Board from time to time following consideration by the Medical Staff and by individual clinical departments relating to the exercise of specific clinical privileges. Additional criteria for clinical privileges may include a requirement of specialty board certification or eligibility if the Board or clinical department believes that such certification or eligibility is an important objective indicator of training and competence.

- q. **Documentation.** Document the foregoing qualifications to the satisfaction of the Medical Staff and in the form and manner prescribed in these Bylaws.

Only practitioners who can document current compliance with the foregoing qualifications sufficiently to indicate to the Medical Staff and the Board of Directors that any patient treated by them at NMH will receive an acceptable quality of professional care shall be qualified to exercise clinical privileges. No practitioner shall be entitled to exercise particular clinical privileges merely by virtue of the fact that he is duly licensed to practice a profession in Nebraska or in any other state, or to perform specific procedures within an area of licensure, or that he is a member of any professional organization, or has in the past, or presently has, such privileges at this or any other hospital. Practitioners shall be awarded privileges only in numbers not exceeding the needs of NMH and the existence of contractual arrangements with other practitioners which may preclude the granting or exercise of requested privileges shall be considered in granting or withholding privileges. No applicant shall be denied clinical privileges on the basis of sex, race, creed, color, national origin, or on the basis of any other criterion lacking professional justification.

SECTION 3.6 WAIVER. Individuals who have been fully credentialed by the Medical Staff as of September 1, 1992, are exempted from the requirement of Section 3-i above, by virtue of having been appointed to the Medical Staff before the adoption of the foregoing training requirements. The Medical Executive Committee may waive the requirement of Section 3-i, in the case of general practitioners who completed their postgraduate clinical training no later than 1977.

SECTION 3.7 TEMPORARY PRIVILEGES. Temporary privileges constitute temporary permission to render clinical services at NMH for which the practitioner is not regularly privileged. They may be granted only to practitioners who, by virtue of licensure, are eligible for regular privileges at NMH. They are intentionally limited, and the practitioner requesting temporary privileges must demonstrate a compelling need for them. The granting, withholding, limitation, and revocation of temporary privileges is entirely discretionary and does not give rise to rights of hearing and appeal under these Bylaws. Temporary privileges are of two types: general and patient-specific as described more fully below. Temporary privileges are subject to the following rules:

- a. **General Temporary Privileges.** General temporary privileges constitute general (rather than patient-specific) permission to admit, attend patients, or consult, as the case may be. General temporary privileges may be granted to applicants for new privileges for a period of up to one hundred twenty (120) days, but only after their application has been accepted as complete and without credentialing concerns. "Applicants for new privileges" include individuals applying for clinical privileges at NMH for the first time; individuals who currently hold clinical privileges who are requesting one or more additional privileges; and individuals who are in the reappointment/reprivileging process and are requesting one or more additional privileges. General temporary privileges are granted by the Administrator or his designee following review and favorable recommendation by the Credentials Committee; or by the Department Chair, the Chair of the Credentials Committee and the President, or their respective designees. Such

privileges may be limited or revoked by the President, the applicable Departmental Chair or the Administrator in the interim between meetings of the Medical Executive Committee. Practitioners exercising general temporary privileges function under the general supervision of the Chair of the appropriate Department or his designee. .

b. **Temporary Privileges to Meet an Important Patient Care, Treatment, and Service Need.** Temporary privileges may be granted to meet an important patient care, treatment, and service need at NMH for a maximum of thirty (30) days. They may be granted by the Administrator or his designee on recommendation of the President or his designee. In the case of privileges granted to meet an important patient care need, current licensure, DEA registration, Medicare and Medicaid provider status, and current competence shall be verified.

Temporary privileges are limited, temporary permission to render specific patient care services at NMH. A practitioner holding temporary privileges is not a member of the Medical Staff, acquires no membership rights or interests and is not considered "privileged" for any purpose other than the circumstances for which the temporary privileges were granted. On expiration or revocation of temporary privileges, a practitioner has no continuing rights, status, or privileges under these Bylaws, including no right to hearing and appeal.

SECTION 3.8 EMERGENCY AUTHORITY. In the case of a medical emergency posing an imminent danger of death or serious bodily harm to the patient in the absence of immediate treatment, any practitioner with clinical privileges will be permitted to provide such immediate treatment within the scope of his license, using the facilities of NMH, without regard to whether such individual has the requisite privileges at NMH, so long as no member of the Medical Staff with appropriate privileges to treat the patient is immediately available. As soon as practical, the patient will be assigned to a member of the Medical Staff with admitting privileges. The emergency authority available under this Section does not amount to clinical privileges at NMH and is exclusively for the benefit of the patient in an emergency situation.

SECTION 3.9 DISASTER PRIVILEGES. Disaster privileges may be granted by the President or his designee(s) when the emergency management plan has been activated and NMH is unable to handle immediate patient needs with the practitioners on its Medical Staff. All procedures related to disaster privileges are set out in the policy entitled, "Disaster Privileges for Licensed Independent Practitioners."

SECTION 3.10 HARVESTING OF ORGANS. Authority may be granted to any practitioner qualified to harvest organs or tissue, who has been approved by any organ retrieval program affiliated with NMH, to do so regardless of whether such practitioner has clinical privileges at NMH.

SECTION 3.11 TELEMEDICINE PRIVILEGES. Practitioners who desire to provide telemedicine, services to NMH patients from distant sites shall be credentialed and

privileged in accordance with these Bylaws. In cases in which the practitioner is credentialed at a distant site hospital or telemedicine entity with a written agreement with NMH to provide telemedicine services to NMH patients, the Medical Staff may, at its discretion, rely upon information provided by the distant-site hospital or telemedicine entity. However, the applicant must, at minimum, sign authorizations and releases pertinent to NMH and the application and related documents shall be reviewed by the Department Chair, the Credentials Committee, be recommended by the Medical Executive Committee, and approved by the Board in order to be valid. Temporary privileges may be granted to telemedicine practitioners and applications may be reviewed and approved under the expedited process set out at Article V, Section 5.2-f, if eligible.

SECTION 3.12 ADMITTING PRIVILEGES. Admitting privileges are hospital-specific clinical privileges of NMH granted to qualified practitioners in the same manner as other privileges. The admitting practitioner is responsible for certifying to the medical necessity of hospitalization and services to support reimbursement under Medicare, Medicaid, and other programs. In order to be eligible for admitting privileges, with the exception of limited admitting privileges described in subsection i below, a practitioner seeking admitting privileges must meet the following requirements:

- a. The practitioner must hold clinical privileges at an NMH Hospital;
- b. The practitioner must be a licensed physician, oral-maxillofacial surgeon or other qualified licensed individual in accordance with State law and hospital policy so as to be qualified to perform the history and physical.

A history and physical examination must be completed and documented in the medical record no more than thirty (30) days before or twenty-four (24) hours after admission or registration, but in all cases immediately prior to surgery or a procedure requiring anesthesia services. If a thorough history and physical has been completed within 30 days prior to admission, such as in the office of the admitting physician, a legible electronic or durable copy of the report may be used in the patient's hospital medical record. An updated examination of the patient, including any changes in the patient's condition, must be completed and documented within 24 hours after admission or registration, but in all cases immediately prior to surgery or a procedure requiring anesthesia services.

A history and physical completed by a non-staff provider may be utilized in the patient's medical record provided the attending physician reviews the history and physical and updates any information including any changes to the patient's physical condition. The attending physician must sign, date and time the history and physical indicating his/her concurrence with the document, as updated.

- c. The practitioner must be authorized by law to prescribe and approve all medications used for patient diagnosis and treatment at NMH.

- d. The practitioner must be authorized by law to assist or supervise any other category of practitioner without being engaged in the unauthorized practice of such other individual's profession.
- e. The practitioner must be authorized under Medicare and Medicaid to provide the physician's certification of diagnosis and of medical necessity for all inpatient services connected with a patient's care, including overnight hospitalization, ancillary services, tests, pharmaceutical agents and supplies.
- f. The practitioner must practice in a specialty or subspecialty which regularly assumes overall responsibility for hospitalization and care of patients.
- g. The practitioner must have applied for and/or hold membership on the Active or Courtesy Staff.
- h. Mid-level practitioners, e.g., advanced practice registered nurses, certified nurse midwives and physician assistants, may be granted limited admitting privileges to write inpatient admission orders subject to the overall medical management of a physician who will serve as the admitting physician for the patient.

Practitioners who are granted clinical privileges but are not granted admitting privileges, but who anticipate the need to initiate the admission of patients to a NMH hospital, must establish arrangements with a practitioner who holds admitting privileges, to order the admission and to work on a cooperative basis for the treatment of the patient within their respective professional specialties while the patient is hospitalized. The practitioner with admitting privileges retains overall responsibility for the patient admitted under his authority.

SECTION 3.13 CONTRACT DEPARTMENT PRACTITIONERS.

- a. Certain hospital-based supportive medical services at one or both of the NMH Hospitals are provided by practitioners or groups of practitioners who are under contract to NMH and who assume some or all of the responsibility for adequate staffing; continuous coverage; maintenance of standards, organization, operation; and administration of their respective Departments or Section by virtue of their contract, or are employed by NMH or an affiliate corporation of NMH under an employment contract. In such services, all practitioners rendering services are doing so under authority of the contract. These services are known as contract services and include Anesthesiology, Emergency Medical Services, Pathology, Radiology, Psychology, neonatology in the NICU and any additional services which NMH may place under contract in the future.
- b. Practitioners practicing within a contract Department or Section will be either themselves the contracting practitioners, members of a contracting group, or practitioners who are in association with, or under contract to, the contracting practitioners or group. All such practitioners must qualify for, receive, and maintain Medical Staff membership in an appropriate category, if physicians, and,

if required by the contract or responsibilities, privileges commensurate with their practice and responsibilities.

c. Because of the need to place specific and exclusive responsibility for the operation of contract services in practitioners designated by and under contract to NMH, the granting and retention of privileges in contract services shall, in addition to the requirements for the continued exercise of privileges contained in these Medical Staff Bylaws, be subject to forfeiture of such privileges:

(1) By a practitioner who leaves a contracting group, or ceases to be an employee of NMH or an affiliated corporation, as the case may be. For purposes of this paragraph, "leaves" means the practitioner is no longer employed by or no longer affiliated with the group, or the practitioner otherwise is no longer authorized to render services for or on behalf of the group;

(2) By all members of a contracting group (including members, partners, stockholders, and employees, and including other practitioners who render services of the group in association with or under contract to, the group) if NMH ceases to contract with such group; or

(3) By a contracting practitioner if NMH ceases to contract with such practitioner.

d. Practitioners exercising privileges in contract services shall, upon termination of the contract or relationship described above, automatically relinquish their privileges in such services (and shall automatically relinquish their Medical Staff membership, if members, unless the Medical Executive Committee, for good cause shown, determines otherwise), notwithstanding any other provisions of these Medical Staff Bylaws to the contrary. The hearing and appeal provisions of these Bylaws shall not be applicable in such situations.

e. The fact that a practitioner holds particular clinical privileges in a Department or Section shall not preclude NMH from placing exclusive responsibility for such Department or Section in a designated practitioner or group by contract, thereby limiting the exercise of privileges in such Department or Section by practitioners other than the designated practitioner or group, provided that, when NMH does so, the contract shall expressly state whether the exclusivity applies to one or both of the NMH Hospitals, and the Medical Executive Committee shall review the source of such contracted services.

SECTION 3.14 LEAVE OF ABSENCE. Any practitioner, whether suffering from incapacity or for other reasons, may request a voluntary leave of absence during which he shall have no clinical privileges and shall not be required to attend meetings or pay dues. Return from a leave of absence shall be at the discretion of the Medical Executive Committee and subject to such conditions as it may impose, including the requirement of reapplication. Any leave of six (6) months or longer duration shall require reapplication.

The practitioner on leave of absence must request reinstatement in writing before the Medical Executive Committee will consider the matter.

- a. **Effect on Membership or Privileges.** A leave of absence shall not extend the term of a practitioner's appointment or privileges. If a practitioner is on leave when his term of appointment or privileges ends, the practitioner's membership or privileges will expire. In such case, the practitioner's subsequent application for reappointment and renewal of privileges will be merged with the practitioner's request for return from leave and handled as a single credentialing matter.
- b. **Effect on Investigation.** If a practitioner is under investigation at the time of going on leave of absence, the investigation will be deemed to continue for the duration of the leave unless the Medical Executive Committee formally concludes the investigation.
- c. **Return from Leave of Absence.** Return from leave of absence shall be in accordance with conditions established by the Medical Executive Committee, which may include health or behavioral assessment or demonstration of current competence and compliance with all qualifications for privileges.

