Trinity Health

Loyola Ambulatory Surgery Center Oakbrook Terrace

ASC Bylaws

07.17.2024

Contents

Part I: Governance

Section 1. Medical Staff Purpose and Authority

1.1 Purpose

The purpose of this Medical Staff is to organize the activities of physicians and other clinical practitioners who practice at Loyola Ambulatory Surgery Center Oakbrook Terrace ("ASC") in order to carry out, in conformity with these Bylaws, the functions delegated to the Medical Staff by the ASC Governing Body.

1.2 Authority

Subject to the authority and approval of the Governing Body, the Medical Staff will exercise such power as is reasonably necessary to discharge its responsibilities under the Bylaws and associated Medical Staff Policies and under the corporate Governance Documents.

1.3 Definitions

"Advanced Practice Professional" or "APP" means those individuals who are not eligible for Medical Staff Membership but who provide a level of service including the evaluation and treatment of patients including documentation in the medical record and/or the prescribing of medications, as applicable in accordance with their scope of practice. Individuals in this category are, but not limited to, physician assistants (PAs), and advanced practice registered nurses (APRNs).

"Advanced Practice Registered Nurse" or "APRN" means those individuals who are doctors of nursing practice (DNP), clinical nurse specialists or nurse practitioners (NPs), or certified registered nurse anesthetists (CRNAs).

"Adverse Recommendation" means a recommendation to limit, restrict, or terminate Privileges due to a reason related to professional competence or conduct, as described in Section 13.1.

"Affected Individual" means a physician or podiatrist who holds or is an applicant for Membership or Privileges against whom an Adverse Recommendation has been made that may entitle such individual to the fair hearing rights described in Part II.

"Application" means an application for appointment and/or Privileges to the Medical Staff as described in Sections 18 and 19 of the Bylaws.

"ASC Administrator" means the individual serving in the capacity of the administrator of the ASC and who oversees the administration and operational management of the ASC.

"Bylaws" and "ASC Bylaws" mean these ASC Medical Staff Bylaws established by ASC.

"Clinical Privileges" or "Privileges" mean the permission granted to a Practitioner to render specific diagnostic, therapeutic, medical, or surgical services by the MEC and Governing Body.

"Clinician" means a physician or podiatrist who has been granted Medical Staff membership and/or privileges by the Governing Body.

"Days" shall mean calendar days unless otherwise stipulated in the Bylaws.

"Good Standing" means having no adverse actions, limitations, or restrictions on privileges or Medical Staff Membership at the time of inquiry.

"Governing Body" means the ASC Board of Directors that has full legal responsibility for determining, implementing, and monitoring policies governing the ASC's total operation. The governing body has oversight and accountability for the quality assessment and performance improvement program, ensures that the facility policies and programs are administered so as to provide quality healthcare in a safe environment, and develops and maintains a disaster preparedness plan.

"Governance Documents" means the corporate governance documents of the ASC.

"Hearing Panel" means the hearing committee or hearing officer, as applicable, appointed to conduct an evidentiary hearing pursuant to a request properly filed and pursued by an Affected Individual in accordance with Section 14 of these Bylaws.

"MEC" and Medical Executive Committee" shall mean the Executive Committee of the Medical Staff provided for in Section 5 of the Bylaws.

"Medical Director" means an individual appointed by the Governing Body to serve as a medical director of the ASC and perform such duties as set forth in these Bylaws.

"Medical Staff or "Staff" means the organization of clinicians who have obtained their status and have been granted privileges that allow them to attend patients and/or to provide other diagnostic, therapeutic, or teaching services by the organization.

"Medical Staff Policies" means the medical staff policies and procedures adopted by the MEC and Governing Body.

"Medical Staff Year" is defined as the 12-month time period beginning on January 1st of each year and ending on December 31st.

"Member" is a Clinician who has been granted membership status on the Medical Staff by the Governing Body.

"Physician" means an individual who has received a doctorate degree in allopathic, osteopathic, or podiatric medicine and is currently fully licensed to practice medicine in the state where ASC is located.

"Podiatrist" means an individual who has received a Doctor of Podiatric Medicine degree and is currently licensed to practice podiatry in the state where ASC is located.

"Practitioner" means an appropriately licensed Physician, podiatrist, or APP who has been granted clinical privileges.

"Prerogative" means the right to participate, by virtue of Medical Staff category or otherwise, granted to a practitioner, and subject to the ultimate authority of the organization and the conditions and limitations imposed in these Bylaws and in other organizational and Medical Staff policies.

"Special Notice" means written notice sent via certified mail, return receipt requested, by overnight delivery with confirmation of delivery, or by hand delivery.

"Trinity Health" means Trinity Health Corporation, its subsidiaries and affiliates, and associated health care facilities.

Section 2. Medical Staff General Requirements

2.1 Nature of Being a Clinician

Being on the Medical Staff of ASC is a privilege that shall be extended only to professionally competent Clinicians, who continuously meet the qualifications, standards, and requirements set forth in these Bylaws and associated Medical Staff Policies and other ASC policies and procedures.

2.2 Qualifications for Membership

The qualifications for being on the Medical Staff are delineated in Part III of these Bylaws (Credentials Procedures Manual).

2.3 Nondiscrimination

The organization shall not discriminate in granting membership and/or clinical Privileges on the basis of national origin, race, ethnicity, gender, gender identification, sexual orientation, religion, color, age, veteran status, marital status, disability unrelated to the provision of patient care or required Medical Staff responsibilities, or any other basis prohibited by applicable law.

2.4 Conditions and Duration of Appointment

The Governing Body shall make initial appointment and reappointment to the Medical Staff with the exception of temporary and/or emergency Privileges. Appointment and reappointment to the Medical Staff shall be for no more than thirty-six (36) calendar months.

2.5 Clinicians and Clinical Privileges

Requests to be a Medical Staff Member with ASC and/or obtain clinical Privileges will be processed only when the potential applicant meets the current minimum qualifying criteria approved by the organization. Membership and/or Privileges will be granted and administered as delineated in Part III (Credentials Procedures Manual) of these Bylaws, and in accordance with the Medical Staff Policies.

All physicians performing surgery at the ASC will be required to have admitting privileges at an acute care hospital in sufficient proximity to the ASC to allow prompt and responsive care for

patients at ASC, as determined by Medical Staff Policies. All podiatrists will be required to have privileges at an acute care hospital in sufficient proximity to the ASC to allow prompt and responsive care for patients at ASC, as determined by Medical Staff Policies.

2.6 Practitioner Responsibilities

2.6.1 Each Practitioner must provide for appropriate and timely care of their patients at the level of quality and efficiency generally recognized as appropriate by medical professionals in the same or similar circumstances.

