MEDICAL STAFF FAIR HEARING PLAN

MEMORIAL HOSPITAL OF SOUTH BEND

SOUTH BEND, INDIANA

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PREAMBLE

The Board of Trustees, Medical Staff and any committees thereof, in order to conduct professional Peer Review activity, hereby constitute themselves as peer review and professional review committees as defined by the Indiana Peer Review Act and the Health Care Quality Improvement Act of 1986. Such committees hereby claim all privileges and immunities afforded to them by said federal and state statues. The purpose of this Fair Hearing Plan ("Plan") is to provide a mechanism through which a Fair Hearing and Appeal might be provided to all professional health care providers having Privileges or applying for Privileges at the Hospital. This Plan is intended to comply with the Health Care Quality Improvement Act of 1986 and the Indiana Peer Review Act. As such, any action taken pursuant to this Plan shall be in the reasonable belief that such action is in the furtherance of quality health care (including the provision of care in a manner that is not disruptive to the delivery of quality medical care in the Hospital), and that any action taken pursuant to this Plan shall be only after a reasonable effort has been made to obtain the true facts of the matter, after adequate notice and hearing procedures are afforded to any professional health care provider involved, and only in the reasonable belief that the action is warranted by the facts known after a reasonable effort has been made to obtain the facts. Many of the time frames set forth in this Plan are prescribed by the Health Care Quality Improvement Act of 1986 and are designed to afford the Practitioner with adequate time to prepare for his Hearing and Appeal, if necessary. The Medical Executive Committee and Hospital will make every reasonable attempt to shorten any of the stated time frames if the Practitioner requests a shorter time frame and waives his rights to the time frames set forth in the Plan.

DEFINITIONS

The following definitions apply to the provisions of this Fair Hearing Plan.

1. Appellate Review Body means the group designated under this Plan to hear a request for Appellate Review properly filed and pursued by a Practitioner.

2. Hearing Committee means the Committee appointed under this Plan to hear a request for an evidentiary Hearing properly filed and pursued by a Practitioner.

3. Parties mean the Practitioner who requested the Hearing or Appellate Review and the body or bodies upon whose Adverse Action or Recommendation, a Hearing or Appellate Review request is predicated.

4. Practitioner means, in this Fair Hearing Plan only, the Physician, Dentist, or Podiatrist Applicant or Physician, Dentist, or Podiatrist Member or Privilege holder of the Medical Staff against whom Adverse Action has been Recommended by the MEC or taken as an Action by the Board. The masculine gender is used to refer to Practitioner throughout this Fair Hearing Plan for ease in presentation rather than using a more awkward form showing applicability to both sexes. No other purpose is intended.

5. Special Notice means written notification sent by certified or registered mail, return receipt requested.

6. Board or Board of Trustees shall mean the Board of Trustees of Memorial Hospital of South Bend, Inc.

7. Day refers to a calendar day which includes all working days, weekend days and legal holidays. If a due day falls on a weekend day or a legal holiday, the due day will become the next calendar day following the weekend day or legal holiday.

8. MEC means Medical Executive Committee which is composed of the President, Vice-President, Secretary/Treasurer, and Chiefs of the clinical Departments of the Medical Staff as delineated in the Medical Staff Bylaws.

PART ONE. CORRECTIVE ACTION PROCEDURES

1.1 The process and procedure for Routine Corrective Action, Summary Suspension and Automatic Suspension are delineated in the Medical Staff Bylaws

PART TWO. INITIATION OF HEARING

2.1 TRIGGERING EVENTS

2.1-1 ACTIONS AND RECOMMENDATIONS

The following Actions or Recommendations, if deemed Adverse under Section 2.1-2 below, entitle the Practitioner to a Hearing upon timely and proper request:

A. Denial of Medical Staff Membership

B. Denial of reappointment as a Member of the Medical Staff

C. Involuntary reduction or involuntary change in Medical Staff category status

D. Suspension of Medical Staff Membership

E. Revocation of Medical Staff Membership

F. Denial of requested Clinical Privileges, excluding Temporary Privileges (unless such denial of Temporary Privileges acts as a denial of an application for Membership)

G. Reduction in Clinical Privileges for a period longer than fourteen (14) days

H. Suspension of Clinical Privileges for a period longer than fourteen (14) days

I. Revocation of Clinical Privileges

J. Restriction of Clinical Privileges by requiring that a Practitioner obtain special consultation or permission to perform certain procedures, excluding probation or monitoring incidental to newly granted Privileges