SECTION 3.15 RESIGNATION. A practitioner may resign his membership or clinical privileges as follows:

- a. **Voluntary Resignation.** A voluntary resignation is a decision by a practitioner to surrender either one or more clinical privileges or Medical Staff membership based on the practitioner's personal preference at a time when the practitioner is not "under investigation," or when such resignation is not in lieu of conducting such an investigation under Section 6.6 of these Bylaws. A practitioner may submit a voluntary resignation at any time, and such resignation is effective on the date, if any, stated by the practitioner. If no date is stated, the effective date shall be the date the resignation is communicated, whether in person or in writing.
- b. **Resignation While Under Investigation.** A resignation by a practitioner (i) who is under investigation as described in Section 6.6 of the Bylaws, (ii) who resigns in lieu of the Medical Executive Committee or NMH conducting an investigation, or (iii) where such resignation is part of the terms or conditions of the negotiated resolution of peer review activity, shall not be effective until communicated to the Medical Staff Office. In the case of (iii) above, the Medical Executive Committee may condition acceptance upon the completion of records, return of NMH property, performance of other pending responsibilities or the fulfillment of negotiated terms.
- c. **Reporting.** The Administrator shall advise the Medical Executive Committee and Board when a resignation under this Section requires reporting to the Board of Medical Examiners or the National Practitioner Data Bank and take steps to assure timely reporting.

SECTION 3.16 CLOSURE OF DEPARTMENTS/SECTIONS. NMH reserves the right to close a Department or Section, whether for establishment of a contract service as described in Section 3.13 or to control demand for limited resources available within the Department or Section. Any such closure shall require the approval of the Medical Executive Committee.

SECTION 3.17 MODIFICATIONS OF CLINICAL PRIVILEGES. The Medical Executive Committee may, on its own initiative based on a practitioner's practice patterns and experience at NMH, recommend modification of privileges held or applied for at the time of reappointment or otherwise. When based on each activity in the area of the affected privilege, the modification shall not be deemed reportable unless it is contested by the practitioner and there is a determination that such modification is based on lack of demonstrated competence.

ARTICLE IV CATEGORIES OF MEMBERSHIP

SECTION 4.1 CATEGORIES. There shall be four (4) categories of membership on the Medical Staff, and each member shall be assigned to the appropriate classification. The categories are Active Staff, Courtesy Staff, Ambulatory Staff, and Honorary Staff.

SECTION 4.2 ACTIVE STAFF.

a. **Qualifications.** The Active Staff shall consist of practitioners who apply for Active Staff status and who:

- (1) Utilize the particular NMH hospital(s) as their primary treatment facility or demonstrate through actual practice patterns a major clinical affiliation with the hospital(s); and
- (2) Reside (office and residence) in such proximity to the hospital(s) as to be available to provide continuity of care to patients, to assure availability within a reasonable period of time when the patient's condition requires prompt attention and to discharge assigned responsibilities as a member of the Active Staff; and
- (3) Regularly demonstrate a primary affiliation with the hospital(s) through a substantial and continuing involvement in the activities, business, and responsibilities of its Medical Staff. This involves attendance at meetings, service on committees, and discharge of assigned responsibilities. Members of the Active Staff shall be required to be on the on-call coverage list. Members meeting these qualifications and holding admitting privileges (with the exception of limited admitting privileges granted to certain mid-level practitioners) at one or both NMH Hospitals shall collectively comprise the Active Medical Staff at NMH.

b. **Organizational Duties.** The Active Staff, through the committee and departmental structure, shall perform all of the organizational duties pertaining to the Medical Staff, which shall include:

- (1) Maintenance of standards of quality medical care and treatment of patients including, but not limited to standards for continuity of care at NMH; e.g., appropriate frequency of visits, transfer of care, and coverage;
- (2) Organization of the Medical Staff, election of its officers, and recommendations in the manner provided herein upon all appointments to the Medical Staff and grants of privileges at NMH;
- (3) Making other recommendations to the Board of Directors upon matters within the purview of the Medical Staff; and
- (4) Engaging in the Medical Staff's continuing education programs; attending charity patients as required; accepting responsibility to provide emergency care at an NMH hospital in their areas of specialty; providing consultation to other staff members consistent with delineated privileges; supervising practitioners as part of either focused or ongoing professional review; participating in the peer review process; and serving and participating on committees of the Medical Staff in accordance with assignment.

c. **Prerogatives and Responsibilities.** Members of the Active Staff shall continuously demonstrate responsible participation in functions of the Medical Staff and of committees, Departments and Sections to which they are assigned; shall regularly attend meetings of their committees, Departments and Sections; shall pay dues; shall be eligible for appointment to committees; may serve as Chair of a Department or any committee when so appointed and shall discharge such additional responsibilities as are established, from time to time. Members of the Active Staff are eligible to vote on all matters coming before the Medical Staff for vote at any meeting of the Medical Staff and on all business of Departments, Sections and committees to which they are assigned. In times of limited hospital capacity, members of the Active Staff may be granted priority, in the discretion of NMH Administration, for the admission of patients or scheduling of procedures.

SECTION 4.3 COURTESY STAFF. The Courtesy Staff shall consist of practitioners who do not apply or qualify for Active Staff status. Members of the Courtesy Staff are practitioners who have been granted clinical privileges to admit and attend inpatients and outpatients at NMH. In general, members of the Courtesy Staff shall demonstrate responsible participation in Medical Staff meetings to which they are invited or committees to which they are assigned; shall pay dues, and shall discharge such additional responsibilities as are established from time to time. Members of the Courtesy Staff shall not be eligible to vote (except as members of committees to which they are assigned as voting members), to hold office, or to serve as Department Chair, Section Chair, or as a member of the Medical Executive Committee.

SECTION 4.4 AMBULATORY STAFF. The Ambulatory Staff consists of members who do not seek, or do not qualify for clinical privileges to treat inpatients. The Ambulatory Staff may include members who provide services at NMH-affiliated outpatient facilities and clinics. The primary purpose of the Ambulatory Staff category is to enable these members' patients access to NMH services by referral to members of the Active or Courtesy Staff, while allowing these members to provide follow-up care on an outpatient basis for unassigned patients presenting to the Emergency Department and providing additional physician alternatives for patients with outpatient needs. Members of the Ambulatory Staff may not admit inpatients but may initiate an admission by referring a patient to a physician with admitting privileges. Ambulatory Staff members may visit their hospitalized patients, review their patients' medical records and document information (but not orders) in their patients' inpatient records. Ambulatory Staff members may not exercise any inpatient clinical privileges or outpatient surgical privileges, but may be engaged in non-surgical ambulatory care of outpatients in NMH's outpatient and diagnostic facilities. Members of the Ambulatory Staff shall demonstrate responsible participation in Medical Staff meetings to which they are invited or committees to which they are assigned; shall pay dues if required and shall discharge such additional responsibilities as are established from time to time. Members of the Ambulatory Staff may not vote at meetings of the Medical Staff or Department meetings, but they may serve as voting members of committees to which they are assigned. They are not eligible to hold office, or to serve as Department Chair, Section Chair, or as a member of the Medical Executive Committee. Ambulatory Staff members are not subject to Focused Professional Practice Evaluation upon initial appointment, nor are they subject to Ongoing Professional Practice Evaluation.

SECTION 4.5 HONORARY/ADMINISTRATIVE STAFF. The Honorary/Administrative Staff shall be comprised of: (i) former members of the Medical Staff, retired or emeritus; (ii) physicians appointed to administrative roles who do not hold clinical privileges; and (iii) other practitioners of repute who do not hold clinical privileges of NMH. After retirement from active practice, a Medical Staff member may be appointed to the Honorary/Administrative Staff by majority vote of the Medical Executive Committee. Administrative physicians shall automatically be assigned to the Honorary/Administrative provided that their appointment or contract does not require clinical privileges. Other community practitioners may be appointed to the Honorary/Administrative Staff by majority vote of the Medical Executive Committee. Honorary/Administrative Staff members shall be exempt from paying dues. Honorary/Administrative Staff may participate in Medical Staff meetings to which they are invited, including committee meetings, without vote.

SECTION 4.6 REFERENCE PRACTITIONERS. Reference Practitioners are not a category of Medical Staff. Reference Practitioners are Practitioners who are granted limited permission to refer their patients to NMH for outpatient diagnostic tests to be performed by NMH personnel and reported back, with or without professional interpretation. Reference Practitioners must be licensed to order the diagnostic test referred. NMH may refuse to perform a test referred by a Reference Practitioner for any reason.

SECTION 4.7 GENERAL CONDITIONS.

- a. **Vote.** Members of the Active Staff shall be eligible to vote at meetings of the general staff, departments, sections, and committees to which they are assigned. Members of the Courtesy Staff, Ambulatory Staff, and Honorary/Administrative Staff may vote on matters coming before any committee of the Medical Staff to which they are assigned as voting members.
- b. **Chairmanship.** Only members of the Active Staff shall be eligible to serve as Department or Section Chair or as chair of standing or special committees of the Medical Staff.
- c. **Dues.** Annual dues for membership on the Medical Staff shall be determined from time to time by the Medical Executive Committee. Dues shall be paid by all Active and Courtesy Staff members. Medical Staff members who are age 65 or older shall be assessed dues at one-half (1/2) the regular rate.
- d. **Appointment.** Appointment to a specific category of staff is by action of the Board of Directors following recommendation by the Medical Executive Committee.

ARTICLE V APPOINTMENT OF MEDICAL STAFF: DELINEATION OF PRIVILEGES

SECTION 5.1 APPLICATION. All requests for Medical Staff membership or clinical privileges, including new or additional privileges, or for reclassification to a different category of membership, for reappointment to the Medical Staff, or renewal of privileges, shall be by written request signed by the applicant.

- a. **Completeness.** An application is not complete and will not be processed until a complete application form with all required supporting material including references, license information, verifications, and other required data and exhibits is received. Incomplete applications may be returned to the applicant at any time. An application for appointment or reappointment to the Medical Staff shall include information sufficient to make a determination that each of the qualifications required under these Bylaws is met.
- b. **Required Content.** Each application shall include information regarding previously successful or currently pending challenges to any license or registration to practice a profession or prescribe medications; the voluntary relinquishment of such a license or registration; the voluntary or involuntary termination of Medical Staff membership; the voluntary or involuntary limitation, reduction, or loss of clinical privileges at another hospital; or the entry of any final judgment or settlement involving professional liability claims involving the applicant including documentation of the applicant's competencies in the six areas of "general competencies" developed by the Accreditation Council for Graduate Medical Education and the American Board of Medical Specialties which are: patient care,

medical/clinical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and systems-based practice. Applicants for admitting privileges must specify the NMH Hospital(s) at which they wish to admit patients. Further, each applicant shall submit a hospital or driver's license photo identification to verify his identity in the form and manner required by NMH.

c. **Agreement.** The submitted application shall constitute the applicant's agreement to be bound by the terms of the Bylaws and Rules and Regulations in all matters relating to consideration of the application (whether or not the application is acted upon favorably) and in all matters pertaining to his practice at NMH if granted membership and/or privileges, together with his pledge to continuously abide by all of the provisions of these Bylaws and the Rules and Regulations.

SECTION 5.2 PROCEDURE – INITIAL APPLICATIONS.

a. **Submission.** The applicant shall submit the completed application to the Administrator, or his designee, who shall review it for completeness and eligibility for membership and/or privileges and inform the applicant within ten (10) business days following receipt by NMH (not ten (10) business days following receipt by NMH's agent under subsection 5.2-b, below) that the application is accepted, or if not accepted, of any missing information or attachments. When the application is deemed complete, it will be forwarded to the Department Chair of the Department to which the applicant would be assigned for review and recommendation as described in subsection 5.2-c below. In the case of non-physician practitioners requesting privileges, the Medical Staff may, in its discretion, delegate the credentialing process to the Allied Health Practitioner Committee, which shall report to the Credentials Committee. The Credentials Committee will review the credentialing file and forward its findings to the Medical Executive Committee. After review, the Medical Executive Committee will make a recommendation to the Board.

b. **Agent.** If NMH is participating in a centralized application and data gathering program or contracting with an outside credentials verification organization ("CVO"), the Administrator may designate such program or CVO as his agent to receive initial applications for membership and/or privileges. In such case, the agent's authority shall be strictly limited to gathering and assembling applications and other information and to turning over the assembled materials to NMH.

c. **Department Chair Review.** The Department Chair shall review the application with regard to membership, membership category, Department assignment, and privileges, and transmit a recommendation regarding privileges, membership, membership category and/or Department assignment, as appropriate, to the Credentials Committee. Whenever the applicant is not a physician, a reasonable effort should be made by the Department Chair to include

within the review mechanism one or more practitioners of the same licensure as the applicant.

d. **Credentials Committee**. The Credentials Committee is responsible for formulating and transmitting a recommendation to the Medical Executive Committee regarding the applicant's request for membership, category of membership, Department assignment, privileges, and all other matters bearing upon the application. The Credentials Committee shall consider the recommendation of the Department Chair, but shall make its own investigation and recommendation. The Credentials Committee may, at its option, meet with the applicant during the course of its review on an informal basis.

e. **Medical Executive Committee**. Within one hundred twenty (120) days following receipt of the completed application by the Administrator, the Medical Executive Committee will consider the application and the recommendations and supporting materials of the Department Chair and the Credentials Committee. If the recommendation of the Medical Executive Committee is favorable to the applicant, the President shall transmit the recommendation to the Board. Alternatively, applications which meet the standards for an expedited process set out in subsection 5.2-f below, may be referred to the Medical Staff Committee of the Board.

f. **Expedited Process**. A Medical Staff Committee authorized by the Board of Directors, comprised of a minimum of two (2) directors and appointed in accordance with the NMH Bylaws, may, in appropriate instances, review the credentialing functions of the Medical Staff and the recommendations of the Medical Executive Committee of the Medical Staff to the Board of Directors regarding appointment and reappointment of, and the granting and renewal of clinical privileges to, qualified and duly licensed practitioners. The Medical Staff Committee shall report its decisions and recommendations regarding the same to the Board of Directors. The Board, through its Bylaws, has authorized the Medical Staff Committee to render a decision regarding appointment, reappointment, and the granting or renewal of privileges in cases in which there is a positive recommendation from the Medical Staff Medical Executive Committee on a complete application.