2.6.2 Each Practitioner shall participate in the payor plans as determined by ASC.

2.6.3 Each Practitioner must maintain Privileges as determined by ASC.

2.6.4 Each Practitioner must participate, as assigned, or requested, in quality/performance improvement/peer review activities and in the discharge of other Medical Staff functions (including service on appropriate Medical Staff committees) as may be required.

2.6.5 Each Practitioner must submit to any pertinent type of compentency or health evaluation as requested by the Medical Director, Governing Body chair, or ASC Administrator when it appears necessary to protect the well-being of patients and/or staff, or as part of an evaluation of the Practitioner's ability to exercise Privileges safely and competently, or as part of a post-treatment monitoring plan consistent with the provisions of any Medical Staff and organizational policies addressing Practitioner health or impairment.

2.6.6 Each Practitioner must abide by the Medical Staff Bylaws and any other policies, procedures, and standards of the Medical Staff and the organization, including timely completion of medical records, complying with vaccination or health evalutation requirements, complying with the Trinity Health Code of Conduct, and complying with the Ethical and Religious Directives (ERDs) for Catholic Health Care Service.

2.6.7 Each Practitioner must comply with clinical practice protocols and guidelines.

2.6.8 Each Practitioner will be responsible for the stewardship of organizational resources.

2.6.9 Each Practitioner has an obligation to disclose to ASC any changes of the information provided on their latest application, within seven (7) days of the change.

2.6.10 Each Practitioner will use confidential information only as necessary for treatment, payment, or healthcare operations in accordance with HIPAA and applicable state laws and regulations, to conduct authorized research activities, or to perform Medical Staff responsibilities. For purposes of these Bylaws,

confidential information means patient information, peer review information, and ASC's business information not generally known to the public.

2.6.11 Each Medical Staff leader designated by ASC, shall disclose to the Medical Staff any ownership or financial interest that may conflict with, or have the appearance of conflicting with, the interests of the Medical Staff or the organization. Medical Staff leadership will deal with conflict of interest issues per the Medical Staff/ASC Conflict of Interest policy.

2.6.12 Each Practitioner must provide evidence of professional liability coverage of a type and in an amount established by the Governing Body. In addition, Practitioners shall comply with any financial responsibility requirements that apply under state law to the practice of their profession. Each Practitioner, upon receipt or other knowledge of any and all malpractice claims or notices of intent to sue against the Practitioner, shall notify the ASC Administrator, or designee immediately, within seven (7) days.

2.6.13 Each applicant for Privileges, Medical Staff Member and Practitioner agrees to release from any liability, to the fullest extent permitted by law, all persons acting in good faith and without malice for their conduct in connection with investigating and/or evaluating the quality of care or professional conduct provided by the Member or Practitioner and his/ her credentials.

2.6.14 Each Practitioner must report, in writing, to the ASC Administrator any of the following circumstances as soon as possible but no later than 7 days after imposition:

2.6.14.1 Loss, limitation, reduction, suspension or termination of medical or medical staff membership or clinical privileges at any health care organization or loss of employment for cause.

2.6.14.2 Voluntary relinquishment of any medical or medical staff membership or clinical privileges at any health care organization while under investigation or to avoid investigation or disciplinary action.

2.6.14.3 Loss, limitation, reduction, suspension, probation, termination, lapse or relinquishment of medical licensure in any state.

2.6.14.4 Any loss or cancellation of, or material change in, professional liability insurance under any circumstance.

2.6.14.5 Any charge relating to or arising out of the practice of health care and/or any felony charge.

2.6.14.6 Any misdemeanor or felony conviction, guilty plea, or no contest plea.

2.6.14.7 Any imposition of sanctions by any health care insurer or the federal government.

2.6.14.8 Loss of ability to accept patients/participate in any health plan as required by the ASC.

2.6.15 Each Member and Practitioner must work cooperatively and harmoniously with the Governing Body, administration, other Practitioners and staff, and patients so that the ASC and Medical Staff can operate in an orderly, productive manner that promotes efficient, high quality patient care, supports patient safety and patient rights, rules and policies and promotes the community's confidence in the ASC and Medical Staff.

2.7 Medical Staff Member Rights

2.7.1 Each Medical Staff Member has the right to a meeting with the MEC on matters relevant to the responsibilities of the MEC that may affect patient care or safety. In the event such Member is unable to resolve a matter of concern after working with an appropriate Medical Staff leader(s), that Member may, upon written notice to the Medical Director two (2) weeks in advance of a regular meeting, meet with the MEC to discuss the issue.

2.7.2 Each Medical Staff Member may challenge any policy established by the MEC as provided in this Section, excluding those policies mandated by the organization, law, or regulatory standard. In the event that a policy is thought to be inappropriate, any Member may submit a petition signed by twenty percent (20%) of the Members of the Medical Staff. Upon presentation of such a petition, the adoption procedure outlined in Section 8.2.4 will be followed.

2.7.3 Each Member of the Medical Staff may petition to call for a committee meeting by submitting a petition signed by twenty percent (20%) of the committee members.

2.7.4 The above Sections 2.7.1 to 2.7.3 do not pertain to issues involving individual peer review, formal investigations of professional performance or conduct, denial of requests for appointment or clinical Privileges, or any other matter relating to individual Membership or Privileges. Part II of these Medical Staff Bylaws (Investigations, Corrective Action, and Hearing Plan) provides recourse in these matters.

2.7.5 Any individual eligible for Medical Staff appointment may have a right to a hearing pursuant to the conditions and procedures described in the Medical Staff's hearing plan (Part II of these Bylaws).

2.8 Indemnification

2.8.1 Members of the Medical Staff are entitled to the applicable immunity provisions of state and federal law for the credentialing, peer review and performance

improvement work they perform on behalf of the organization and the Medical Staff.

2.8.2 Subject to applicable law, the organization shall indemnify against reasonable and necessary expenses, costs, and liabilities incurred by a Medical Staff Member in connection with the defense of any pending or threatened action, suit, or proceeding to which they are made a party by reason of his having acted in an official capacity in good faith on behalf of the organization or Medical Staff. However, no Member shall be entitled to such indemnification if the acts giving rise to the liability constituted willful misconduct, breach of a fiduciary duty, self-dealing or bad faith.

Section 3. Medical Staff

3.1 Medical Staff. There shall be no Medical Staff categories.

3.2 Prerogatives. Members may:

3.2.1 Attend Medical Staff meetings and any Medical Staff or organizational education programs;

3.2.2 Vote on all matters presented by the Medical Staff and committee(s) to which the Practitioner is assigned; and

3.2.3 Hold office and sit on or be the chair of any committee in accordance with any qualifying criteria set forth elsewhere in the Bylaws or Medical Staff Policies.