K. Special limitation of the right to admit patients not related to standard administrative or Medical Staff policies

L. Individual application of, or individual changes in, mandatory consultation requirements

M. Denial of requested Department affiliation

N. Restriction of requested Clinical Privileges

O. Denial of requested appointment to or advancement in Staff category

2.1-2 WHEN DEEMED ADVERSE

An Action or Recommendation listed above is Adverse only when it pertains to the competence or professional conduct of a Practitioner and it has been:

A. Recommended by the Medical Executive Committee; or

B. taken as an Action by the Board under circumstances where no prior right to a Hearing existed.

2.1-3 WHEN DEEMED NON-ADVERSE

A Recommendation or Action listed above is not deemed to be Adverse when the restriction, reduction or suspension of Clinical Privileges is for a period of no longer than fourteen (14) days during which an investigation is being conducted to determine the need for a professional review action. Furthermore, letters of reprimand or warning, requirements of proctoring or consultations (if not taken by the MEC or Board as provided for in Section 2.1-1.L.), requirements of further continuing medical education or training, the imposition of terms of probation, which do not prevent a Practitioner from exercising his Privileges, or any Action or Recommendation that is not based on the competence or professional conduct of the Practitioner shall not constitute Adverse Action. Probationary matters, admonishments, reprimands, warnings, and Actions or Recommendations based on failure to meet minimum criteria or requirements do not constitute Adverse Action.

2.2 NOTICE OF ADVERSE ACTION

The President of the Medical Staff or the Hospital President or designee, depending on whether the matter that triggers Hearing rights is an Adverse Recommendation from the MEC or an Adverse Action taken by the Board, promptly informs the Practitioner by Special Notice of the Action or Recommendation. The Special Notice shall:

2.2-1 State the Action or Recommendation proposed to be taken;

2.2-2 State the reason for the proposed Action or Recommendation;

2.2-3 State the Practitioner has the right to request a Hearing on the proposed Action or Recommendation;

2.2-4 State that the Practitioner has thirty (30) days after service of the Notice within which to submit a request for a Hearing and that the request must be delivered to the Hospital President or designee either in person or by certified or registered mail;

2.2-5 Provide the Practitioner with a summary of his rights in the Hearing, and inform the Practitioner of the right to be represented by an attorney at the Hearing;

2.2-6 State that failure to request a Hearing within the specified time period and in the proper manner constitutes a waiver of rights to a Hearing and to an Appellate Review on the matter that is the subject of the Notice;

2.2-7 State that any higher authority required or permitted under this Plan to act on the matter following a waiver is not bound by the Adverse Recommendation or Action that the Practitioner has accepted by virtue of the waiver, but may take any Action, whether more or less severe, it deems warranted by the circumstances; and

2.2-8 State that upon receipt of a Hearing request from the Practitioner, the Practitioner will receive Special Notice of the date, time and place of the Hearing, which date shall not be less than thirty (30) days after such Notice and such Notice shall include a list of the witnesses expected to testify at the Hearing on behalf of the Party making the Adverse Recommendation or Action.

2.3 WAIVER BY FAILURE TO REQUEST A HEARING

A Practitioner who fails to request a Hearing within the time and in the manner specified waives all right to any Hearing or any Appellate Review to which the Practitioner might otherwise have been entitled. Such waiver applies only to the matter that formed the basis for the Adverse Recommendation or Action triggering the Special Notice. The effect of a waiver is as follows:

2.3-1 AFTER ADVERSE ACTION BY THE BOARD

A waiver constitutes acceptance of the Board Action, which then becomes the final decision and Action of the Board. The Hospital President or designee promptly informs the Practitioner by Special Notice of the final decision and Action of the Board. The Medical Staff President is also notified

2.3-2 AFTER ADVERSE RECOMMENDATION BY THE MEDICAL EXECUTIVE COMMITTEE

A waiver constitutes acceptance of the Adverse Recommendation from the MEC, which then becomes and remains effective pending the decision of the Board. The Board considers the Adverse Recommendation as soon as practicable following the waiver. Its Action has the following effect:

A. If Board is in Accord with MEC Recommendation

If the Board Action accords in all respects with the MEC Recommendation, it then becomes effective as the decision of the Board, and the Hospital President or designee promptly informs the Practitioner by Special Notice of the Board Action. The Medical Staff President is also notified.

B. If Board Changes MEC Recommendation

If, on the basis of the same information and material considered by the MEC in formulating its Recommendation, the Board proposes Action on any such Recommendation which represents a substantive change from the MEC Recommendation, the matter will be submitted to a joint conference as provided in Section 7.10, for review and recommendation before the Board takes final Action. The Board Action after receiving the joint conference recommendation becomes effective as its final decision, and the Hospital President or designee promptly informs the Practitioner by Special Notice of the Board Action. The Medical Staff President is also notified.