In addition to a positive recommendation from the Medical Staff Medical Executive Committee, applications (or reapplications) must also be free of:

- (1) A current challenge or previously successful challenge to licensure or registration; or
- (2) Involuntary termination of Medical Staff membership or privileges at another organization; or
- (3) Involuntary limitation, reduction, denial or loss of clinical privileges; or

(4) Either an unusual pattern of, or an excessive number of, professional liability actions resulting in a final judgment against the applicant.

g. **Reconsideration.**

(1) **Request for Reconsideration or Acceptance.** In the event that the Medical Executive Committee recommends disapproval of the application on first review, the recommendation shall be treated as an initial recommendation. The President will notify the applicant in writing of the negative initial recommendation and of the applicant's right to request reconsideration of that recommendation by an *ad hoc* review committee. The applicant shall have thirty (30) days following receipt of the written notice of the initial adverse recommendation from the President in which to submit his written request to the President for reconsideration, failing which the applicant shall be deemed to have accepted the initial adverse recommendation of the Medical Executive Committee, and it shall be treated as the final recommendation and transmitted to the Administrator and the Board of Directors. The notice of the initial adverse recommendation shall notify the practitioner of the need to request and participate in the reconsideration process as a condition to later requesting a hearing.

(2) **Precondition to Requesting Hearing.** In order to encourage informal resolution of disputes and the correction of misunderstandings without the necessity of formal adversary proceedings, practitioners are required to first request and participate in a reconsideration of an initial adverse recommendation before they are eligible to request a hearing. An applicant who fails or refuses to request and participate in a reconsideration waives his right to later request a hearing.

(3) **Ad Hoc Review Committee.** If the applicant requests reconsideration in the time and manner provided, the Medical Executive Committee shall appoint an *ad hoc* review committee, designate its chairman, and establish its charge at its next regular meeting. The *ad hoc* review committee shall review the recommendation and all prior recommendations and supporting materials, conduct its own investigation, meet with the applicant and other individuals with information, and formulate and transmit its recommendation to the Medical Executive Committee.

(4) **Final Recommendation.** Within sixty (60) days of the meeting at which the initial adverse recommendation was voted upon, the Medical Executive Committee shall consider the report and recommendation of the *ad hoc* review committee and vote to affirm, modify, or disaffirm its initial recommendation. The recommendation of the Medical Executive Committee at this stage shall constitute a final recommendation which shall be transmitted to the Administrator and by the Administrator to the applicant. If favorable to the applicant, it shall be presented to the Board of

Directors for action. If adverse, the Administrator shall first determine whether the applicant requests or waives a hearing under the hearing provisions of these Bylaws.

h. **Withdrawal.** An applicant may at any time withdraw his application from further consideration in which case the application shall not be transmitted to the Board of Directors, or in the case of an expedited process, to the Medical Staff Committee for action. An application which is withdrawn prior to the conduct of a hearing under these Bylaws shall not be deemed rejected or denied.

i. **Final Action by Board.** Except when superseded by other provisions of these Bylaws, the Board of Directors, or, as applicable in an expedited process, the Medical Staff Committee, shall render a final decision on any final recommendation for appointment or reappointment within sixty (60) days of the date of the final Medical Executive Committee recommendation.

SECTION 5.3 PROCEDURE--NEW OR INCREASED PRIVILEGES. A privileged practitioner who is applying for new or increased privileges outside those considered standard for his level of training or specialty as determined by the Credentials Committee is an "applicant" with respect to such privileges and must apply in writing. The applicant bears the burden of demonstrating background, education, and current skill commensurate with the requested privileges.

a. **Application.** The application should be submitted to the Administrator who shall review it for completeness and forward it to the Credentials Committee. The Credentials Committee may meet with the applicant and should request and review such supporting documentation and information as it deems necessary.

b. **Determination of Organizational Resource Availability.** During the review process described in Section 5.3-a above and elsewhere in these Bylaws, the resources necessary to support the requested privileges will be evaluated to determine whether or not they are currently available, or will be available within a specified time frame. Such resources include equipment, personnel, space, and financial resources to support the privileges requested.

c. **Focused Professional Practice Evaluation.** A period of focused professional practice evaluation is implemented for all initially requested privileges in accordance with the NMH Administrative Policy governing "Focused Professional Practice Evaluation."

SECTION 5.4 TERM OF APPOINTMENT AND PRIVILEGES. The maximum period of appointment or reappointment to the Medical Staff and each grant of privileges shall be for a term of two (2) years. The appointment to membership or the granting of privileges for one term does not create any presumption of entitlement to membership or privileges in a subsequent term.

SECTION 5.5 REAPPOINTMENT. Terms of reappointment shall be staggered according to a schedule adopted by the Medical Executive Committee.

a. **Application.** Each member of the Medical Staff, in classifications other than Honorary, or other privileged practitioner who desires reappointment to the Medical Staff and/or renewal of privileges shall submit an application for reappointment and renewal of privileges on a form approved by the Medical Staff to the Administrator not less than one hundred twenty (120) days prior to the expiration of his existing membership and/or privileges. The Administrator shall follow the procedure for new applications in determining and notifying the applicant of completeness and forward the completed application to the Department Chair to which the practitioner is assigned who shall review and forward with a recommendation to the Credentials Committee. As necessary, the Department Chair may begin review of an application that is not fully complete, but an incomplete application will not be forwarded to the Credentials Committee. At any step in this process, additional documentation or information may be requested of the practitioner.

b. **Criteria.** Appraisal will be based upon such practitioner's demonstrated current competence, compliance with all criteria for membership and/or privileges, professional performance and judgment, physical, and mental health status, continuing medical education efforts, attendance at meetings, and compliance with policies, Bylaws and Rules and Regulations of the Medical Staff. The applicant for reappointment has the same burden of persuasion as a new applicant. An application for reappointment will be reviewed against the record of the applicant's actual performance at NMH during the current term as well as information collected from the applicant and outside sources. Matters and events reflecting adversely on the applicant which did not result in corrective action during the current term may, nevertheless, be relevant or determinative in the reappointment process. Matters and events from an earlier term of appointment are relevant if they help demonstrate a pattern or explain matters and events from a current term.

c. **Information.** In reviewing applications for reappointment and renewal of privileges, all relevant information should be considered. Without limitation, this may include review of such items as Board, Medical Staff, or committee meeting minutes or records; utilization review, peer review, and performance improvement records and reports; medical records; incident reports; records of civil malpractice proceedings; insurance documents and claim records; records of the Board of Medical Examiners or other governmental agencies; personal medical records of the applicant; complaints or comments from other members of the Medical Staff, the Administrator, patients or members of the public; and any other relevant documents or correspondence. The Medical Executive Committee may also consider whether the practitioner has actually exercised all the requested privileges with sufficient frequency since the time of last appointment or reappointment to indicate current proficiency or need.

d. **Review.** The Department Chair shall submit his recommendation to the Credentials Committee, which shall consider such recommendation, make such additional investigation as they deem appropriate and transmit their recommendations to the Medical Executive Committee. The Medical Executive

Committee shall consider the application for reappointment and/or privileges and the recommendations of the Department Chair and the Credentials Committee, together with the supporting information, and make a recommendation to the Board of Directors regarding reappointment, classification, and reclassification and renewal or change in privileges; except that the Medical Executive Committee may withhold applications for which no recommendation has yet been formulated.

e. **Status Pending Review.** A timely and complete application for reappointment shall be processed through Board decision within one hundred twenty (120) days of the due date for completed applications, absent an action which entitles the practitioner to notice of right to a hearing. The due date for applications for reappointment is a date one hundred twenty (120) days before the scheduled expiration of existing privileges.

ARTICLE VI MATTERS AFFECTING PRIVILEGED PRACTITIONERS AND APPLICANTS: CORRECTIVE ACTION

SECTION 6.1 PURPOSE. The maintenance and promotion of a high quality of patient care at NMH and the attainment by the Medical Staff of its purposes and objectives requires consideration of the credentials and skills and the physical, mental, and emotional fitness of Medical Staff members, practitioners and applicants; the active participation by members in the business of this Medical Staff and the fulfillment by them of their Medical Staff, committee and Department responsibilities; the ability and willingness to work harmoniously with other privileged practitioners and members of this Medical Staff, with administration and NMH's professional staff; and the adherence to these Medical Staff Bylaws and Rules and Regulations. Therefore, the purposes of this Article are:

a. To encourage members of this Medical Staff, through the organized Department, Section, committee, and Medical Staff structure to actively participate in the necessary work of this Medical Staff and in the promotion of its objectives;

b. To provide members, when so engaged in the business of this Medical Staff, with reasonable protection against individual or collective liability to applicants or other members of the Medical Staff for their participation in all investigations, meetings, communications, reports, recommendations, or actions; and

c. To provide a procedural framework for the review of applications and applicants, the conduct of peer review, and the initiation of corrective action, which will provide fairness to any affected applicant, member, or other privileged practitioner and which will assure that only professionally justifiable criteria relating to the purposes and objectives of this Medical Staff will be applied.

SECTION 6.2 AUTHORIZATION AND RELEASE. The following shall be express conditions on the application for, or the holding or exercise of, membership or privileges at NMH. Each applicant and each privileged practitioner and/or member hereby expressly:

- a. Authorizes representatives of NMH and the Medical Staff to solicit, obtain, review, and act upon information bearing upon, or reasonably believed to bear upon, the practitioner's professional ability, qualifications, character and conduct;
- b. Authorizes any other individual and organization to provide information to representatives of NMH and the Medical Staff bearing upon, or reasonably believed to bear upon, the practitioner's professional ability, qualifications, character and conduct, and agrees to execute authorizations and releases to facilitate obtaining such information from third parties at the request of NMH;
- c. Authorizes other members and representatives of the Medical Staff and representatives and employees of NMH to provide information bearing upon, or reasonably believed to bear upon, the practitioner's professional ability, qualifications, character and conduct;
- d. Consents to inspection of records and documents that may be material to an evaluation of his professional ability, qualifications, character and conduct, authorizes all individuals and organizations in custody of such records and documents to permit such inspection and copying,
- e. Agrees to provide accurate, current, and complete information in connection with the appointment, reappointment, privileging, quality improvement, and corrective action processes at NMH, or in response to specific inquiries from the Medical Executive Committee or the Board of the Hospital, or as a continuing obligation under these Bylaws;
- f. Agrees to immediately inform the Administrator of any material changes or developments affecting or changing the information provided in or with his application;
- g. Agrees to cooperate with the Medical Staff leadership and committees in the conduct of Peer Review activities involving him and/or other practitioners, which includes appearing at interviews, answering questions, and working within the peer review structure described in these Bylaws;
- h. Releases from liability, to the fullest extent permitted by law, all officers, members, other privileged practitioners and representatives of the Medical Staff and all officers, directors, employees, and representatives of NMH, for their acts performed in connection with conducting peer review activity or furnishing information in connection with peer review activity on behalf of the Medical Staff and the Hospital;
- i. Agrees not to commence a legal action against the Medical Staff or NMH or against any officer, member, other privileged practitioner, or representative of the Medical Staff or any officer, director, employee, or representative of NMH, for any investigation or peer review activity taken in accordance with the provisions of these Bylaws;
- j. Authorizes representatives of the Medical Staff and NMH to disclose to other hospitals, medical associations, licensing boards, and similar organizations, as permitted by law, information regarding his professional abilities, qualifications, character and conduct, including information about current and past membership and/or privileges and results of peer review activities at NMH, in connection with such other party's peer review activities, and releases the Medical Staff and its officers, members, other privileged practitioners and

representatives and NMH and its officers, director, employees and representatives for so doing, to the fullest extent permitted by law;

k. Acknowledges that the provisions of this Article are express conditions to an application for Medical Staff membership and/or privileges, the continuation of such membership and/or privileges, and the exercise of clinical privileges or other practice authority at NMH.