3.3 Responsibilities. Members shall:

3.3.1 Contribute to the organizational and administrative affairs of the Medical Staff;

3.3.2 Actively participate as requested or required in activities and functions of the Medical Staff, including but not limited to quality/performance improvement and peer review, credentialing, risk, and utilization management, and

3.3.3 Fulfill or comply with any applicable Medical Staff or organizational policies or procedures.

Section 4. Medical Director

4.1 **Appointment**. One (1) Member from the Medical Staff shall be appointed by the Governing Body to serve as Medical Director and be the sole officer of the Medical Staff. The Medical Director must be a Physician in Good Standing during the term in office. The duties of the Medical Director shall include being available to, and in frequent contact with, the ASC Administrator, and with other employees, as is reasonable and feasible to assure proper operation of the ASC. The Medical Director shall have the authority granted by these Bylaws, and granted by the Governing Body, to make decisions regarding the operation of the ASC that do not require the immediate attention of the Governing Body.

4.2 **Responsibilities**. Specific responsibilities of the Medical Director may include the following:

4.2.1 Operational and Medical Staff Oversight

(a) Support growth and development of the ASC.

(b) Develop, review and revise policies and protocols that support safe, quality, cost-effective care.

(c) In concert with the ASC Administrator, ensure proper allocation of human resources, equipment and supplies to ensure quality care is provided in a cost-effective way.

(d) Work with human resources leadership and other leaders to create and maintain a positive work environment that fosters a highly engaged workforce.

(e) Partner with other leaders for emergency preparedness, facility oversight, strategic planning, best practice initiatives and benchmarking, as well as an integrated delivery system.

(f) Engage in communication with providers and address needs and concerns. Manage discretionary spending of medical staff funds in conjunction with MEC.

(g) Ensure that patient satisfaction is high and patient care is extraordinary.

(h) Oversee the ASC's block schedule in conjunction with the ASC Administrator.

(i) Report to the Governing Body the MEC recommendations concerning appointment, reappointment, delineation of Privileges or specified services, and corrective action with respect to Practitioners who are applying for appointment or Privileges, or who are granted Privileges or providing services in the ASC.

(j) Continuously evaluate and periodically report to the ASC, and the Governing Body regarding the effectiveness of the credentialing and privileging processes.

(k) Serve as chair of the MEC with vote and as ex officio member of all other Medical Staff standing committees without vote;

(l) Enforce the Bylaws and Medical Staff policies;

(m) Except as stated otherwise, appoint committee chairs and all members of Medical Staff standing and ad hoc committees; and

(n) Review and enforce compliance with standards of ethical conduct and professional demeanor among the practitioners on the Medical Staff in their relations with each other, the ASC Administrator and other management, other professional and support staff, and the community ASC serves.

4.2.2 Program Planning and Development

(a) Develop, inform and execute on coordinated, integrated strategic plans developed by ASC.

(b) Actively participate in community service in a capacity that reflects the mission of Trinity Health and ASC.

(c) Together with the ASC Administrator, develop and maintain productive relationships with referring providers, local businesses, charitable organizations and government entities.

(d) In coordination with the ASC Administrator, develop written annual goals (timeline, metrics, resource needs) which reflect goals and standards of ASC.

4.2.3 Budget and Productivity Assessments

(a) Achieve capital and operational budget targets and ensure effective management of expenses including personnel resources.

(b) In concert with the ASC Administrator, to share responsibility for net operating income, assist in the development and management of operational and capital budget.

(c) Participate in coding and utilization review to improve accuracy.

4.2.4 Quality Improvement and Accreditation

(a) Oversee clinical activities of the ASC.

(b) Responsible for value-based purchases, patient safety, accreditations/awards, as well as quality improvement.

(c) When assigned, support clinical program and initiatives.

(d) Support all activities for compliance with federal, state, and other regulatory bodies including the Accreditation Association of Ambulatory Health Care (AAAHC), the Occupational Safety and Health Administration (OSHA), the ASCs for Medicare and Medicaid Services (CMS), and other department specific accrediting and certifying bodies.

(e) Ensure contract compliance with applicable policies, procedures, and laws.

(f) Ensure compliance with applicable local, state, and federal laws.

(g) Achieve improvement in identified areas of opportunity using benchmarking data through continuous improvement efforts.

(h) Oversee providers in regard to patient safety, outcomes, clinical metrics, patient and employee satisfaction and well-being of anesthesia providers and other health care staff at the ASC.

4.2.5 Engage in communication with providers and staff and address needs and concerns.

4.2.6 Oversee surgeons in regard to patient safety, outcomes, clinical metrics, patient and employee satisfaction and well-being of surgeons and other health care staff at the ASC.

4.2.7 Serve as a role model to employees, consistently adhering to Trinity Health's and the ASC's mission, vision and values.

4.2.8 Other tasks directed by the Governing Body from time to time.

Section 5. Medical Executive Committee

5.1 Designation

There shall be a Medical Executive Committee established by the Governing Body as a standing committee of the Medical Staff.

5.2 Qualifications and Committee Membership

5.2.1 Qualifications

a. MEC members must be Members in Good Standing for at least one (1) year before appointment. In the event the ASC has been in existence less than one (1) year, it is preferable that they have experience in a leadership position, or other involvement in performance improvement functions for at least two (2) years at other locations. It is preferable that they be willing to attend continuing education on leadership and/or credentialing functions prior to or during the term of office.

b. MEC members may not simultaneously hold a leadership position (position on the MEC or Governing Body) in an health care organization competing with the ASC as determined by the Governing Body. Noncompliance with this requirement will result in the MEC member being automatically removed from office unless the conflict is determined to be acceptable to the Governing Body.

5.2.2 Committee Membership

a. The Governing Body shall appoint one representative of each physician specialty practicing at the ASC to serve as voting members. In the event less than three (3) specialties are represented on the Medical Staff, the Governing Body shall appoint no less than three (3) Clinicians to serve as voting members.

b. The Medical Director shall serve as an ex officio member with vote.

c. The ASC Administrator shall be an ex officio non-voting member of the MEC.

The MEC is chaired by the Medical Director.

5.3 Appointment, Term, and Vacancies

5.3.1 **Term of Office**. Ex officio MEC members shall serve while they hold such office. All appointed MEC members shall serve a term of two (2) years. Each appointed MEC member shall serve in office until the end of their term of office or until a successor is appointed, unless they resign sooner or are removed from office. MEC members may serve an unlimited number of successive terms.

5.3.2 **Resignation:** Any MEC member may resign at any time by giving thirty (30) days' written notice to the Governing Body. Such resignation takes effect on the date specified therein or as otherwise agreed upon by the member and Governing Body.