2.4 ADDITIONAL INFORMATION OBTAINED FOLLOWING WAIVER

If the source of the additional information referred to in this Section is the Practitioner or an individual or group functioning, directly or indirectly, on that individual's behalf, the provisions of this Section shall not apply unless it is demonstrated to the satisfaction of the Board that the information was not reasonably discoverable at the time for presentation to and consideration by the party taking the initial Adverse Action or making the initial Adverse Recommendation or by the Hearing Committee if the Practitioner initially waived an Appellate Review.

When, in considering an Adverse MEC Recommendation that was transmitted to it under Section 2.3-2 above, the Board acquires or is informed of additional relevant information not available to or considered by the MEC, it refers the matter back to the MEC for reconsideration, specifying a date by which such reconsideration shall be accomplished. The Hospital President or designee promptly informs the Practitioner by Special Notice of the referral for MEC reconsideration. The Medical Staff President is also notified.

2.4-1 MEC FOLLOW-UP RECOMMENDATION ADVERSE BUT UNCHANGED

If the MEC Recommendation following reconsideration is unchanged, the Hospital President or designee promptly informs the Practitioner by Special Notice, and the Board acts on the matter, with the same effect and with the same Notice as provided in Section 2.3-2.

2.4-2 MEC FOLLOW-UP RECOMMENDATION ADVERSE BUT CHANGED

If the MEC Recommendation following reconsideration is still Adverse, as defined in Section 2.1 above, but was changed in substance based on the new information, it is considered a new Adverse Recommendation and triggers new Hearing rights. The Hospital President or designee promptly informs the Practitioner by Special Notice of the changed Recommendation that followed reconsideration which voids and replaces the original Recommendation. This Special Notice also contains the material detailed in Section 2.2 above.

2.4-3 MEC FOLLOW-UP RECOMMENDATION NO LONGER ADVERSE

A MEC Recommendation which is no longer Adverse following reconsideration is immediately forwarded to the Board by the Hospital President or designee. The Hospital President or designee promptly informs the Practitioner by Special Notice of the MEC Recommendation following reconsideration. The effect of subsequent Board Action is as follows:

A. Board Favorable

Favorable Board Action on a MEC Recommendation which is no longer Adverse becomes effective as the Board's final decision. The Hospital President or designee promptly informs the Practitioner by Special Notice of the Board Action. The Medical Staff President is also informed.

B. Board Adverse

If the Board proposes Action on any such Recommendation which represents a substantive change from the MEC Recommendation, the matter is submitted to a joint conference as provided in Section 7.10, for review and recommendation before the Board takes final Action. Favorable Board Action after receiving the joint conference recommendation becomes effective as the Board's final decision and the Hospital President or designee promptly informs the Practitioner by Special Notice of the Board Action. Adverse Board Action after receiving the joint conference recommendation is deemed a new Adverse Action under Section 2.1 and the matter proceeds as such with Notice as specified in Section 2.2. The Medical Staff President is also informed.

PART THREE. HEARING PREREQUISITES

3.1 NOTICE OF TIME AND PLACE FOR HEARING

Upon receipt of a Practitioner's timely and proper request for a Hearing, the Hospital President promptly delivers such request to the Medical Staff President or Chairman of the Board, depending on whose Recommendation or Action prompted the Hearing request. Within ten (10) days after receiving such request, the Medical Staff President or Chairman of the Board, as appropriate, is to initiate the necessary steps to schedule and make arrangements for a Hearing. At least thirty (30) days prior to the Hearing, the Medical Staff President or Chairman of the

Board, as appropriate, sends the Practitioner Special Notice of the time, place and date of the Hearing, and a list of the witnesses expected to testify at the Hearing. The list of witnesses may be amended up to three (3) days prior to the Hearing. The date of the Hearing must not be less than thirty (30) nor more than sixty (60) days after the date of the Special Notice of Hearing; provided, however, that the Hearing for a Practitioner who is under Suspension then in effect should be held as soon as the arrangements can reasonably be made, assuming the Practitioner consents to a Hearing scheduled in less than thirty (30) days.

3.2 STATEMENT OF ISSUES AND EVENTS

The Special Notice of Hearing must contain a concise statement of the Practitioner's alleged acts or omissions, a list of the specific or representative patient records in question, and/or the other reasons or subject matter that form the basis for the Adverse Action or Recommendation upon which the Hearing is predicated. The Notice of Hearing may be amended from time to time in the sole discretion of the MEC.