As used in this section, the term "NMH and its authorized representatives" includes Methodist Hospital and the Women's Hospital, the members of the Board and its appointed representatives, the Administrator and his designee(s), any Hearing Officer, Presiding Officer, the members of any Hearing Committee, consultants, Hospital's legal counsel and their staff and partners, and all members of the Medical Staff and other privileged practitioners. The term also includes allied health practitioners and Hospital employees who have responsibility for obtaining, giving, evaluating, or acting upon information in the Peer Review context or who otherwise participate or provide information to a Peer Review Committee.

NMH shall require each applicant, member or other privileged practitioner to execute in such numbers as NMH may request separate releases containing the foregoing release provisions of this Article and Section. Failure or refusal to provide such written releases or authorizations for disclosure shall be grounds for administrative withdrawal of the applicant's, member's or other practitioner's application on grounds of incompleteness.

SECTION 6.3 PEER REVIEW. It is the intention of these Bylaws to define the term "Peer Review" broadly, and to secure to those who engage in any aspect of Peer Review in, at, for, or on behalf of NMH and its Medical Staff, the broadest possible privilege and immunity from liability. This Section and these Bylaws will be interpreted to effectuate this objective. The privileges and immunities set forth in this Article shall be cumulative of other protections provided by law.

a. The scope of Peer Review shall include all activities and functions set out in the definitions of Peer Review, Peer Review Committee and Peer Review Record in these Bylaws. Further, each officer and committee of the Medical Staff, and each individual member of the Medical Staff who is assigned Peer Review responsibility within the Hospital, is designated a Peer Review agent on behalf of the Medical Executive Committee. Each such officer and committee and their agents (including the Administrator and his designee(s)), are authorized to engage in Peer Review activity and to investigate and make recommendations to the Medical Executive Committee concerning applicants or members of the Medical Staff on all matters coming to their attention and within their areas of primary or delegated responsibility, reflecting on qualifications for membership and privileges or on the quality of patient care at NMH. In addition, any committee appointed directed by the Board or pursuant to Bylaws, rules, regulations, policies or procedures approved by the Board, whether standing or *ad hoc*, shall be within the scope of the Peer Review privilege when conducting Peer Review or functioning as a Peer Review Committee as defined by law or these Bylaws.

b. All statements, disclosures, reports, recommendations, and other communications and records made or held in connection with Peer Review activities of NMH shall, to the fullest extent permitted by law, be confidential and privileged from further disclosure, except as otherwise provided in these Bylaws.

SECTION 6.4 DISCIPLINE. Each department and each committee of the Medical Staff is authorized to investigate and make recommendations to the Medical Executive Committee concerning applicants, privileged practitioners, or members of the Medical Staff on all matters coming to their attention and within their area of primary or delegated responsibility reflecting adversely on the credentials, performance, quality of practice, or quality of patient care, or suggesting violation of these Medical Staff Bylaws and Rules and Regulations. Each privileged practitioner, member of the Medical Staff, or officer or employee of NMH, and each other department and committee of the Medical Staff shall furnish such investigating department or committee with such requested information as is in his or its possession which bears on the matter under investigation.

Any department or committee performing an investigatory function may meet with the affected applicant or member and attempt to resolve problems, determine facts, or make recommendations. No such preliminary meeting shall constitute a hearing.

SECTION 6.4 EXECUTIVE COMMITTEE. Whenever any committee or department is unable to resolve a problem involving a practitioner on an informal basis, the committee or department may make a recommendation to the Medical Executive Committee for further investigation or action. In the event any committee does informally resolve a matter affecting an applicant, practitioner, or member, it shall report the results of its investigation, its findings, and its recommended resolution of the matter to the Medical Executive Committee. In addition to any other authority granted to it, the Medical Executive Committee may:

- a. Initiate or take over any investigation of a member or other privileged practitioner, or applicant;
- b. Appoint an *ad hoc* committee, not necessarily members of the Medical Executive Committee, to conduct any investigation or to review any Department or committee findings or recommendation;
- c. Encourage informal resolutions of all disputes regarding membership and/or privileges;
- d. Appoint a standing committee to receive notices, status reports, findings, and recommendations of all investigating Departments or committees in place of reporting the same to the full Medical Executive Committee; provided, however, that any such standing committee cannot, without action by the Medical Executive Committee, take any final action adverse to a practitioner;
- e. Initiate or withdraw summary suspension in the case of members and other privileged practitioners; and
- f. Prepare findings and make a final recommendation with respect to any applicant, member, or other privileged practitioner but subject to such practitioner's right to a hearing and appeal as provided in these Bylaws.

SECTION 6.5 INVESTIGATION. Investigation by the Medical Staff is a formal process of review. If the Medical Executive Committee concludes an investigation is warranted, it shall document the decision to initiate an investigation in the minutes and notify the affected practitioner in writing that an investigation has been initiated. A practitioner is not "under investigation" by the Medical Staff simply because the corrective action process has been initiated.

a. The Medical Executive Committee may investigate or may assign responsibility for investigation to an appropriate Medical Staff officer or standing or *ad hoc* committee. If the investigation is delegated to an officer or committee other than the Medical Executive Committee, such officer or committee shall proceed with the investigation in a prompt manner and shall forward a written report of the investigation to the Medical Executive Committee as soon as practicable. The report may include recommendations for appropriate resolution, which may include corrective action.

b. The affected practitioner should be given an opportunity to provide information in a manner and upon such terms as the investigating body deems appropriate. The individual or body investigating the matter may interview the practitioner. Despite the status of any investigation, at all times the Medical Executive Committee shall retain authority and discretion to take whatever action may be warranted by the circumstances, including summary suspension, termination of the investigative process, or other action.

c. The preceding shall not prevent the Board or Administration from investigating a practitioner under separate procedures adopted by them.

SECTION 6.6 INTERVIEWS. The Medical Executive Committee and any body or committee conducting an investigation or charged with review or study to determine if an investigation or corrective action may be warranted, may request the affected member or other privileged practitioner to appear for an interview to answer questions, provide information, or explain the issues under review. Any such interview shall not constitute a "hearing" as that term is used in Article VII, nor shall the procedural rules with respect to such hearings apply. The member or other privileged practitioner shall not be entitled to bring an attorney or representative to the interview. Failure to attend as requested constitutes independent grounds for corrective action.

SECTION 6.7 SUPPORT BY ADMINISTRATION. The Administrator shall endeavor to provide or arrange for necessary staff and other support to assist with the corrective action process, including arrangements with outside reviewers when warranted. The Administrator shall endeavor to assure that grounds for corrective action relate directly to and are consistent with NMH's legitimate patient care, legal, and operational needs. The Administrator shall also advise on procedure and determine which actions and recommendations are reportable to the National Practitioner Data Bank, the Board of Medical Examiners, or any other body or agency with jurisdiction.

SECTION 6.8 FOCUSED REVIEW AND MONITORING. The Medical Executive Committee may impose a requirement that a practitioner's clinical practice activities or records be concurrently monitored. Focused professional practice evaluation and monitoring is for the purpose of gathering information and is not corrective action and does not entitle a practitioner to hearing and other rights under Article VII of these Bylaws.

SECTION 6.9 REPORTING CERTAIN ACTIONS. Each member or other privileged practitioner shall report any of the following events in writing within sixty (60) days of their occurrence. The report shall be furnished to the President of the Medical Staff. Reportable events are:

- a. The payment by or on behalf of the practitioner of any money in judgment or settlement of any professional liability claim against such practitioner (regardless of by whom the payment is made). A report shall be made not later than the practitioner's reappointment application.
- b. Involuntary denial, loss, or curtailment of the practitioner's license to practice his profession or the practitioner's registration (state or federal) to prescribe medications and any voluntary acceptance of any such action or result during an investigation or sanction proceeding against the practitioner. The member or other privileged practitioner shall report as soon as possible following receipt of notice. In such cases, the member or other privileged practitioner is expected to cease practice and prescribing immediately.
- c. Any recommendation of a Professional Review Organization or of the Office of Inspector General to exclude the practitioner from participation in the Medicare program. Such action shall be reported by the practitioner within five (5) days of notice to the practitioner.
- d. Involuntary denial, suspension, or termination of membership on the Medical Staff or denial, suspension, termination, or curtailment of clinical privileges at another hospital lasting thirty (30) days or longer and any voluntary acceptance of any such action or result during an investigation or in return for not conducting an investigation of such practitioner. Notice of any of these adverse actions must be reported within five (5) days or less of notice to the practitioner.

SECTION 6.10 SUMMARY ACTION.

- a. **Initial Action and Notice.** Summary action may be imposed whenever, in the opinion of the individual imposing it, it is immediately necessary pending an investigation to determine whether or not to proceed with a professional review action. Summary action may also be imposed whenever, in the opinion of the individual imposing it, failure to impose it may result in an imminent danger to the health of any individual or individuals, whether or not the specific identity of such individuals is then known. Summary action may consist of a suspension of all or a part of a practitioner's privileges, the imposition of conditions or limitations, or a

combination of actions. Summary action may be imposed by the President or the next highest ranking officer of the Medical Staff then available or the Administrator of NMH. Summary action is effective immediately upon imposition. The practitioner shall be promptly notified of the action by written notice. Summary action shall remain in effect until it is removed or modified by the Medical Executive Committee or merged into a final action in subsequent corrective action proceedings.

b. **Voluntary Limitations.** Before imposing summary action, the individual imposing it shall afford the affected practitioner the opportunity to agree to the summary action and to request that the summary action be undertaken at the request of the affected practitioner. If the affected practitioner does agree to the limitation, suspension, or conditions, they shall be effective immediately and the practitioner shall notify the Medical Executive Committee and the chairman of the department to which he is assigned in writing within twenty-four (24) hours that he intends to voluntarily practice under the stated limitations. In such case, the limitations shall be treated as voluntary limitations and not as a suspension or limitation imposed by the Medical Staff. A voluntary limitation shall remain in effect until it is removed or modified by the Medical Executive Committee upon application of the affected practitioner or until merged into a final action in subsequent corrective action or application proceedings.

c. **Corrective Action.** Whenever summary action is imposed, and the affected practitioner has not opted to treat it as a voluntary limitation and waive his right to a hearing, the individuals imposing it must, within five (5) business days after the giving of notice of such summary action, request that corrective action be imposed. The President must refer such a request to the Medical Executive Committee or take other steps to commence an investigation. Within fourteen (14) days following the imposition of summary action, the Medical Executive Committee shall, on the basis of its preliminary investigation, determine whether summary action should be lifted or modified (whether or not corrective action goes forward) or continued (during the subsequent investigation and proceedings).

d. **Reinstatement of Privileges Pending Review.** A practitioner whose clinical privileges have been summarily suspended or limited or who has accepted voluntary limitations in lieu of summary action may, at any time during corrective action proceedings, request reinstatement of those privileges by delivering a written request to the Medical Executive Committee. Reinstatement of privileges pending completion of the corrective action proceedings shall be a matter solely within the discretion of the Medical Executive Committee, subject to the ultimate authority of the Board of Directors. A practitioner who has voluntarily requested limitations may, at any time, request permission to remove the limitation which he originally requested by delivering a written notice to the Medical Executive Committee. The Medical Executive Committee shall treat the request as an application for new or increased privileges, and the affected practitioner shall be entitled to the procedure described in these Bylaws for dealing with applications.

- e. **Interim Patient Care.** Immediately upon the imposition of summary suspension, the President shall have authority to provide for alternate medical or dental coverage for the patients of the suspended practitioner still hospitalized at an NMH hospital at the time of such suspension. The wishes of the patients will, where possible, be considered in the selection of alternate practitioners.

SECTION 6.11 AUTOMATIC SUSPENSION. The membership status and clinical privileges of any practitioner whose license to practice a profession is revoked or suspended by the State of Nebraska shall be automatically and immediately suspended without further action by the Medical Staff, the Administrator, or the Board of Directors. Upon learning of action suspending or revoking the license of any member of the Medical Staff or other privileged practitioner, the Administrator shall immediately notify the President of the Board of Directors and the President of the Medical Staff.