5.3.3 **Vacancies of Medical Executive Committee**. If there is a vacancy on the MEC, the Governing Body of ASC shall appoint a new MEC member.

5.3.4 **Removal.**

5.3.4.1 Automatic Removal: MEC members shall be automatically removed in the event the fail to meet or maintain any of the qualifications, as noted in Section 5.2.1. This removal is not discretionary with the failure to meet qualifications determined by the Governing Body.

5.3.4.2 **Removal by the Governing Body:** MEC members serve at the pleasure of the Governing Body, and may be removed by the Governing Body.

5.3 Duties

The duties of the MEC, as delegated by the Governing Body, shall be to:

a. Serve as the final decision-making body of the Medical Staff in accordance with the Medical Staff Bylaws and provide oversight for all Medical Staff functions;

b. Coordinate the implementation of policies adopted by the organization;

c. Take reasonable steps to encourage and monitor professionally ethical conduct and competent clinical performance on the part of Practitioners including collegial and educational efforts and investigations, when warranted;

d. Formulate and approve Medical Staff Policies; and

e. Hold Medical Staff committees accountable for fulfilling their duties and responsibilities.

5.4 Meetings

The MEC shall meet at least four (4) times per year and more often as needed to perform its assigned functions. Records of its proceedings and actions shall be maintained and retained in accordance with ASC's record retention policies and procedures.

Section 6. Other Medical Staff Committee

There shall be a other standing and ad hoc committees as established by the Governing Body. Meetings of these committees will be either regular or special. The Medical Director may appoint ad hoc committees as necessary to address time-limited or specialized tasks.

Section 7. Medical Staff Meetings

7.1 Medical Staff Meetings

7.1.1 There are no regularly scheduled meetings of the Medical Staff.

7.1.2 Special Meetings of the Medical Staff: The Medical Director may call a special meeting of the Medical Staff at any time or when so directed by resolution of the Governing Body. Such request or resolution shall state the purpose of the meeting. The Medical Director shall designate the time and place of any special meeting.

7.1.3 Action may be taken without a meeting of the Medical Staff by presentation of the question to each Member eligible to vote, in person, via telephone, and/or by mail or electronic ballot, and their vote recorded in accordance with procedures

approved by the Governing Body. Such vote shall be binding so long as the question that is voted on receives a majority of the votes cast.

7.2 Regular Meetings of Medical Staff Committees

Committees shall meet as needed, unless otherwise stipulated in these Bylaws or in the Medical Staff Policies. Attendance at meeting may be by physical presence or by electronic mechanisms. Electronic participation is permitted when confidential items are discussed only when confidentiality is assured.

7.3 Special Meetings of Committees

A special meeting of any committee may be called by the committee chair or by the Medical Director.

7.4 Quorum

7.4.1 **Medical Staff Meetings:** Those present and eligible Medical Staff voting on an issue.

7.4.2 **MEC and Credentials Committee meetings:** A quorum will exist when fifty percent (50%) of the members are present.

7.4.3 **Medical Staff committees other than the MEC or the Credentials Committee:** Those present and eligible Medical Staff voting on an issue.

7.5 Attendance Requirements

Members of the Medical Staff are encouraged to attend meetings of the Medical Staff. Members of the MEC and Credentials Committee are required to attend at least fifty percent (50%) of the meetings each year. Whenever there is a reason to believe that a Practitioner is not complying with the Bylaws or Medical Staff Policies or has deviated from standard clinical or professional practice or there are other circumstance meriting review, the Medical Director may require the Practitioner to confer with him/her or with a standing or ad hoc committee that is considering the matter. The Practitioner will be given special notice of the meeting at least five (5) days prior to the meeting. This notice shall include the date, time, place, issue involved and that the Practitioner's appearance is mandatory. Failure of the Practitioner to appear at any such meeting may result in automatic suspension as provided in Section 12.

7.6 Participation by the Medical Director

In addition to serving as a voting member of MEC, the Medical Director, or their designee, may attend any general Medical Staff or committee meetings of the Medical Staff as an ex-officio member without vote.

7.7 Parliamentary Procedure

Medical Staff and committee meetings shall be run in a manner determined by the chair of the meeting. When parliamentary procedure is needed, as determined by the chair, or evidenced by a majority vote of those attending the meeting, the latest abridged edition of an accepted book of parliamentary procedure shall determine procedure.

7.8 Notice of Meetings

Written or electronic notice stating the place, day, and hour of any special meeting or of any regular meeting not held pursuant to resolution shall be delivered or sent to each Member of the committee not less than three (3) days before the time of such meeting, unless otherwise deemed necessary, by the person or persons calling the meeting. The attendance of a Member at a meeting shall constitute a waiver of notice of such meeting.

7.9 Action of Committee

The recommendation of a majority of its Members present at a meeting at which a quorum is present shall be the action of a committee. Such recommendation will then be forwarded to the Governing Body for action.

7.10 Rights of Ex Officio Members

Except as otherwise provided in these Documents, persons serving as ex officio members of a committee shall have all rights and privileges of regular members, except that they shall not vote, be able to make motions, or be counted in determining the existence of a quorum.

7.11 Minutes

Minutes of each regular and special meeting of a committee shall be prepared and shall include a record of the attendance of Members and the vote taken on each matter. The presiding committee chair shall authenticate the minutes and copies thereof shall be submitted to the MEC or another designated committee. A file of the minutes of each meeting shall be maintained in accordance with document retention procedures.

Section 8. Review, Revision, Adoption, and Amendment

8.1 Medical Staff Responsibility

8.1.1 The Medical Staff shall have the responsibility to formulate, review at least triennially, and recommend to the organization the Bylaws and any Medical Staff Policies, and amendments as needed. Amendments to the Medical Staff Bylaws and Policies shall be effective when approved by the Governing Body. The Medical Staff can exercise this responsibility through its appointed leaders or through direct vote of its Membership.

8.1.2 Such responsibility shall be exercised in good faith and in a reasonable, responsible, and timely manner. This applies as well to the review, adoption, and

amendment of the related policies and protocols developed to implement the various Sections of these Bylaws.

8.2 Methods of Adoption and Amendment to these Bylaws

8.2.1 Proposed amendments to these Medical Staff Bylaws are originated by the MEC or by a petition of twenty percent (20%) of the Medical Staff.

8.2.2 Each Member of the Medical Staff will be eligible to vote on the proposed amendment via secure paper or electronic ballot in a manner determined by the MEC. All Members of the Medical Staff shall receive at least thirty (30) days advance notice of the proposed changes.

8.2.3 The amendment shall be considered approved by the Medical Staff when at least a simple majority (fifty percent plus one (50%+1) of the ballots cast are marked "yes".