3.3 APPOINTMENT OF HEARING COMMITTEE

3.3-1 CONSTITUTION OF THE HEARING COMMITTEE

A Hearing occasioned by an Adverse Recommendation from the MEC or by an Adverse Action taken by the Board is to be conducted by a Hearing Committee appointed by the Hospital upon the recommendation of the Medical Staff President. The Hearing Committee shall be composed of at least three (3) Members of the Medical Staff, none of whom shall be in direct economic competition with the affected Practitioner. The Medical Staff President may designate one of the appointees as Chairman of the Committee or may obtain the services of a Hearing officer to act as or assist the Chairman. The appointment of a Hearing officer to preside at the Hearing is optional, and is to be determined by the Hospital CEO after consultation with the President of the Medical Staff. If a Hearing officer is appointed he shall have the responsibility for the orderly conduct of the Hearing, but shall not have a vote. If the Medical Staff President brought the request for an Adverse MEC Recommendation, or was otherwise involved in the alleged incidents that were the basis for the Adverse MEC Recommendation, the Hospital may designate another Medical Staff officer who shall recommend the members of the Hearing Committee.

3.3-2 SERVICE ON HEARING COMMITTEE

A Medical Staff or Board Member is not disqualified from serving on a Hearing Committee merely because of participating in the investigation of the underlying matter at issue or because of having heard of the case or having knowledge of the facts involved or because of what the Member supposes the facts to be. The individual who brought the initial complaint cannot serve on the Hearing Committee.

PART FOUR. HEARING PROCEDURE

4.1 PERSONAL PRESENCE

The personal presence of the Practitioner is required at the Hearing. A Practitioner who fails, without good cause, to appear and proceed at the Hearing waives all rights in the same manner and with the same consequences as provided in Section 2.3 (or in Section 2.4 if applicable). The presence or absence of good cause shall be determined by the Hearing Committee.

4.2 PRESIDING OFFICER

The Hearing officer, if appointed, or the Chairman of the Hearing Committee, if no Hearing officer is appointed, is the presiding officer. This officer maintains decorum and assures that all participants have a reasonable opportunity to present relevant oral and documentary evidence. The presiding officer makes a determination of the order of procedure during the Hearing and makes all rulings on matters of law, procedure, and the admissibility of evidence.

4.3 REPRESENTATION

The Practitioner may be accompanied and represented at the Hearing by an attorney or any other person of his choice. The MEC or Board, depending on whose Recommendation or Action prompted the Hearing, shall appoint an attorney or any other individual to represent it. Representation of either Party by an attorney is also governed by Section 8.2 of this Plan.

4.4 RIGHTS OF PARTIES

4.4-1 DURING THE HEARING, EACH PARTY HAS THE RIGHT TO:

A. call, examine and cross-examine witnesses;
B. introduce exhibits;
C. present evidence determined to be relevant by the Chairman of the Hearing Committee or the Hearing officer, if applicable, regardless of its admissibility in a court of law;
D. impeach any witness;
E. rebut any evidence;
F. submit a written statement after the adjournment of the Hearing; and
G. have access to the record of the Hearing made by the use of a court reporter and have a copy of the record made at his expense.

Even if testimony is not made in his own behalf, the Practitioner may be called and examined as if under cross-examination.

4.4-2 UPON COMPLETION OF THE HEARING

Each party has the right to receive the written recommendation of the Hearing Committee or the Hearing officer, including a statement of the basis for the recommendation.

4.5 PROCEDURE AND EVIDENCE

The Hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs may be considered, regardless of the admissibility of such evidence in a court of law. The Hearing officer or Chairman, as the case may be, may establish reasonable limitations with respect to the orderly and efficient conduct of the Hearing. Such limitations may include the number of witnesses called by either Party, the length or relevancy of questioning, the number of exhibits, the submission of affidavits in lieu of live testimony, and the duration of the Hearing. Each Party is entitled, prior to or during the Hearing, to submit memoranda on the issues, and those memoranda become part of the Hearing record. There shall be no right of pre-Hearing discovery (e.g., depositions, requests for admissions, interrogatories, etc.) on the part of either Party; provided, however, the Practitioner shall have the right to receive a copy of any records or documents that form the basis of the Adverse Recommendation or Action. Any meeting or contact by the Practitioner or his representative with any witness shall be first arranged through the Medical Staff President who may require that said contact be in the presence of a particular third party or parties.