SECTION 6.12 CORRECTIVE ACTION. In all cases where the final recommendation of the Medical Executive Committee in corrective action proceedings will be substantially adverse to a practitioner, the Medical Executive Committee shall furnish a copy of its final recommendation to the Administrator for transmittal to the practitioner. Thereafter, the practitioner may request a hearing pursuant to these Bylaws, failing which he shall be deemed to have waived the right to a hearing, and the recommendation of the Medical Executive Committee shall be delivered by the Medical Executive Committee to the Administrator and through the Administrator to the Board of Directors.

SECTION 6.13 FINAL ACTION BY THE EXECUTIVE COMMITTEE. In order to efficiently administer the business of this Medical Staff and these Bylaws, and in order to encourage adherence to the requirements and conditions of membership and privileges, the Medical Executive Committee may, without giving rise to hearing and appeal procedures, implement the following binding actions subject only to the authority of the Board of Directors:

- a. Caution, warn, or censure any applicant, member or other privileged practitioner;
- b. Impose requirements of consultation, observation, reporting, proctoring, or supervision upon any practitioner for the purpose of evaluating credentials or performance;
- c. Implement automatic sanctions contained in these Bylaws or the Bylaws of NMH;
- d. Require any applicant, member or other privileged practitioner to undergo a health assessment by a practitioner or at a facility selected by the Medical Executive Committee and under such conditions (including direct reporting back to the Medical Executive Committee or its designee) as the Medical Executive Committee may establish;
- e. Deny, limit, condition, or revoke temporary privileges;

- f. Provide for a probationary period of not to exceed twelve (12) months upon the return of a practitioner from a leave of absence;
- g. Assign or reassign any member to any category of staff, Department or Section; or from one category of staff, Department or Section to another;
- h. Suspend all or any portion of a practitioner's privileges, including the privilege of admitting patients at NMH, for failure to maintain medical records and other required documentation at the required state of completeness within specified time limits;
- i. Treat a practitioner as having resigned Medical Staff membership and/or clinical privileges (whether by action of the Medical Executive Committee or by automatic operation of these Bylaws) because the practitioner failed to pay dues, had no patient contact at NMH during the probationary period or during the period since the last appointment, or if there is insufficient patient activity to conduct FPPE; or
- j. Administratively deem applications withdrawn for lack of completeness.

These actions do not constitute corrective action, are not reportable events when imposed by the Medical Executive Committee under this Section, and do not give rise to hearing and appeal. Failure of any practitioner to conform to any binding order of the Medical Executive Committee shall constitute independent grounds for corrective action.

Before taking any such action, the Medical Executive Committee may meet with the affected practitioner to determine his version of the underlying facts and circumstances and for the purpose of explaining its action. Such meeting shall not constitute a hearing and is discretionary on the part of the Medical Executive Committee.

SECTION 6.14 INCAPACITY. For purposes of these Bylaws, the term "incapacity" means a known or suspected condition of impairment which adversely affects, or may adversely affect, patient care or the discharge of important Medical Staff responsibilities. Incapacity may be due to physical, mental, emotional, chemical, financial, or other causes. All known, or suspected instances of incapacity, shall be reported to either the Medical Executive Committee or the Professional Assistance Committee.

- a. **Medical Executive Committee.** The Medical Executive Committee may (i) investigate and handle the reported incapacity; (ii) refer the report to an *ad hoc* examining committee for investigation and report; or (iii) appoint a Professional Assistance Committee and refer the report to that Committee. On the basis of any investigation and report given back to it, the Medical Executive Committee may, subject to any applicable hearing and appeal rights, (i) initiate or take corrective action; (ii) take final action under the preceding Section 6.14; (iii) condition the continued exercise of privileges on the practitioner's obtaining medical or other treatment or counseling; or (iv) place the practitioner on leave of absence.

b. **Professional Assistance Committee.** The Medical Executive Committee is hereby authorized to appoint from time to time, a Professional Assistance Committee as a committee of the Medical Staff. The Committee shall consist of three (3) members of the Active Staff appointed by the President, one of whom shall be chairman, plus one representative of the Administrator. In addition, the Department Chair of the practitioner's Department shall be a member of the committee *ex officio* and without vote. The Medical Executive Committee may deviate from these Committee membership standards when doing so will enhance the Committee's ability to carry out its purpose. The purpose of the Committee is to render professional assistance to individual practitioners who are or who may be incapacitated, without the necessity of corrective action.

Any practitioner, the President, or the chairman of any department may request that the Medical Executive Committee appoint a Professional Assistance Committee to investigate or intervene with any practitioner with a known or suspected incapacity. Additionally, individual practitioners may request assistance from such a Committee on their own behalf. The Committee, when appointed, shall have the following authority:

- (1) Investigate to determine whether an incapacity exists. This may include meeting with the affected practitioner and others with information, reviewing medical records, requesting a voluntary health assessment, proctoring or observing the affected practitioner, or any other steps deemed useful by the Committee;
- (2) Where an incapacity is found, meet with or otherwise attempt to cause the affected practitioner to recognize and deal with the incapacity;
- (3) Enter into a written agreement with a practitioner outlining steps which such practitioner has voluntarily agreed to take in response to an incapacity, and thereafter monitor compliance with such agreement;
- (4) Provide, or attempt to arrange, for interim assistance to practitioners who have entered into voluntary agreements and who are complying therewith; and
- (5) Refer cases to the Medical Executive Committee for further action, but only if the Committee determines that it is unable to resolve the issue with the voluntary cooperation of the affected practitioner. In all other cases, except when the referral was from the Medical Executive Committee and the referral required a report back to the Medical Executive Committee, the Professional Assistance Committee shall not be required to report the identity of any practitioner, or the existence of any incapacity or plan of correction.

SECTION 6.15 RESERVED AUTHORITY. Notwithstanding any other provision of these Bylaws, the Board of Directors reserves the right to initiate or take action or take over any

application, investigation, or corrective action proceeding when, after reviewing the matter with the Medical Executive Committee: (i) the Medical Executive Committee requests it to do so, or (ii) the Board determines that the Medical Executive Committee is unable or unwilling to act in a particular situation, or (iii) the matter involves NMH policy or legal compliance rather than competence or professional conduct potentially adversely affecting patient welfare. When acting under this provision, the Board of Directors shall follow procedures and afford practitioners procedural rights similar to those affording under these Bylaws.

ARTICLE VII HEARING AND APPEAL PROCEDURES

SECTION 7.1 GROUND FOR HEARING. Only the following actions constitute grounds for hearing:

- a. Action or recommendation by the Medical Executive Committee with respect to an applicant, member, or other practitioner to:
 - (1) Deny an application for membership or privileges;
 - (2) Deny an application for reappointment or for continued privileges in connection with the reappointment process, provided that a timely application for reappointment was submitted;
 - (3) Revoke, terminate, or suspend privileges;
 - (4) Revoke, terminate, or suspend membership; or
 - (5) Impose significant involuntary restrictions on the exercise of privileges by a practitioner, other than for purposes of observation and evaluation, and other than those for which these Bylaws expressly authorize action without hearing and appeal.
- b. Action by the Board to impose any of the actions outlined in the preceding subparagraph "a," when such action is contrary to a prior favorable recommendation of the Medical Executive Committee.

SECTION 7.2 REQUEST FOR HEARING.

- a. **Notice of Decision.** In all cases in which the Medical Executive Committee or the Board has taken action or made a recommendation constituting grounds for hearing, a written copy of the recommendation or written description of the action taken together with a statement of the grounds on which such recommendation or action is based shall be furnished to the Administrator and by the Administrator to the affected practitioner.

The Administrator shall advise the practitioner in the notice of his right to request a hearing under these Bylaws and shall furnish the practitioner with a summary of

his rights in a hearing or a copy of the provisions of these Bylaws describing hearing procedures and rights.

b. **Request for Hearing.** The affected practitioner shall have thirty (30) days following the mailing or delivery of such notice within which to request a hearing before the Judicial Review Committee. The request for hearing shall be by written notice to the Administrator. In addition to requesting a hearing, such notice must respond, point by point, to each finding or ground relied upon by the Medical Executive Committee in support of its action or recommendation. The response must clearly indicate in what respect, from the affected practitioner's point of view, each finding or ground of the Medical Executive Committee and the final action or recommendation itself, is in error. In the event the practitioner does not request a hearing within the time and in the manner prescribed, or in the event the notice is incomplete, and the practitioner does not furnish a complete notice within five (5) days after the Administrator points out the incompleteness, he shall be deemed to have accepted the action involved, and it shall thereupon become effective immediately.

SECTION 7.3 JUDICIAL REVIEW COMMITTEE. The Judicial Review Committee shall constitute the hearing committee of the Medical Staff.

a. **Composition.** The Judicial Review Committee shall consist of not fewer than three (3) members of the Active Staff appointed by the Administrator after consultation with the President of the Medical Staff. Consistent with the Health Care Quality Improvement Act, 42 U.S.C. § 11101 *et seq.* the Committee should not include practitioners in direct economic competition with the affected practitioner. Recognizing, however, that a literal interpretation of this phrase could result in disqualifying all or nearly all of the affected practitioner's peers, the Administrator will use discretion and avoid placing individuals on the Committee who are in **substantial** economic competition with the affected practitioner. Otherwise, and in aid of the objective of effective, qualified, and impartial peer review, the Administrator should, to the extent feasible, include on the Committee one or more members who are themselves generally familiar with the field, specialty, and subspecialty (if any) of the affected practitioner. Knowledge of the matter involved shall not preclude a member of the Active Staff from serving as a member of the Judicial Review Committee.

In the event that it is not possible to appoint a fully qualified Judicial Review Committee from the Active Staff, the Medical Executive Committee may appoint qualified practitioners from the Courtesy Staff. A majority of the Committee should be physicians, but whenever the affected practitioner is other than a physician, a reasonable effort should be made to include on the Committee a practitioner of the same licensure as the affected practitioner, even if not a member of the Active or Courtesy Staffs. Members of the Medical Executive Committee who have already considered the matter, or participated in the adverse action or recommendation, should not serve on the Judicial Review Committee. No individual who filed a request for corrective action or participated in imposing summary action shall

serve on the Committee. The Administrator, in consultation with the President, shall designate the chairman of the Committee who shall be a physician.

b. **Authority of Judicial Review Committee.** The Judicial Review Committee shall have authority to:

- (1) Establish the time, place, manner, and procedure for conducting the hearing consistent with these Bylaws;
- (2) Clarify and narrow the issues;
- (3) Hold a preliminary meeting with the parties for the purpose of clarifying issues, establishing procedures, or otherwise aiding the Committee;
- (4) Rule on the admissibility of evidence and determine the weight to be accorded to evidence which is admitted;
- (5) Request other members of the Medical Staff, other privileged practitioners, or outside experts to examine questions within their respective specialties or questions where a dispute exists between the position of the affected practitioner and the Medical Executive Committee and report to the Judicial Review Committee their opinions and the basis for those opinions;
- (6) Conduct a hearing, consider and receive evidence, and deliberate and reach a determination in the form of a final recommendation;
- (7) Direct the attendance and participation of witnesses and the submission and introduction of documentary evidence, whether or not proffered by the Medical Executive Committee or the affected practitioner; and
- (8) Take such other actions as will facilitate its business.

c. **Decision of Committee.** The decision of the Judicial Review Committee shall be the final decision or recommendation of the Medical Staff. Upon reaching a decision, the Committee shall reduce it to writing setting forth precisely the nature of the recommendation or action and the grounds on which it is based. Only Committee members who have attended substantially all parts of the hearing at which evidence has been received shall be entitled to participate in the deliberations or vote of the Committee. A quorum for the conduct of business shall require not fewer than two (2) Committee members. There shall be no voting by proxy.

SECTION 7.4 EXPANDED ROLE OF HEARING OFFICER. The Administrator may, after consultation with the President of the Medical Staff, appoint a Hearing Officer in lieu of a Judicial Review Committee or combine the role of the Committee and a hearing officer in a single individual who shall be designated as the Hearing Officer. In such a

case, the Hearing Officer may be either a practitioner or an attorney, judge or retired judge who is disinterested and, if applicable, not in economic competition with the affected practitioner either personally or as a legally representative. If a Hearing Officer is appointed, all of the duties and powers of the Judicial Review Committee and all references to the Judicial Review Committee in these Bylaws apply to the Hearing Officer.