8.2.4 In addition to the process described above, the organized Medical Staff itself may recommend to the Governing Body an amendment(s) to any rule, regulation, or policy by submitting a petition signed by twenty percent (20%) of the members of the Active category using the Conflict Resolution Mechanism noted in Section 2.7.2. Upon presentation of such petition, the adoption process outlined in Part I Section 8.2.2 above for vote by the Medical Staff will be followed.

8.3 Methods of Adoption and Amendment to any Policies and Procedures

8.3.1 The MEC may adopt new policies and procedures as necessary to carry out the Medical Staff's functions and meet its responsibilities under these Bylaws.

8.3.2 The MEC has the authority to unilaterally approve Medical Staff Policies , subject to Governing Body approval.

Part II: Investigations, Corrective Actions, and Hearing Plan

Section 10. Collegial, Educational, and/or Informal Proceedings

10.1 Criteria for Initiation

These Bylaws encourage Medical Staff leaders to use progressive steps, where, appropriate, beginning with collegial and education efforts and other remedial monitoring, to address questions relating to an individual's clinical practice and/or professional conduct. The goal of these progressive steps is to help the individual voluntarily respond to resolve questions that have been raised. All collegial intervention efforts by Medical Staff leaders shall be considered confidential and part of the organization's performance improvement and professional and peer review activities. Collegial intervention efforts are encouraged, but are not mandatory, and shall be within the discretion of the appropriate Medical Staff leaders. When any observations arise suggesting opportunities for a Practitioner to improve their clinical skills or professional behavior, the matter should be referred for peer review in accordance with the peer review and performance improvement policies adopted by the Medical Staff. Collegial intervention efforts may include but are not limited to the following:

a. Educating and advising colleagues of all applicable policies, including those related to appropriate behavior, and the timely and adequate completion of medical records;

b. Following up on any questions or concerns raised about the clinical practice and/or conduct of privileged practitioners and recommending such steps as proctoring, monitoring, consultation, and letters of guidance; and

c. Sharing summary comparative quality, utilization, and other relevant information to assist individuals to conform their practices to appropriate norms.

Following educational intervention efforts, Medical Staff leaders shall evaluate the appropriate next steps, if any, for the Practitioner. Educational intervention is a discretionary process and is not intended to prohibit or restrict other options, including additional investigation and/or disciplinary action or intervention. When any observations arise before, during or after educational intervention suggesting opportunities for a Practitioner to improve their clinical skills or professional behavior, the matter should be referred for peer review in accordance with the peer review and performance improvement policies adopted by the Medical Staff. If at any point before, during or after educational intervention efforts, it appears that corrective action is merited, or that other intervention described in these Bylaws or in Medical Staff Policies is more appropriate, such action may be implemented in accordance with Section 11.

Section 11. Investigations

11.1 Initiation

A request for an investigation must be submitted in writing by the ASC Administrator, Medical Director, MEC, or Governing Body chair. The request must be supported by references to the

specific activities or conduct that is of concern. If the MEC itself initiates an investigation, it shall appropriately document its reasons.

11.2 Investigation

Upon receipt of a request for investigation, the MEC may, in its discretion, elect to conduct an investigation, in accordance with this Section, or may deterimine that an investigation is uneccesary and take action on the request.

If the MEC decides that an investigation is warranted, it shall direct an investigation to be undertaken through the adoption of a formal resolution. In the event the Governing Body believes the MEC has incorrectly determined that an investigation is unnecessary, it may direct the MEC to proceed with an investigation.

The MEC may conduct the investigation itself or may assign the task to an appropriate standing or ad hoc committee of the Medical Staff.

If the investigation is delegated to a committee other than the MEC, such committee shall proceed with the investigation promptly and forward a written report of its findings, conclusions, and recommendations to the MEC as soon as feasible. The committee conducting the investigation shall have the authority to review all documents it considers relevant, to interview individuals, to consider appropriate clinical literature and practice guidelines, and to utilize the resources of an external consultant if it deems a consultant is necessary and such action is approved by the MEC. The investigating committee may also require the Practitioner under review to undergo a physical and/or mental examination and may access the results of such exams. The investigating committee may, in its discretion, provide to the Practitioner an opportunity to provide information in a manner and upon such terms as the investigating committee deems appropriate. The meeting between the Practitioner in question and the investigating committee (and meetings with any other individuals the investigating committee chooses to interview) shall not constitute a "hearing" as that term is used in the hearing sections of these Bylaws. The procedural rules with respect to hearings shall not apply to these meetings either. The individual being investigated shall not have the right to such a meeting, nor to be represented by legal counsel before the investigating committee, nor to compel the Medical Staff to engage external consultation. Despite the status of any investigation, the MEC shall retain the authority and discretion to take whatever action may be warranted by the circumstances, including suspension, corrective action, termination of the investigative process; or other action. The MEC may also direct the investigating committee to interview individuals, compile reports or other documents, investigate other issues, or provide additional information. The MEC will evaluate the report generated by the investigating committee and take prompt action after the conclusion of the investigation.

11.3 MEC Action

As soon as feasible after the request for investigation, of if additional investigation was warranted, at the conclusion of the investigation, the MEC shall take action that may include, without limitation:

a. Deferring action for a reasonable time when circumstances warrant;

b. Issuing letters of education, admonition, censure, reprimand, or warning, although nothing herein shall be deemed to preclude appropriate committee chairs from issuing informal written or oral warnings prior to an investigation. In the event such letters are issued, the affected Practitioner may make a written response, which shall be placed in the Practitioner's file;

c. Recommending completion of one or more training or other educational courses;

d. Recommending the imposition of terms of probation or special limitation upon continued Medical Staff Membership or/or exercise of clinical Privileges, including, without limitation, requirements for co-admissions, mandatory consultation, or monitoring/proctoring;

e. Recommending denial, restriction, modification, reduction, suspension, revocation, or probation of clinical Privileges;

f. Recommending limitation of any prerogatives directly related to the Practitioner's delivery of patient care;

g. Recommending suspension, revocation, or probation of Medical Staff Membership;

h. Determining no corrective action is warranted, and if the MEC determines there was not credible evidence for the complaint in the first instance, removing any adverse information from the practitioner's file; or

i. Taking other actions deemed appropriate under the circumstances.

In addition to considering and acting upon recommendations of the MEC regarding corrective action, the Governing Body may, at any time, respond to a investigation request by imposing action against the Practitioner, subject to the Practitioner's right, if applicable, to hearing or review.