4.5-1 QUESTIONING OF WITNESSES.

Unless otherwise determined by the Hearing Committee, the questioning of witnesses will be limited to direct examination, cross-examination, questions by the Hearing Committee members, and the questions by each Party on the questions of the Hearing Committee members.

4.6 OFFICIAL NOTICE

In reaching a recommendation, the Hearing Committee may take official notice, either before or after submission of the issues for recommendation, of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noticed by the courts of the state where the Hearing is held. Parties present at the Hearing shall be informed of the matters to be noticed and those matters shall be noted in the Hearing record. Any Party shall be given opportunity, on timely request, to request that a matter be officially noticed and to refute any or all officially noticed matter(s) by evidence or by written or oral presentation of authority, in a manner to be determined by the Hearing Committee. The Committee is also entitled to consider all other information that can be considered under the Medical Staff Bylaws in connection with credentialing matters.

4.7 BURDEN OF PROOF AND ORDER OF PROCEEDINGS

When a Hearing relates to denial of Staff Membership, denial of requested appointment to or advancement in Staff category, denial of requested Department affiliation, or denial or restriction of requested Clinical Privileges, the Practitioner or Applicant has the burden of coming forward with evidence to demonstrate that the Adverse Action or Recommendation lacks any substantial factual basis or that the basis or the conclusions drawn therefrom are either arbitrary, unreasonable, or have no basis in fact. Otherwise, the body whose Adverse Action or Recommendation occasioned the Hearing has the initial obligation to present evidence in support thereof, but the Practitioner thereafter is responsible for supporting the challenge that the Adverse Action or Recommendation lacks any substantial factual basis or that the basis or the conclusions drawn therefrom are either arbitrary, unreasonable, or have no basis in fact.

4.8 HEARING RECORD

A record of the Hearing shall be kept that is of sufficient detail and accuracy to permit an informed and valid judgment to be made by any group that may later be called upon to review the record and render a recommendation or decision in the matter. The record of the Hearing shall be made by a court reporter.

4.9 POSTPONEMENT

Requests for postponement of a Hearing may be granted by the Hearing Committee only upon a showing of good cause and only if the request is made as soon as is reasonably practicable.

4.10 PRESENCE OF HEARING COMMITTEE MEMBERS AND VOTING REQUIREMENTS

A majority of the Hearing Committee must be present throughout the Hearing and deliberations. A Committee member absent from any part of the proceedings, may not participate in the deliberations or the recommendation, unless such member has the consent of each Party and has had an opportunity to review the complete record. A vote of the majority of the members shall be deemed the recommendation of the Hearing Committee.

4.11 RECESSES AND ADJOURNMENT

The Hearing Committee may recess and reconvene the Hearing without additional notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or

consultation. Upon conclusion of the presentation of oral and written evidence, the Hearing shall adjourn. The Hearing Committee shall allow the Parties to submit proposed findings of fact and conclusions of law after the Hearing adjourns. Such submissions shall be due to the Hearing Committee within ten (10) days of the Parties receipt of the Hearing record. Regardless of whether such submissions are received or authorized by the Hearing Committee, the Hearing shall be deemed closed ten (10) days after receipt of the Hearing record by the Parties.

PART FIVE. HEARING COMMITTEE REPORT AND FURTHER ACTION

5.1 HEARING COMMITTEE REPORT

Within ten (10) days after the Hearing is deemed closed, the Hearing Committee makes a written report of its findings and recommendation, including a statement of the basis for the recommendation and forwards the report to the body whose Adverse Recommendation or Action occasioned the Hearing and to the Practitioner.

5.2 RECOMMENDATION OR ACTION ON HEARING COMMITTEE REPORT

At the discretion of the body whose Recommendation or Action occasioned the Hearing, such body may request that the Hearing Committee Chairman (or Hearing officer, if applicable) appear before the body to present the Hearing Committee report and recommendation. Within thirty (30) days after receiving the Hearing Committee written report, the body whose Recommendation or Action occasioned the Hearing considers it and affirms, modifies or reverses the Recommendation or Action that had occasioned the Hearing. The body transmits its Recommendation or Action, the Hearing Committee report and recommendation, the Hearing record, and all other documentation considered to the Hospital President or designee.

5.3 NOTICE AND EFFECT OF RESULT

5.3-1 NOTICE

The Hospital President or designee promptly sends a copy of the Recommendation or Action to the Practitioner by Special Notice, with copies to the President of the Medical Staff, to the Medical Executive Committee, and to the Board.