SECTION 7.5 CLARIFICATION OF ISSUES.

a. **Outlines of Case.** At any time during the proceedings, the Judicial Review Committee may require the affected practitioner and the Medical Executive Committee to each submit an outline to the Administrator for transmittal to the Committee and to the other party setting forth, so far as is then reasonably known:

- (1) Issues which each party proposes to raise at the hearing;
- (2) Witnesses whom each party proposes to call at the hearing and the subject or subjects on which such witnesses will testify;
- (3) A description of written or documentary evidence which each party anticipates introducing as evidence at the hearing;
- (4) A short summary of what the party expects to demonstrate at the hearing in support of its position; and
- (5) The specific result or results requested from the Committee.

b. **Notice of Hearing.** If a hearing is requested on a timely basis, the affected practitioner must be given written notice not less than thirty (30) days prior to the date set for such hearing stating the time, date, and place of the hearing, the members of the Judicial Review Committee, and a list of witnesses, if any, expected to testify on behalf of the Medical Executive Committee. The list may be supplemented as more witnesses become known.

c. **Prehearing Conference.** Not less than seven (7) days prior to the scheduled commencement of the hearing, the Committee or its chairman shall meet with the parties for the purpose of conducting a pre-hearing conference to discuss possible stipulations of facts, amendments to the grounds for action or the issues in dispute, and changes in the witness or evidence list of each party. Any further procedures established by the Committee for the conduct of the hearing shall be explained at such time.

SECTION 7.6 CONDUCT OF HEARING.

a. **Principles.** The hearing shall be conducted according to the following principles:

(1) **Cross-Examination and Rebuttal.** No testimony shall be offered or submitted to the Committee by the other party or by individuals called upon for information by the Committee itself, without both the affected practitioner and the Medical Executive Committee having the opportunity to be present, to question the witness, to respond, and to rebut the evidence.

(2) **Evidence.** No evidence, testimony, or documentation shall be considered by the Committee which has not been received as evidence at a meeting at which both sides have had the opportunity to be present, except as permitted for official notice. The decision of the Committee shall be based upon the evidence.

(3) **Official Notice.** The presiding officer shall have the discretion to take official notice of any matters, either technical or scientific, related to the issues under consideration, where appropriate. Participants in the hearing shall be informed of the matters to be officially noticed, and they shall be noted in the record of the hearing. Either party shall have the opportunity to request that a matter be officially noticed or to refute the notice of matters by evidence.

(4) **Counsel.** Both the Medical Executive Committee and the affected practitioner shall have the right to be represented by counsel at the hearing. Counsel shall abide by such procedural rules as are adopted by the Committee.

(5) **Rules of Evidence.** The hearing need not be conducted according to the rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Each party shall have the right to call, examine and cross-examine witnesses, to present evidence determined to be relevant by the Committee or Hearing Officer, and to submit a written statement at the close of the hearing.

(6) **Burden of Proof.** At any hearing involving as grounds for hearing the denial of requested membership or privileges or the denial of reappointment or renewed privileges, the burden shall be upon the applicant, member, or other privileged practitioner to establish his entitlement to the requested membership or privileges. The Committee shall rule against the practitioner unless it determines that the practitioner has proved that the recommendation of the Medical Executive Committee was arbitrary, unreasonable, or not supported by any evidence. At any

hearing growing out of an action or recommendation by the Medical Executive Committee dealing with corrective action, the burden shall be upon the Medical Executive Committee to support its action and recommendation. Thereafter, the burden shall shift to the practitioner who requested the hearing to come forward with evidence in support of his position. The Committee shall rule against a practitioner unless it determines that the action or recommendation of the Medical Executive Committee was arbitrary, unreasonable, or not supported by any evidence.

(7) **Committee Members**. Members of the Judicial Review Committee are actively encouraged to take a participatory role in the proceedings, to question witnesses, to call upon witnesses for information within their possession, to direct the submission of additional evidence and documentation, to question the Medical Executive Committee and the affected practitioner, and to see that the record contains all information which the Committee considers necessary in order to reach a decision.

b. **Parties**. The parties to the hearing shall be the affected practitioner and the Medical Executive Committee. The Medical Executive Committee may designate one or more of its members to represent its position before the Judicial Review Committee or may designate an individual active in prior consideration to represent its position.

c. **Attendance**. Failure without good cause of the affected practitioner who requested the hearing to appear and proceed at the hearing shall be deemed to constitute voluntary acceptance of the action or recommendation of the Medical Executive Committee. Failure without good cause of the Medical Executive Committee or its designee to appear and proceed at such a hearing shall be deemed to constitute a withdrawal of the recommendation or action involved.

d. **Witnesses**. The Judicial Review Committee may order that witnesses be sequestered. Testimony of character witnesses and patients who can testify generally on behalf of the affected practitioner will not be considered relevant to the proceedings.

e. **Non-public Hearing**. Proceedings will be conducted in private, before the parties and their representatives, the Judicial Review Committee and the court reporter.

f. **Record**. The Committee shall maintain a record of the hearing by a court reporter or a shorthand reporter to make a record of the hearing. Either party may obtain a copy of the record upon reasonable notice and upon payment of any reasonable charges associated with the preparation thereof. The Committee may, but shall not be required to, order that oral evidence be taken only on oath or affirmation administered by an individual designated by the Committee who is entitled to administer such oaths in this state.

g. **Counsel.** The Judicial Review Committee may be represented and assisted by counsel. Such counsel may serve as hearing officer charged with conducting the hearing.

h. **Decision.** A copy of the written recommendation of the Committee, including the basis of the recommendation, shall be transmitted to the Administrator who shall promptly furnish a copy to the Board, the affected practitioner, and the Medical Executive Committee. Either the affected practitioner or the Medical Executive Committee may appeal the decision to the Board.

SECTION 7.7 LEGALLY PROTECTED INFORMATION. To the extent that evidence at hearing and the information to be provided by NMH to the practitioner and his legal counsel or experts includes individually identifiable health information protected as such under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, ("HIPAA") and the regulations issued thereunder, the Administrator and Hearing Officer may condition the furnishing of such information to the practitioner and the practitioner's counsel upon the receipt of signed confidentiality agreements from them in form satisfactory to NMH agreeing not to use or disclose such protected information except in connection with the conduct of the peer review proceedings and further agreeing to return all copies at the conclusion of the hearing and appeals process.

SECTION 7.8 ACTION BY BOARD OF DIRECTORS. When the hearing is based upon action by the Board, the hearing shall be conducted by a hearing committee appointed by the President of the Board and consisting of not fewer than three (3) individuals. At least one member of the Committee shall be a physician and, if the practitioner is other than a physician, a reasonable effort should be made to place a practitioner with the same specialty as the affected practitioner on the Committee. At least one member of the Committee shall be a member of the Board. The procedure established for hearing based upon final action and recommendation of the Medical Executive Committee shall be applicable to hearings based upon action by the Board.

SECTION 7.9 TIME LIMITS. Reasonable effort should be made to conduct the hearing within sixty (60) days following the request for hearing. However, when the request for hearing is received with respect to a member or other privileged practitioner then under summary suspension or limitation who has objected thereto, the hearing should be convened as soon as the arrangements may reasonably be made, preferably not later than thirty (30) days following the request for hearing, and all stated time limits should be shortened accordingly by the hearing committee. The decision of the hearing committee shall be rendered within ten (10) days following the close of the hearing and furnished through the Administrator to the affected practitioner, the Medical Executive Committee, and the Board.

SECTION 7.10 APPELLATE REVIEW.

a. **Appeal Procedure.** Within ten (10) days after receipt of the decision of the hearing committee, the affected practitioner or the Medical Executive Committee

(where the hearing has been held before the Judicial Review Committee), or any Director (where the hearing has been held before a hearing committee appointed by the Board) may request an appellate review before the Board. The request shall be delivered to the Administrator by written notice. The request for appeal shall also include a brief statement of the reasons for appeal. If appellate review is not requested in such period of time, the parties shall be deemed to have accepted the action involved, and it shall thereupon become final and shall be effective immediately.

b. **Time, Place, and Notice.** The Administrator shall deliver the request to the President of the Board. The Board shall promptly notify the parties of the time, place, and date for appellate review. The appellate review should not be more than thirty (30) days from the date of the request.

c. **Nature of Appellate Review.** The proceedings by the Board are in the nature of an appellate hearing based upon the record of hearing before the committee which conducted the hearing, provided that the Board may, in its sole discretion, accept additional oral or written evidence subject to the same rights of cross-examination or confrontation provided at the hearing. Each party shall have the right to present a written statement in support of its position on appeal. In its sole discretion, the Board may allow each party or representative to personally appear and make oral argument. At the conclusion of the proceedings, the Board may conduct deliberations outside the presence of the parties. The Board may affirm, modify, or reverse the decision of the hearing committee or may refer the matter to the hearing committee for further review and recommendation.

d. **Final Decision.** Within thirty (30) days after the conclusion of the proceedings before the Board, whether on appeal or not, the Board shall render a final decision in writing, including the basis for the decision, and shall deliver copies thereof by written notice to the Administrator for transmittal to the parties and to the President of the Medical Staff. The decision of the Board shall be final and shall be effective immediately.

e. **Right to One Hearing and One Appellate Review Only.** Except as otherwise provided in these Bylaws, no applicant, member or other privileged practitioner shall be entitled as a matter of right to more than one hearing on any single matter which may be the subject of a hearing without regard to whether such subject is the result of action by the Medical Executive Committee or Board or a combination of acts of such bodies, or more than the one appellate review before the Board on any single matter which may be the subject of an appeal.

SECTION 7.11 APPEAL COMMITTEE. When an appellate review by the Board of Directors has been requested, the President of the Board may appoint an Appeal Committee which shall be composed of not fewer than three (3) members of the Board who have not actively participated in the consideration of the matter involved at any previous level. Such appointment shall include designation of the chairman. Knowledge of the matter involved shall not preclude a member of the Board of Directors from serving

as a member of the Appeal Committee. In the event an Appeal Committee is appointed, it shall be empowered to hear and consider the appeal, take all action in connection with the appeal which the Board of Directors might take, and its actions and decisions on the appeal shall have the same force and effect as an action taken by the Board of Directors as a whole, and shall not be subject to further review or appeal.

SECTION 7.12 REPORTING. Following conclusion of the proceedings, the Administrator will make any required report under state or federal law, indicating any final adverse action involving the membership or privileges of the affected practitioner.

ARTICLE VIII OFFICERS OF THE MEDICAL STAFF

SECTION 8.1 QUALIFICATION. Only members of the Active Staff shall be eligible for election as officers of the Medical Staff.

SECTION 8.2 PRESIDENT. The President of the Medical Staff shall be chairman of the Medical Executive Committee; shall call and preside at all meetings of the Medical Staff and the Medical Executive Committee; shall appoint the members of each standing and special committee, other than the Medical Executive Committee; shall designate the chairman of each committee, unless otherwise provided for in these Bylaws; and be a member of each committee.

SECTION 8.3 PRESIDENT-ELECT. The President-Elect of the Medical Staff shall be a member of the Medical Executive Committee and shall perform such other duties as are assigned by the President. The President-Elect shall, in the absence of the President, assume all duties and have all authority of the President.

SECTION 8.4 IMMEDIATE PAST PRESIDENT. The Immediate Past President shall be a member of the Medical Executive Committee, shall serve as acting President in the absence of the President and the President-Elect, and shall carry out such other duties as assigned by these Bylaws.

SECTION 8.5 SECRETARY. The Secretary shall keep accurate and complete minutes of all meetings of the Medical Executive Committee and of the Medical Staff; shall send written notices of all meetings of the Medical Executive Committee and of the Medical Staff; and shall attend to all correspondence and perform such other duties as ordinarily pertain to the office of Secretary. The Secretary shall keep an accurate attendance record and submit the record of attendance to the Medical Executive Committee in advance of its annual meeting each year, for use by the Medical Executive Committee in considering reappointment recommendations. In the case of a vote, the Secretary shall determine by count the presence of a quorum.

SECTION 8.6 TREASURER. The Treasurer shall collect Medical Staff dues and shall be responsible for all moneys of the Medical Staff. He shall disburse such funds as directed by the Medical Executive Committee or, in the case of an emergency, by the President of the Staff.

SECTION 8.7 TERMS OF OFFICE. The President-Elect shall serve consecutively for a term of two (2) years as President-Elect, two (2) years as President, and two (2) years as a member of the Medical Executive Committee as Immediate Past President. The Secretary and the Treasurer shall hold office for a term of two (2) years. The term of any officer shall end upon termination of his membership on the Active Staff. In all other events, each officer shall hold office until a successor is elected.

SECTION 8.8 NOMINATION AND ELECTION. The Nominating Committee shall present to the annual meeting of the Medical Staff each odd-numbered year the nominations for the offices of Secretary, Treasurer and President-Elect. The officers to be so elected shall be elected at the annual meeting of the Medical Staff from the names presented by the Nominating Committee and any Active Staff members nominated from the floor. Election of each officer shall be subject to approval by the Board of Directors. In the event of failure of such approval, the person then holding such office shall continue in office until another person has been elected by the Medical Staff and approved by the Board.