11.4 Subsequent Action

If the MEC makes a decision on any termination or restriction of a physician or podiatrist's Membership or Privileges, the physician or podiatrist shall be entitled to the procedural rights afforded in this hearing plan. If the MEC recommends any of the actions triggering a fair hearing and appeal right for a physician or podiatrist under Section 13.1, the MEC shall promptly report such action to the Governing Body. The Governing Body will not act on the Adverse Recommendation until the Affected Individual has either waived or completed a hearing. The Governing Body may then adopt, modify, or reject the MEC's recommendation.

Section 12. Automatic Action and Summary Suspension

12.1 Automatic Suspension and/or Relinquishment

In the following triggering circumstances, which are not based on professional competence or conduct, the Practitioner's Privileges and/or Membership will be considered suspended or relinquished, or limited as described, and the action shall be final without a right to hearing. Where a bona fide dispute exists as to whether the circumstances have occurred, the relinquishment, suspension, or limitation will stand until the MEC determines it is not applicable. The MEC will make such a determination as soon as feasible. The Medical Director may reinstate the Practitioner's Privileges or Membership after determining that the triggering circumstances have been rectified or are no longer present. Unless a different time frame is specified below or in Medical Staff Policy, if the triggering circumstances have not been resolved within sixty (60) days of the trigger circumstance, the Practitioner will be deemed to have voluntarily resigned Membership and Privileges. In addition, further corrective action may be recommended in accordance with these Bylaws whenever any of the following circumstances occur:

12.1.1 Licensure

a. Revocation and suspension: Whenever a Practitioner's license or other legal credential authorizing practice in this state is revoked, suspended, expired, or voluntarily relinquished, Medical Staff Membership and clinical Privileges shall be automatically relinquished by the Practitioner as of the date such action becomes effective.

b. Restriction: Whenever a Practitioner's license or other legal credential authorizing practice in this state is limited or restricted by an applicable licensing or certifying authority, any clinical Privileges that the Practitioner has been granted at the organization that are within the scope of said limitation or restriction shall be automatically limited or restricted in a similar manner, as of the date such action becomes effective and throughout its term.

c. Probation: Whenever a Practitioner is placed on probation by the applicable licensing or certifying authority, their Membership status and clinical Privileges shall automatically become subject to the same terms and conditions of the probation as of the date such action becomes effective and throughout its term.

12.1.2 Medicare, Medicaid, Tricare or other federal programs: Whenever a Practitioner is excluded, precluded, or barred from participation in Medicare, Medicaid, Tricare, or other federal programs, Medical Staff Membership and clinical Privileges shall be considered automatically relinquished as of the date such action becomes effective. Any Practitioner listed on the United States Department of Health and Human Services Office of the Inspector General's List of Excluded Individuals/Entities will be considered to have automatically relinquished their Membership and Privileges.

12.1.3 Controlled Substances

a. **DEA Certificate:** Whenever a Practitioner's United States Drug Enforcement Agency (DEA) certificate or any State's Controlled Substance Registration (CSR) is revoked, limited, or suspended, the Practitioner will automatically and correspondingly be divested of the right to prescribe medications covered by the certificate, as of the date such action becomes effective and throughout its term.

b. **Probation:** Whenever a Practitioner's DEA certificate or State CSR is subject to probation, the Practitioner's right to prescribe such medications shall automatically become subject to the same terms of the probation, as of the date such action becomes effective and throughout its term.

12.1.4 Felony Conviction: A Practitioner who has been convicted of or entered a plea of "guilty" or "no contest" or its equivalent to a felony relating to controlled substances, illegal drugs, insurance or healthcare fraud or abuse, violence, abuse (physical, sexual, child, or elder) in any jurisdiction shall automatically relinquish Medical Staff Membership and Privileges. Such relinquishment shall become effective immediately upon such conviction or plea regardless of whether an appeal is filed. This does not preclude the MEC from taking action on charges or indictments of the above offenses.

12.1.5 Medical Staff Dues/Special Assessments: Failure to promptly pay Medical Staff dues or any special assessment shall be considered an automatic suspension of a Practitioner's appointment and Privileges. If within the time period set by the MEC in Medical Staff Policy after written warning of the delinquency the Practitioner does not remit such payments, the Practitioner shall be considered to have voluntarily resigned Membership and Privileges on the Medical Staff.

12.1.6 Failure to Participate in an Evaluation: A practitioner who fails to participate in an evaluation of their qualifications for Medical Staff Membership or privileges as required under these Bylaws (whether an evaluation of physical or mental health or of clinical management skills) and authorizes release of this information to the MEC, shall be considered to have all privileges automatically suspended. These privileges will be restored when the practitioner complies with the requirement for an evaluation. Failure to comply within thirty (30) calendar days will be considered a voluntary resignation from the Medical Staff.

12.1.7 Failure to Fulfill Mandatory Health Requirements: A Practitioner who fails to be compliant with the organization's policy on required testing (i.e., Tb testing) or required vaccinations/immunizations shall be automatically suspended until compliance is noted. Failure to comply within sixty (60) calendar days will be considered a voluntary resignation from the Medical Staff.

12.1.8 Failure to Execute Release and/or Provide Documents: A Practitioner who fails to execute a general or specific release of information and/or provide documents when requested by the Medical Director, or designee, to evaluate the competency and credentialing/privileging qualifications of the Practitioner shall

be considered to have all Privileges automatically suspended. After sixty (60) calendar days, the Practitioner will be deemed to have resigned voluntarily from the staff and must reapply for staff Membership and pprivileges.

12.1.9 **Failure to Become Board Certified:** A Practitioner who fails to become board certified in compliance with these Bylaws or Medical Staff Policies will be deemed to have immediately and voluntarily relinquished his or her Medical Staff appointment and Privileges.

12.1.10 **Failure to Maintain Board Certification:** A Practitioner who fails to maintain their board certification in compliance with these Bylaws or Medical Staff Policies will be deemed to have immediately and voluntarily relinquished his or her Medical Staff appointment and Privileges unless an exception is granted in accordance with the Bylaws or Medical Staff Policy.

12.1.11 **Failure to Satisfy the Special Appearance Requirement:** A Practitioner who fails without good cause to appear at a meeting where their special appearance is required in accordance with these Bylaws shall be considered to have all Clinical Privileges automatically suspended with the exception of emergencies and imminent deliveries. These Privileges will be restored when the Practitioner complies with the special appearance requirement, provided however, that failure to comply within thirty (30) calendar days will be considered a voluntary resignation his/her Privileges and Membership on the Medical Staff.

12.1.12 **Medical Record Completion Requirements:** A Practitioner will be considered to have their Privileges to admit new patients or schedule new procedures voluntarily suspended whenever such Practitioner fails to complete medical records within time frames established by the MEC. The suspended Privileges will be automatically restored upon completion of the medical records and compliance with medical records policies. Failure to comply within sixty (60) calendar days will be considered a voluntary resignation of Privileges and Membership on the Medical Staff.