5.3-2 EFFECT OF ACTION OR RECOMMENDATION AFTER HEARING WHICH IS NOT ADVERSE

A. An Action Adopted by the Board which is not Adverse:

If the Board Action under Section 5.2 is not Adverse to the Practitioner, it becomes the final decision and Action of the Board.

B. A Recommendation Adopted by the MEC which is not Adverse:

If the MEC Recommendation is not Adverse to the Practitioner, the Hospital President or designee promptly forwards it, together with all supporting documentation, to the Board which may adopt or reject the Recommendation in whole or in part, or refer the matter back to the MEC for reconsideration. Any referral back to the MEC shall state the reason(s), set a time limit within which a subsequent Recommendation must be made, and may include a directive for an additional Hearing. After receiving a subsequent Recommendation and any new evidence, the Board takes Action. Action by the Board which is not Adverse to the Practitioner becomes its final decision and Action. The Hospital President or designee promptly informs the Practitioner by Special Notice of each Action taken under this Section.

If the Board Action is Adverse, Special Notice from the Hospital President or designee informs the Practitioner and includes information of the right to request an Appellate Review.

5.3-3 EFFECT OF ADVERSE RECOMMENDATION AFTER HEARING

If the Recommendation of the MEC or Action of the Board under Section 5.2 continues to be Adverse, Special Notice from the Hospital President or designee shall inform the Practitioner of the right to request an Appellate Review.

PART SIX. INITIATION AND PREREQUISITES OF APPELLATE REVIEW

6.1 REQUEST FOR APPELLATE REVIEW

A Practitioner has ten (10) days after receiving Special Notice of Adverse Action or Recommendation after a Hearing to file a written request for Appellate Review. The written request must establish a bona fide basis for appeal which is limited to (1) failure of the Hearing process to adhere to the procedures mandated by the Bylaws and by this Fair Hearing Plan or (2) burden of proof obligations that were not met during the Hearing. The request must be delivered to the Hospital President or designee in person or by certified or registered mail and it may include a request for a copy of the Hearing Committee report and record and all other material, favorable or unfavorable, if not previously forwarded, which was considered in taking the Adverse Action or Recommendation. If the Practitioner wishes to be represented by an attorney at any Appellate Review appearance that may be granted under Section 7.4, the request for Appellate Review must so state.

6.2 WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW

A Practitioner who fails to request an Appellate Review within the time and in the manner specified waives any right to a Review. The waiver has the same force and effect as provided in Section 2.3 (and Section 2.4, if applicable).

6.3 NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW

The Hospital President or designee immediately delivers any timely and proper request for Review to the Chairman of the Board. As soon as practicable, the Board schedules and arranges for an Appellate Review which shall not be less than ten (10) nor more than thirty (30) days after receipt of the request; provided, however, that an Appellate Review for a Practitioner who is under Suspension then in effect shall be held as soon as arrangements may be reasonably made, but not later than twenty (20) days after the Hospital President receives the request. At least seven (7) days prior to the Appellate Review, the Hospital President sends the Practitioner Special Notice of the time, place and date of the Review. The time frame may be extended by the Appellate Review Body for good cause and if a request is made as soon as is reasonably practical.

6.4 APPELLATE REVIEW BODY

The Appellate Review may be conducted by the Board as a whole or by a committee of Board members appointed by the Chairman of the Board who shall designate one of the committee members as Chairman or appoint a hearing officer to act as Chairman, without vote.

PART SEVEN. APPELLATE REVIEW PROCEDURE

7.1 NATURE OF PROCEEDINGS

The proceedings of the Appellate Review Body are a review based upon the Hearing record, the Hearing Committee report, all subsequent Recommendations and Actions, the written statements, if any, provided below and any other material that may be presented and accepted. The record of Appellate Review shall be transcribed at the request and expense of the appealing Party.

7.2 WRITTEN STATEMENTS

The Practitioner may submit a written statement detailing the findings of fact, conclusions and procedural matters with the reasons for disagreement. This written statement may cover any matters raised at any step in the Hearing process. The statement shall be submitted to the Appellate Review Body through the Hospital President at least four (4) days prior to the scheduled date of the Review, unless this time limit is waived by the Review Body. A similar statement may be submitted by the group whose Adverse Action or Recommendation occasioned the Review, and if submitted, the Hospital President or designee shall provide a copy to the Practitioner at least three (3) days prior to the scheduled date of the Appellate Review.

7.3 PRESIDING OFFICER

The Chairman of the Appellate Review Body is the presiding officer. The Chairman determines the order of procedure during the Review, makes all required rulings, and maintains decorum.