SECTION 8.9 VACANCY; ABSENCE. In the event of a vacancy in the office of President, the President-Elect shall serve the balance of the term of the President. However, no single individual may serve more than thirty-six (36) consecutive months as President. In the event of any other vacancy in an office, the Medical Executive Committee shall fill the vacancy by election of one of its members for the balance of the unexpired term. In the absence of the President and the President-Elect, or pending appointment to fill vacancies in said offices, the following persons shall have authority to act as President in the following succession:

Immediate Past President
Secretary
Treasurer

SECTION 8.10 REMOVAL FROM OFFICE. The Medical Staff may remove from office any officer of the Medical Staff, pursuant to the following procedure:

- a. Any officer of the Medical Staff may be removed under conditions which include, but are not necessarily limited to the following:
 - (1) Failure to maintain membership in the Active Staff category.
 - (2) Failure to perform the duties of office in a satisfactory and consistent manner.
 - (3) A change in principal affiliation or employment during a term of office that results in affiliation or employment with a group or entity that is primarily affiliated, associated, or identified with a competing hospital or health system.

- b. Removal of an officer from the Medical Staff may be initiated by a motion duly made and seconded at any regular or special meeting of the Medical Staff, which motion shall not be further acted upon at that meeting.
- c. Such motion shall be acted upon at a subsequent regular or special meeting of the Medical Staff, following written notice given to each member of the Active Staff at least two (2) weeks prior to such meeting indicating that a vote will be called for on the motion.
- d. An officer of the Medical Staff may be removed from office only upon the affirmative vote of a majority of all of the members of the Active Staff and upon confirmation of such removal by the Board of Directors.
- e. An officer of the Medical Staff may be removed from office by the Board of Directors on its own motion.
- f. The Active Staff may, at any meeting, accept the resignation of any officer.

ARTICLE IX CLINICAL DEPARTMENTS

SECTION 9.1 ORGANIZATION. The Medical Staff shall be divided into the following departments:

- a. Medicine
- b. Maternal/Child
- c. Surgery

SECTION 9.2 ASSIGNMENT TO DEPARTMENTS. Members shall be assigned to one of the departments and to a departmental section by the Medical Executive Committee of the Medical Staff.

SECTION 9.3 APPOINTMENT OF CHAIRMAN OF DEPARTMENTS. Each department shall be headed by a chairman of the department, (the "Department Chair"), who shall serve for three (3) years as Chair and may be appointed for one (1) successive three-year term. The Department Chair must be a member of the Active Staff, and shall be responsible to the Medical Executive Committee for the general supervision of the department. A Department Chair-Designee shall be appointed for a three-year term; one year before he is to assume responsibilities as Department Chair, he will serve on the Credentials Committee, followed by three (3) years as Chair. Appointments of Department Chairmen will be staggered so that only one new Department Chair takes office per year; beginning with Internal Medicine, followed by Maternal/Child, then Surgery. The Medical Executive Committee recommends Department Chairmen (who have been identified by the Nominating Committee) to the Board of Directors which approves all appointments. All Department Chairmen must be certified by an appropriate

specialty board or be determined, through the privilege delineation process, to be of comparable competence.

SECTION 9.4 RESPONSIBILITIES OF THE DEPARTMENT CHAIR. The Department Chair, whether personally, through a designee, or through the Department committee structure, is responsible to:

- a. Serve on and faithfully attend meetings of the Medical Executive Committee;
- b. Oversee all departmental operations, and the operations of sections within the department, and be accountable to the Medical Executive Committee, the Administrator and the Board for the operation of the department. This responsibility includes but is not limited to overseeing the processes related to focused and ongoing professional practice evaluations and related proctoring and other mechanisms and tools employed to evaluate the competence of practitioners in the department;
- c. Appoint Section Chairs within the Department, subject to the approval of the Medical Executive Committee.
- d. Assure that all functions outlined in the following Section 9.5 are performed by the department;
- e. Establish and recommend to the Medical Staff the criteria for the granting of clinical privileges that are relevant to the care provided by the Department and make recommendations for appointment and reappointment for each member of the Department based upon such criteria to the Credentials Committee, and the Medical Executive Committee. This process includes the implementation of a monitoring process for FPPE of initial appointees (or ongoing appointees requesting new or expanded privileges) that ensures proof of current competence in the clinical privileges applied for by the appointee;
- f. Provide continuing surveillance of the professional performance of all individuals in the department who have delineated clinical privileges, which includes, but is not limited to the review of information regarding current clinical competence of practitioners in the department applying for reappointment or at any time that questions regarding current competence arise. Cooperate with the Vice President of Performance Improvement and the Chief of Staff conduct a focused professional performance evaluation of the practitioner;
- g. Coordinate and integrate the department into the primary functions of NMH and interdepartmental and intradepartmental services;
- h. Recommend the granting of temporary privileges if required under these Bylaws, and thereafter monitor any practitioner exercising temporary privileges;

- i. Assess and recommend to the relevant NMH authority off-site resources for needed patient care, treatment, and services not provided by the department or NMH;
- j. Develop and implement policies and procedures to guide and support the provision of care, treatment, and services in the department and make certain that such policies and procedures are kept current;
- k. Make recommendations for a sufficient number of qualified and competent persons to provide care, treatment and services;
- l. Determine the qualifications and competence of department personnel who are not licensed independent practitioners who provide patient care, treatment and services;
- m. Continuously assess and improve the quality of care, treatment and services in the department;
- n. Maintain quality control programs in the department as appropriate;
- o. Plan for the orientation and education of all persons in the Department;
- p. Designate members of the Department to supervise and observe practitioners during FPPE, OPPE or any other period or situation when observation and report is requested;
- q. Appoint all Department committees and designate their chairmen;
- r. Call and preside at all meetings of the Department and establish and publish the agenda according to the custom of the Department;
- s. Advise NMH administration as to space and other resource needs of the Department, e.g., the procurement of drugs, supplies, instruments, and equipment which affect the Department; and
- t. Discharge such additional responsibilities as may be imposed from time to time.

SECTION 9.5 FUNCTIONS OF DEPARTMENT. Each Department shall, consistent with the Bylaws, Rules and Regulations, and other policies of the Medical Staff, and consistent with the Articles of Incorporation, Bylaws and other policies of NMH:

- a. Develop, subject to the approval of the Medical Executive Committee, policies and protocols to assure medically appropriate care of patients served by the department;
- b. Develop, subject to approval of the Education Committee, programs for the continuing education of its members;

- c. Provide or arrange for continuing surveillance of the professional performance of all individuals in the Department who have delineated clinical privileges;
- d. Assess and recommend to NMH President or his designee, off-site sources for needed patient care, treatment and services that are not provided by the Department or NMH; and
- e. Make recommendations to assure a sufficient number of qualified and competent persons to provide care, treatment, and services; including the determination of the qualifications and competence of Department personnel who are not licensed independent practitioners.

SECTION 9.6 CHAIRMAN; REMOVAL. The Chair of any Department may be removed only upon the affirmative vote of a majority of all the members of the Medical Executive Committee at a meeting at which a quorum is present and upon confirmation of such removal by the Board of Directors.

SECTION 9.7 MEETINGS. Each Department shall meet according to the schedule established by the Department Chair. Those members of the Active Staff membership of the Department present at the meeting shall constitute a quorum for the transaction of business.

SECTION 9.8 SECTIONS. Sections are sub-units of Departments grouped around common specialties or subspecialties. Sections may assist the Department Chair with matters within their specialty or subspecialty but are subject to general Department supervision, performance improvement and other peer review authority. Sections are headed by a Chair who is appointed by the Department Chair, subject to the approval of the Medical Executive Committee, and who reports to the Department Chair. Sections shall meet when deemed necessary by the Section Chair. The Department Chair is responsible for determining how to involve the Section in activities of the Department. If the Section meets monthly, the Department Chair may delegate responsibility for performance improvement to the Section (subject to Department review); otherwise the work will be reviewed by the Department. Section members are also members of their Departments and shall attend meetings, vote and discharge Department responsibilities in accordance with their membership category. Sections may be determined from time to time by the Medical Executive Committee.

ARTICLE X COMMITTEES OF THE MEDICAL STAFF

SECTION 10.1 APPOINTMENT; CHAIRMEN. The President of the Medical Staff shall appoint members to each committee other than the Medical Executive Committee, except to the extent that these Bylaws otherwise prescribe the membership of a committee, and shall appoint the chairman of each committee other than the Medical Executive Committee. Committee chairmen shall be appointed for two (2) year terms, such term to be concurrent with the term of the appointing President and may be reappointed for

successive renewal terms by future Presidents without limitation. Committee members appointed by the President shall be selected, to the extent practical, so as to be representative of each department. The President shall be a nonvoting *ex officio* member of each committee (other than the Medical Executive Committee, on which the President is a voting member), authorized to attend and participate at all committee meetings.

SECTION 10.2 VOTE. Medical Staff members who serve on committees shall be voting members unless specifically designated as a nonvoting member in the terms of the appointment or in these Bylaws.

SECTION 10.3 RECOMMENDATIONS, MINUTES, AND RESPONSIBILITY TO EXECUTIVE COMMITTEE.

- a. **Minutes of Meetings.** Minutes shall be kept for all meetings of committees of the Medical Staff. Included in the minutes shall be the names of each committee member and each other person in attendance. Minutes of all meetings shall be submitted to the Medical Executive Committee for approval as information or requests for action.
- b. **Recommendations.** Recommendations stemming from committee meetings and discussion shall be included in the minutes and sent to the Medical Executive Committee for action. In making recommendations, committees shall thoroughly investigate the point in question. The committee shall then submit its recommended course of action to the Medical Executive Committee for consideration.
- c. **Responsibility to Medical Executive Committee.** Each committee, other than the Medical Executive Committee and any Judicial Review Committee appointed under these Bylaws, shall be responsible to, and shall report to, the Medical Executive Committee.
- d. **Subcommittees.** Committees of the Medical Staff may form standing and special subcommittees to accomplish their functions. The establishment of standing subcommittees shall require Medical Executive Committee approval.
- e. **Organizational Plan.** Provided that all required functions are clearly delegated and that authority and responsibility are clearly established, the Medical Executive Committee may establish or discontinue committees (other than the Medical Executive Committee) and realign committees and committee functions without amending these Medical Staff Bylaws.
- f. **Meetings.** Committees shall meet according to the call of the respective chairman or according to schedules adopted by each committee. Unless otherwise specified, committees shall meet as needed to accomplish their business.

- g. **Quorum.** Unless otherwise stated in these Bylaws, a quorum shall consist of those committee members present.
- h. **Scope of Responsibility.** Each committee exercises hospital-wide authority in its area of responsibility.

SECTION 10.4 COMMITTEE COMPOSITION AND DUTIES.

- a. **Medical Executive Committee.**

(1) The Medical Executive Committee shall be the executive body of the Medical Staff with the power and authority to act for the Medical Staff between general meetings. The total membership of the Medical Executive Committee shall be not less than seventeen (17) and not more than twenty-three (23); provided, that the Medical Executive Committee may, but need not, fill vacancies occurring on the Medical Executive Committee by appointing additional members to fill the vacancies until the next annual meeting of the Medical Staff.

(2) The members of the Medical Executive Committee shall be the President, the President-Elect, and the immediate past president of the Medical Staff; the Department Chairs of Medicine, Maternal/Child, and Surgery; the Section Chairs of Radiology, Pathology, Anesthesiology, Emergency Services and Hospitalist Services if not otherwise serving on the Committee as an officer, Department Chair or an at-large member; and nine (9) additional at-large members of the Active Staff. In addition, the NMH Administrator shall be an *ex officio* member without vote. The at-large members shall serve a three (3) year term, with at least three (3) of the nine (9) positions being filled each year. An at-large member may not serve more than two (2) consecutive three (3) year terms as an at-large member. The Nominating Committee shall present to the annual meeting of the Medical Staff at least one nomination for each vacancy in the at-large positions on the Medical Staff, and members shall be elected from among such nominations and any additional nominations made from the floor. The Medical Executive Committee shall be comprised of a majority of physicians, but may include other licensed independent practitioners.

(3) The Medical Executive Committee shall coordinate the activities and general policies of the various departments, act for the Staff as a whole under such limitations as may be imposed by the Active Staff, and receive and act upon the reports of all committees of the Medical Staff.

(4) The Medical Executive Committee shall formulate long-term policies leading to improvements in quality of medical practice, the maintenance of high standards for the care of patients and the betterment of equipment and the physical plant. The Medical Executive Committee shall have the power to supervise the Medical Staff in the care of all patients. It shall insist that

the Active Staff carry out their duties in the proper training of the House Staff.