12.1.13 **Professional Liability Insurance:** Failure of a Practitioner to maintain professional liability insurance in the amount and type required by state regulations and the Governing Body and sufficient to cover the Privileges granted shall result in immediate automatic suspension of a Practitioner's Clinical Privileges. If within sixty (60) calendar days of the suspension the Practitioner does not provide evidence of required professional liability insurance (including prior acts or "nose" coverage for any period during which insurance was not maintained), the Practitioner shall be considered to have voluntarily resigned Privileges and Membership on the Medical Staff. The Practitioner must notify the Medical Director office immediately, within twenty-four (24) hours, of any change in professional liability insurance carrier or coverage.

12.1.14 **Suspension at a Trinity Health Facility:** A Practitioner whose privileges are suspended at another Trinity Health facility based on professional competence and conduct, shall be considered to have all Privileges at the ASC automatically suspended. If the suspension is terminated at the other Trinity Health facility, the suspension will be automatically rescinded at this ASC.

12.1.15 **Involuntary Termination at a Trinity Health Facility:** A Practitioner whose membership or Privileges are involuntarily terminated at another Trinity Health facility based on professional competence and conduct shall result in automatic termination of Membership and Privileges at this ASC.

12.1.16 **Loss of supervising/collaborating physician for APPs:** If an APP loses their relationship with a supervising/collaborating physician on staff at ASC, then the APP is automatically suspended until the APP develops a new supervision/ collaboration relationship with another Member of the Medical Staff. If another supervising/collaborating relationship is not developed within sixty (60) days, then the APP automatically relinquished their Privileges.

12.1.17 **Governing Body Deliberation:** As soon as feasible after action is taken or warranted as described above, the Governing Body shall convene to review and consider the facts and may recommend such further corrective action as it may deem appropriate following the procedure generally set forth in these Bylaws.

12.2 Summary Restriction or Suspension

12.2.1 Criteria for Initiation: A summary restriction or suspension may be imposed when a good faith belief exists that immediate action must be taken to protect the life or well-being of patient(s); or to reduce a substantial and imminent likelihood of significant impairment of the life, health, and safety of any person or when any one of the ASC Administrator, Medical Director or Governing Body chair determines that there is a need to carefully consider any event, concern, or issue that, if confirmed, has the potential to adversely affect patient or employee safety or the effective operation of the institution.

Unless otherwise stated, such summary restriction or suspension shall become effective immediately upon imposition and the person or body responsible shall promptly give written notice to the practitioner, the MEC, the ASC Administrator, Medical Director, and the Governing Body. The restriction or suspension may be limited in duration and shall remain in effect for the period stated or, if none, until resolved as set forth herein. The summary suspension is not a complete professional review action in and of itself, and it shall not imply any final finding regarding the circumstances that caused the suspension.

Unless otherwise indicated by the terms of the summary restriction or suspension, the Practitioner's patients shall be promptly assigned to another Medical Staff Member by the Medical Director or designee, considering, where

feasible, the wishes of the affected Practitioner and the patient in the choice of a substitute Practitioner.

12.2.2 MEC Action: As soon as feasible and within fourteen (14) calendar days after such summary suspension has been imposed, the MEC shall meet to review and consider the action and if necessary begin the investigation process as noted in Section 11.2 above. Upon request and at the discretion of the MEC, the practitioner will be given the opportunity to address the MEC concerning the action, on such terms and conditions as the MEC may impose, although in no event shall any meeting of the MEC, with or without the practitioner, constitute a "hearing" as defined in this hearing and appeal plan, nor shall any procedural rules with respect to hearing and appeal apply. The MEC may modify, continue, or terminate the summary restriction or suspension, but in any event, it shall furnish the practitioner with notice of its decision.

12.2.3 Procedural Rights: Unless the MEC promptly terminates the summary restriction or suspension prior to or immediately after reviewing the results of any investigation described above, a Clinician may be entitled to the procedural rights afforded by this hearing and appeal plan once the restrictions or suspension last more than 14 calendar days. All summary actions shall be reported promptly to the Governing Body. If the summary action entitles the physician or podiatrist to a fair hearing, the Governing Body will not act on the action until such procedural right has been waived or completed. The Governing Body may then adopt, modify, or reject the MEC's action.

Section 13. Initiation and Notice of Hearing

13.1 Initiation of Hearing

Any Affected Individual shall be entitled to request a hearing whenever an unfavorable decision, with regard to clinical competence or professional conduct, has been made by the MEC or Governing Body. Hearings will be triggered only by the following Adverse Recommendations when the basis for such action is related to clinical competence or professional conduct:

a. Denial of Medical Staff appointment or reappointment;

b. Revocation of Medical Staff appointment;

c. Denial or restriction of requested clinical Privileges, but only if such suspension is for more than fourteen (14) calendar days and is not caused by the Affected Individual's failure to complete medical records or any other reason unrelated to professional competence or professional conduct;

d. Involuntary reduction, limitation, or revocation of clinical Privileges lasting longer than fourteen (14) calendar days;

e. Application of a mandatory concurring consultation requirement, or an increase in the stringency of a pre-existing mandatory concurring consultation requirement, when such requirement only applies to an Affected Individual and is imposed for more than fourteen (14) calendar days; or

f. Suspension of staff appointment or clinical Privileges, but only if such suspension is for more than fourteen (14) calendar days and is not caused by the Affected Individual's failure to complete medical records or any other reason unrelated to professional competence or professional conduct.

13.2 Hearings Will Not Be Triggered by the Following Actions

a. Issuance of a letter of guidance, warning, or reprimand;

b. Imposition of a requirement for proctoring (i.e., observation of the Clinician's performance by a peer in order to provide information to a Medical Staff peer review committee) with no restriction on Privileges;

c. Failure to process a request for a privilege when a physician or podiatrist does not meet the eligibility criteria to hold that Privilege;

d. Conducting an investigation into any matter or the appointment of an ad hoc investigation committee;

e. Requirement to appear for a special meeting under the provisions of these Bylaws;

f. Automatic relinquishment or voluntary resignation of appointment or Privileges;

g. Denial of a request for leave of absence, or for an extension of a leave;

h. Determination that an application is incomplete or untimely;

i. Determination that an application will not be processed due to misstatement or omission;

j. Decision not to expedite an application;

k. Denial, termination, or limitation of temporary privileges unless for demonstrated incompetence or unprofessional conduct;

l. Determination that an applicant for Membership does not meet the requisite qualifications/criteria for Membership;

m. Imposition of supervision pending completion of an investigation to determine whether corrective action is warranted;

n. Termination of any contract with or employment by ASC, or termination of a contract with the entity that employed or contracted with the physician or podiatrist to provide services for or at ASC termination;