7.4 ORAL STATEMENT

The Appellate Review Body, in its sole discretion, may allow the Parties or their representatives to personally appear and make oral statements of their positions. Any Party or representative so appearing is required to answer questions presented by any member of the Review Body.

7.5 CONSIDERATION OF NEW OR ADDITIONAL MATTERS

New or additional matters or evidence not raised or presented during the original Hearing or in the Hearing report and not otherwise reflected in the record may be introduced at the Appellate Review only at the discretion of the Review Body and only if the Party requesting consideration of the matter or evidence shows that it could not have been discovered at the time of the initial Hearing. The requesting Party shall provide through the Hospital President or designee, a written, substantive description of the new or additional matter or evidence to the Appellate Review Body and to the other Party prior to it being introduced at the Review.

7.6 POWERS

The Appellate Review Body has all the powers granted to the Hearing Committee, and any additional powers that are reasonably appropriate to or necessary for the discharge of its responsibilities.

7.7 PRESENCE OF MEMBERS AND VOTE

A majority of the Review Body must be present throughout the Review and deliberations. If a member is absent from any part of the proceedings, that member shall not be permitted to participate in the deliberations or the decision unless each Party so consents and the absent member has had an opportunity to review the complete record.

7.8 RECESSES AND ADJOURNMENTS

The Review Body may recess and reconvene the proceedings without additional notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. At the conclusion of the oral statements, if allowed, the Appellate Review shall be closed. The Review Body shall then, at a time convenient to itself, conduct its deliberations outside the presence of the Parties.

7.9 ACTION TAKEN

The Review Body may recommend to affirm, modify or reverse the Adverse Recommendation or Action, or at its discretion, may refer the matter back to the Hearing Committee or to the body whose Action or Recommendation triggered the Appellate Review for further review and recommendation to be returned to it within fifteen (15) days and in accordance with its instructions. Within twenty-one (21) days after receipt by the Review Body of such recommendation after referral back, the Review Body shall make a recommendation and develop a written Appellate report delineating the basis of such recommendation. If a committee of the Board acted as the Review Body, its recommendation is forwarded to the full Board. If the proposed Board Action on the Review Body recommendation (or the proposed Board Action if the full Board acted as the Review Body) is in accord with the last Recommendation of the MEC in the matter, if any, or if no Recommendation from the MEC on the matter exists, such proposed Action shall be immediately effective and final. If the proposed Board Action has the effect of changing the last MEC Recommendation in the matter, the matter shall be referred to a joint conference as provided in Section 7.10 below. The Board Action on the matter following receipt of the joint conference recommendation shall be immediately effective and final. Each Party shall have a right to receive a written copy of the final Board Action, including a statement of the basis for this final Action

7.10 JOINT CONFERENCE REVIEW

Within ten (10) days after a matter is referred to it under this Plan, a joint conference of Medical Staff and Board members shall convene to consider the matter and shall submit its recommendations to the Board. The joint conference shall be composed of a total of six (6) members selected in the following manner: Two (2) Board members appointed by the Chairman of the Board and four (4) Medical Staff Members appointed by the President of the Medical Staff.

PART EIGHT. GENERAL PROVISIONS

8.1 HEARING OFFICER APPOINTMENT AND DUTIES

A Hearing officer may or may not be an attorney at law. This officer shall have the responsibility of informing the Hearing Committee prior to the Hearing of the nature of the Hearing, the procedures to be followed at the Hearing, and the general conduct of the Hearing. A pre-Hearing conference may be called by the Hearing officer, at his sole discretion, with the representatives of the Parties in order to dispose of any pre-Hearing matters, including evidentiary and procedural matters.

8.2 ATTORNEYS

8.2-1 AT HEARING

If the Practitioner desires to be represented by an attorney at any Hearing, he may have such representation at his own expense.

8.2-2 AT APPELLATE REVIEW

If the Practitioner desires to be represented by an attorney at an Appellate Review appearance, he may have such representation at his own expense.

8.2-3 EQUAL REPRESENTATION AND PREPARATION ASSISTANCE

The MEC shall be represented by an attorney at the Hospital's expense to advise the MEC and to represent it at Hearings and on Appeal. The Hearing Committee may also be represented by an attorney.

8.3 NUMBER OF HEARINGS AND REVIEWS

Notwithstanding any other provision of the Medical Staff Bylaws or of this Plan, no Practitioner is entitled as a right to more than one evidentiary Hearing and one Appellate Review with respect to the subject matter that is the basis of the Adverse Recommendation or Action triggering the right.