(5) The Medical Executive Committee shall approve or reject recommendations of the Credentials Committee concerning applications for Medical Staff membership and/or clinical privileges.

(6) The Medical Executive Committee shall biennially review individual Medical Staff membership and clinical privileges, considering the recommendations of the Credentials Committee and the department and shall make recommendations to the Board of Directors for reappointment to the Medical Staff, renewal of clinical privileges, or for modification, reclassification, suspension, termination or other change in membership or privileges of each Medical Staff member and privileged practitioner. The Medical Executive Committee may request evaluation of a practitioner if there is doubt about the practitioner's ability to perform current or requested privileges. The Medical Executive Committee shall also assign members to staff categories and departments.

(7) The Medical Executive Committee shall act as a disciplinary body under these Bylaws, shall investigate reported misconduct, illness or incapacity of Staff members, and take necessary action. It shall be empowered, subject to hearing and appeal procedures provided in these Bylaws, to restrict privileges, require consultation or withdraw privileges entirely when, after careful investigation, a majority of all members of the Committee concur and such action is approved by the Board of Directors. The Medical Executive Committee may take final action as provided under these Bylaws.

(8) The Medical Executive Committee shall meet at least once per month and maintain a permanent record of its proceedings and actions. Presence of one-fourth (1/4) of the members of the Medical Executive Committee at any meeting shall constitute a quorum.

(9) Any member of the Active Staff may attend any meeting of the Medical Executive Committee, but this shall not be construed as requiring that notice of meetings be given by the Medical Executive Committee to Staff members. Others may attend Medical Executive Committee meetings only by invitation. The Medical Executive Committee may, in its sole discretion, exclude noncommittee members from its meetings at any time.

(10) All members of the Medical Executive Committee (other than those serving by virtue of their election as Officers) may be removed only upon the affirmative vote of a majority of all the members of the Medical Executive Committee at a meeting at which a quorum is present and upon confirmation of such removal by the Board of Directors.

b. **Credentials Committee.**

(1) The Credentials Committee shall consist of eight (8) or more members of the Active Staff including the President, the President-Elect and the immediate Past President, all Department Chairs, and Chairs-Designee. All other members shall be appointed by the President of the Medical Staff. It will meet as needed to discharge its responsibilities but not less frequently than quarterly.

(2) The Credentials Committee shall be the committee with primary responsibility for formulating recommendations to the Medical Executive Committee on the subjects of membership, category of membership, continuing eligibility for membership, initial appointment or reappointment to the Staff, clinical privileges, Department assignment, changes in category or staff appointment, and conditions and qualifications for membership. It shall review recommendations of the Departments Chairs regarding the competence of applicants assessed through FPPE, and shall report its recommendations regarding the same to the Medical Executive Committee. It shall consider recommendations and reports received by it from the various departments and other committees, but it shall investigate each application itself and formulate and transmit its recommendation to the Medical Executive Committee.

c. **Concurrent Review Committee.** The Concurrent Review Committee shall meet no less frequently than quarterly. It shall:

(1) Perform the utilization review function for NMH in accordance with the Utilization Review Plan;

(2) Review compliance with the guidelines and Review Plan of the Peer Review Organization such as those relating to disallowed admissions and lengths of stay and other Medicare reimbursement and certification requirements;

(3) Act as NMH's liaison with the Quality Improvement Review Organization ("QIRO") providing current information to NMH and Medical Staff regarding QIRO guidelines, rules, procedures and policies and furnishing suggestions for change and other information from NMH and Medical Staff to the QIRO;

(4) Review and explain the requirements and guidelines of other third-party payors and other state and federal agencies as they affect patient care practices at NMH;

(5) Approve all modifications in the form and format of medical records and new procedures and forms for medical records;

(6) Review and evaluate data processing systems for medical records and other uses and applications of data processing affecting the Medical Staff;

(7) Exercise responsibility for maintaining medical records at the required level of completeness. Currently maintained records shall be reviewed to assure that they properly describe the condition and progress of the patient, therapy provided and results therefrom and the identification of responsibility for all actions taken; and

(8) Review documentation from the Medical Records Department to determine that required legal signatures have been obtained on all permits regarding surgical procedures.

d. **Performance Improvement Committee.** The Performance Improvement Committee will meet not less frequently than quarterly. It shall operate under the NMH's Performance Improvement Plan and shall exercise such responsibility and authority as provided therein. The Committee shall review and evaluate the plan and recommend any indicated revisions at least annually.

e. **Nominating Committee.** The Nominating Committee shall consist of eight (8) members including the President, the President-Elect and the two (2) most recent Past Presidents of the Medical Staff, if available and willing to serve, and the remaining members appointed by the President. The Nominating Committee shall present nominations of candidates for offices and for the Medical Executive Committee to be elected at the annual meeting. It will meet as needed to perform its duties.

f. **Other Committee Functions; Non-Standing Committees.** The Executive, Credentials, Concurrent Review, Performance Improvement and Nominating Committees shall be the only permanent standing committees of the Medical Staff. All other Medical Staff functions which require committee activity shall be assigned to one of the permanent standing committees, or to one or more other committees or subcommittees established from time to time, by the President of the Medical Staff. The President may form, combine, disband or modify such other committees or subcommittees, and assign or reassign duties to such committees or subcommittees, as the President shall see fit to assure that all necessary Medical Staff functions are timely carried out. All committees shall report to the Medical Executive Committee on a regular basis; shall keep the Medical Executive Committee currently informed of their activities; shall forward to the Medical Executive Committee, all issues or concerns coming before the Committee which affect the Medical Staff; and shall make recommendations to the Medical Executive Committee on matters which may require action.

In addition to such other necessary duties as may be identified, the Medical Staff shall carry out each of the following functions:

(1) **Cancer and Nuclear Medicine.** The committee responsible for this function will meet at least quarterly. The committee shall review NMH procedures and develop recommendations designed to improve the availability to patients of consultative services in all disciplines. The committee shall develop and present educational programs, conferences, and clinical activities dealing with the entire spectrum of cancer. The membership of the committee should include Board-certified representatives from all medical specialties involved in the care of the cancer patient, within the limits of those disciplines available to the institution, including, but not limited to, representatives from specialties of Surgery, Internal Medicine, Gynecology, Pediatrics, Diagnostic and Therapeutic Radiology, Pathology, Nuclear Medicine, and Family Practice. The committee shall also include members from the NMH Administration, Nursing Service, Social Service, Rehabilitation, and Cancer Registry. The committee will perform an audit role regarding patient care either directly or by review of audit data. Activities of the Tumor Registry will be under supervision of the committee. The committee will perform nuclear medicine and radioisotope review.

(2) **Medical Administration.** The committee responsible for Medical Administration shall be primarily responsible for studying and formulating recommendations to the Medical Executive Committee dealing broadly with organizational functions of the Medical Staff. It shall continuously evaluate the adequacy of the Medical Staff Bylaws and Rules and Regulations (the Bylaws shall be reviewed at least once every two years) and recommend changes as needed. It shall develop and maintain an effective Disaster Plan in accordance with requirements of the Joint Commission on Accreditation of Health Care Organizations. It shall currently evaluate and periodically suggest revisions to the Plan, as needed, and shall take action to require that necessary drills be held. It will meet as needed.

(3) **Education.** The committee responsible for Education will meet as needed. It shall be responsible for medical education at NMH, including House Staff and student coordination, graduate medical education, patient education, and research coordination, including research and human experimentation not under the jurisdiction of the Institutional Review Board. It shall act as an advisory committee in the selection of House Staff to outline courses of instruction for them and to assist the Administration in the manner of governance and discipline of the House Staff. The committee shall oversee all programs for continuing education of the Medical Staff. All educational and research programs of the Medical Staff and all research programs which utilize patients or patient medical records must be approved in advance by the committee.

(4) **Pharmacy and Therapeutics**. The committee responsible for pharmacy and therapeutics will meet as needed. It shall conduct the following activities:

(a) Recommend or assist in the formulation of policies regarding the evaluation, selection, and therapeutic/prophylactic use of drugs at NMH;

(b) Assist in the development and offering of programs designed to meet the needs of the professional staff (physicians, nurses, pharmacists, and other health care personnel) for complete, current knowledge on matters related to drugs and drug use;

(c) Serve in an advisory capacity to the Medical Staff and to NMH's pharmacist on matters pertaining to the use of drugs; and

(d) Develop a formulary of drugs accepted for use at NMH. The selection of items to be included in the formulary will be based upon objective evaluation of their therapeutic merits, safety, and costs.

(5) **Infection Control**. The committee responsible for infections shall conduct surveillance and take actions to prevent and control nosocomial infection and recommend policies and procedures relating to control of such infection; for implementation of approved policies and procedures and for supervision of the Epidemiology function; and shall review and analyze actual nosocomial infections and establish preventive and corrective programs.

(6) **Mortality Review**. The committee shall be responsible for reviewing all hospital deaths and classifying them according to medical, nursing, and hospital practice. The committee will meet as needed and will submit its findings and recommendations to the Medical Executive Committee.

ARTICLE XI MEETINGS OF THE STAFF

SECTION 11.1 ANNUAL AND REGULAR MEETINGS. The annual business meeting of the Medical Staff shall be on a date not later than December of each year to be established by the President. At this meeting, the retiring officers and committees shall make such reports as may be desirable, and officers for the ensuing year shall be elected. Other regular meetings of the Active Staff shall be held at times to be determined by the President.

SECTION 11.2 SPECIAL MEETINGS. Special meetings of the Active Staff may be called at any time by the President or the Medical Executive Committee and must be called at the written request of twenty-five (25) members.

SECTION 11.3 QUORUM. Ten percent (10%) of the total membership of the Active Staff shall constitute a quorum.

SECTION 11.4 ALTERNATIVE METHODS OF MEETING AND VOTING. Business to be conducted by the Active Staff, including the annual or other meetings, amendments to these Bylaws, election of officers, and any other matters requiring a vote, may upon the approval of the Medical Executive Committee, be conducted by mail notice and mail ballot, electronic mail, or other modern and reliable means of communication. The Medical Executive Committee shall establish procedures to provide reasonable assurance that all members of the Active Staff receive reasonable notice thereof and opportunity to vote. A majority of all valid votes received shall constitute the action of the staff.

ARTICLE XII RULES AND REGULATIONS, POLICIES AND PROCEDURES

The Medical Staff shall adopt such rules and regulations and policies and procedures, as may be necessary for the proper conduct of its work. Subject to the approval of the Board of Directors, rules and regulations may be adopted or amended without previous notice upon approval of the Medical Executive Committee. Policies and procedures may be adopted or amended, without previous notice, strictly upon approval of the Medical Executive Committee.

ARTICLE XIII PROCTORS; SUPERVISORS

From time to time these Bylaws, the Rules and Regulations or the Bylaws or policies of NMH may require or permit that an applicant, member, privileged practitioner, person holding temporary privileges, or other, be supervised or proctored by a committee, officer or other individual. The purpose of all such monitoring and supervising is to facilitate the work of the Medical Staff and the conduct of peer review, not to provide or enhance the quality of care to any individual patient. Accordingly, acceptance and discharge of monitoring and supervisory activity shall not imply a relationship or duty to individual patients.

ARTICLE XIV AMENDMENTS

Subject to the approval of the Board of Directors, these Medical Staff Bylaws may be amended upon receiving the affirmative vote of a majority of the Active Staff voting, provided that reasonable efforts have been made to assure that written notice of the meeting or vote and of the proposed amendment or amendments has been furnished to each member of the Active Staff at least two (2) weeks before the date of such meeting. Notice may be sent individually or posted or published in a manner designed to come to the attention of each member. Members of the Medical Staff will be provided notice of any significant changes in the Bylaws, Rules and Regulations and Policies.

**ARTICLE XV
RULES OF ORDER; NOTICES**

All meetings of the Staff, departments, sections and committees, shall be governed by the President or Chair thereof, who shall have authority to direct all conduct and all proceedings utilizing his reasonable judgment, which shall be guided by the interest of serving the goals and purposes of these Bylaws, the Medical Staff and NMH, consistent with common notions of reasonable business conduct. Robert's Rules of Order or other formal rules of parliamentary procedure shall not apply.

Unless otherwise specifically provided in these Medical Staff Bylaws, any notice to any member of the Medical Staff, an applicant for membership or clinical privileges, or a practitioner contesting termination of his Medical Staff membership or privileges, shall be deemed effective when mailed to such person at his last address reflected on the Medical Staff records.

**ARTICLE XVI
ADOPTION AND EFFECTIVENESS OF
MEDICAL STAFF BYLAWS AND AMENDMENTS**

These Medical Staff Bylaws shall take effect December 15, 2016.

Approved By:

Medical Staff:	November 30, 2016
Board of Directors:	December 15, 2016