8.4 RELEASE

By requesting a Hearing or Appellate Review under this Plan, a Practitioner agrees to be bound by the provisions of the Medical Staff Bylaws relating to immunity from liability.

8.5 EFFECTIVE DATE

The Fair Hearing Procedures provided for herein shall apply to conduct, acts or omissions occurring after the adoption of this Plan and to Credentialing determinations made after the adoption of this Plan. The procedure in effect prior to the adoption hereof shall continue in effect as to all prior matters, provided the procedures herein may be utilized as a guide. By agreement with the Practitioner, the time periods contained herein may be extended or shortened.

PART NINE. AMENDMENT

9.1 AMENDMENT

This Fair Hearing Plan may be amended or repealed, in whole or in part, by following the procedures outlined in the Medical Staff Bylaws.

CERTIFICATION OF ADOPTION AND APPROVAL

Adopted by the Medical Staff

June 5, 2000
Date

Approved by the Board of Trustees

June 22, 2000
Date

MEMORIAL HOSPITAL
FAIR HEARING PROCESS
M.E.C. INITIATED

Adverse Action Recommended by M.E.C.

Special Notice of Adverse Action promptly sent to Practitioner by President of Staff.

Practitioner may submit written request for Hearing within thirty (30) days of receipt of Special Notice, or otherwise waives right thereto.

Special Notice of time, date, place of Hearing sent to Practitioner by President of Staff. The Hearing date must not be less than thirty (30) nor more than sixty (60) days after the date of this Notice.

Statement of issue and events included.

Hearing Committee appointed by hospital upon recommendation of Medical Staff President.

Hearing Conducted.

Hearing Committee Report prepared within ten (10) days of Hearing being deemed closed and forwarded to M.E.C. and affected Practitioner.

Recommendation by M.E.C. within thirty (30) days after receipt of Hearing Committee Report.

Hospital President.

Special Notice of Recommendation sent to Practitioner by Hospital President.

<u>Result not Adverse</u>

Recommendation to Board of Trustees

Final Decision by Board

<u>Adverse Result</u>

Practitioner has right to request Appellate Review within ten (10) days of receipt of Notice of Adverse Recommendation

MEMORIAL HOSPITAL
FAIR HEARING PROCESS
BOARD INITIATED

Adverse Action taken by Board of Trustees.

Special Notice of Adverse Action promptly sent to Practitioner by the Hospital President.

Practitioner may submit written request for Hearing within thirty (30) days of receipt of Special Notice, or otherwise waives right thereto.

Special Notice of time, date, place of Hearing sent to Practitioner by Chairman of Board. The Hearing date must not be less than thirty (30), nor more than sixty (60) days after the date of this Notice.

- Statement of the issues and events included
- Hearing Committee appointed by Hospital upon recommendation of Medical Staff President

Hearing Committee report is prepared within ten (10) days of the Hearing being deemed closed and forwarded to the Board of Trustees and the Practitioner.

Action on the Hearing Committee report is taken by the Board within thirty (30) days after receipt of Hearing Committee report and Forwarded to the Hospital President or designee.

Special Notice of the Board Action is sent to the Practitioner.

Action not Adverse by the Board

Final Decision

Adverse Action by the Board

Practitioner has right to request Appellate Review within ten (10) days of receipt of Special Notice of Adverse Action.

MEMORIAL HOSPITAL
APPELLATE REVIEW PROCESS
BOARD OR M.E.C. INITIATED

Adverse Recommendation by MEC after Hearing, or
Adverse Action by Board after Hearing.

Special Notice of MEC Recommendation or Board Action to Practitioner by Hosp. Pres.

Practitioner may submit written request for Appellate Review
within ten (10) days from receipt of such Notice.

Special Notice of time, date, place of Review sent to Practitioner by Hosp. Pres.
The date of the Appellate Review shall not be less than ten (10),
nor more than thirty (30) days from receipt of Practitioner's
request for Appellate Review. If the Appellate Review is for a
Practitioner under Suspension, it shall be held not later than
twenty (20) days after receipt of Practitioner's request
for Appellate Review.

Appellate Review Body appointed.

Appellate Review conducted.

Review Body will ultimately forward Recommendation is to full Board

Proposed Board Action

In accord with last MEC Recommendation,
if any, in the matter, or if no MEC
Recommendation in the matter exists

Proposed Action becomes Final Action

Not in accord with last MEC Recommendation
in the matter

Referred to Joint Conference for
Consideration and Recommendation

- 2 Board members
- 4 Medical Staff Members

Recommendation submitted
to Board within ten (10) days

Final Board Action