o. Automatic termination of Privileges as the result of the termination of any contract with or employment by ASC, or termination of a contract with the entity that employed or contracted with the physician or podiatrist to provide services for or at ASC termination;

p. Proctoring, monitoring, and any other performance monitoring requirements imposed in order to fulfill any accreditation standards on focused professional practice evaluation;

q. Any recommendation voluntarily accepted by the physician or podiatrist waiving their right to a hearing;

r. Expiration of Membership and privileges as a result of failure to submit an application for reappointment within the allowable time period;

s. Any requirement to complete an educational assessment that does not limit Privileges for more than fourteen (14) days or is not based on professional competence or conduct;

t. Retrospective chart review;

u. Any requirement to complete a health and/or psychiatric/psychological assessment required under these Bylaws;

v. Grant of conditional appointment or appointment for a limited duration;

w. Appointment or reappointment for duration of less than 36 months; or

x. Refusal by the ASC to consider a request for appointment, reappointment, or Privileges after a final adverse decision at any Trinity Health facility.

13.3 Notice of Adverse Recommendation

When an Adverse Recommendation is made, which, according to this plan entitles an Adverse Individual to request a hearing prior to a final decision of the Governing Body, the Affected Individual shall promptly be given written notice by the ASC by Special Notice. This notice shall contain:

a. A statement of the recommendation made and the general reasons for it (Statement of Reasons);

b. Notice that the individual shall have thirty (30) calendar days following the date of the receipt of such Special Notice within which to request a hearing on the recommendation;

c. The individual shall receive a copy of Part II of these Bylaws or a summary outlining procedural rights with regard to the hearing.

13.4 Request for Hearing

An Affected Individual shall have thirty (30) calendar days following the date of the receipt of such notice within which to request the hearing. The request shall be made in writing to the Medical Director or designee. In the event the Affected Individual does not request a hearing within the time and in the manner required by this policy, the Affected Individual shall be deemed to have waived the right to such hearing and to have accepted the recommendation made. Such recommended action shall become effective immediately upon final Governing Body action.

13.5 Notice of Hearing and Statement of Reasons

Upon receipt of the Affected Individual's timely request for a hearing, the Medical Director shall schedule the hearing and shall give written notice to the person who requested the hearing. The notice shall include:

a. The time, place, and date of the hearing;

b. A proposed list of witnesses (as known at that time, but which may be modified) who will give testimony or evidence on behalf of the MEC (or Governing Body if the Governing Body made the Adverse Recommendation) at the hearing;

c. The name of the Hearing Officer, if known; and

d. A statement of the specific reasons for the recommendation as well as the list of patient records and/or information supporting the recommendation. This statement, and the list of supporting patient record numbers and other information, may be amended or added to at any time, even during the hearing so long as the additional material is relevant to the continued appointment or clinical Privileges of the Affected Individual, and that the Affected Individual and the Affected Individual's counsel have sufficient time to study this additional information and rebut it.

The hearing shall begin as soon as feasible, but no sooner than thirty (30) calendar days after the notice of the hearing unless an earlier hearing date has been specifically agreed to in writing by both parties.

13.6 Witness List

At least fifteen (15) calendar days before the hearing, each party shall furnish to the other a written list of the names of the witnesses intended to be called. Either party may request that the other party provide either a list of, or copies of, all documents that will be offered as pertinent information or relied upon by witnesses at the Hearing and which are pertinent to the basis for which the disciplinary action was proposed. The witness list of either party may, in the

discretion of the Hearing Officer, be supplemented or amended at any time during the course of the hearing, provided that notice of the change is given to the other party. The Hearing Officer shall have the authority to limit the number of witnesses.

Section 14. Hearing Committee/Hearing Officer and Presiding Officer

14.1 Hearing Committee or Hearing Officer. The hearing may be held before one of the following, as determined by the Medical Director:

14.1.1. **Hearing Committee**. The hearing may be held by a Hearing Committee of not fewer than three (3) individuals. This panel will be appointed by the Medical Director. No individual appointed to the Hearing Committee shall be in director economic competition with, or related to the, Affected Individual. No individual appointed to the Hearing Committee shall have actively participated in the consideration of the matter involved at any previous level. However, mere knowledge of the matter involved shall not preclude any individual from serving as a member of the Hearing Committee. Employment by, or a contract with, the hospital or an affiliate shall not preclude any individual from serving on the Hearing Committee. Hearing Committee members need not be members of the Medical Staff but should be a member of a Trinity Health hospital or ambulatory surgery center. When the issue before the panel is a question of clinical competence, all panel members shall be clinical practitioners. Committee members need not be clinicians in the same specialty as the member requesting the hearing.

14.1.2 Hearing Officer. The hearing may be held by a hearing officer who is appointed by the Medical Director. The Hearing Officer may be an attorney. The Hearing Officer may not be any individual who is in direct economic competition with, or related to, the Affected Individual requesting the hearing, and shall not act as a prosecuting officer or as an advocate to either side at the hearing.

14.1.3 **Notice of Hearing Committee or Hearing Officer**. The Medical Director or designee shall notify the Affected Individual of the name(s) of the Hearing Committee or Hearing Officer, as applicable, and the date by which the Affected Individual must object, if at all, to the appointment. Any objection to the Hearing Committee/Hearing Officer shall be made in writing to the Medical Director. The Medical Director shall determine whether a replacement individual should be identified. Although the Affected Individual may object to the Hearing Committee/Hearing Officer, the Affected Individual is not entitled to veto an individual's participation. Final authority to appoint the Hearing Panel will rest with the Medical Director.

14.2 **Presiding Officer**

14.2.1 In the event the hearing is held by a Hearing Committee, the Medical Director shall appoint a Presiding Officer to conduct the Hearing.

14.2.2 The Presiding Officer may be an attorney. The Presiding Officer may not be any individual who is in direct economic competition with, or related to, the individual requesting the hearing, and shall not act as a prosecuting officer or as an advocate to either side at the hearing.

14.2.3 In the event the hearing is held by a Hearing Officer, the Hearing Officer shall serve as the Presiding Officer.

14.2.4 The Medical Director or designee shall notify the Affected Individual of the name of the Presiding Officer and the date by which the Affected Individual must object, if at all, to the appointment. Any objection to the Presiding Officer shall be made in writing to the Medical Director. Although the Affected Individual may object to the Presiding Officer, the Affected Individual is not entitled to veto that individual's participation. Final authority to appoint the Presiding Officer will rest with the Medical Director.

14.1.5 The Presiding Officer shall do the following:

a. Act to ensure that all participants in the hearing have a reasonable opportunity to be heard and to present oral and documentary evidence subject to reasonable limits on the number of witnesses and duration of direct and cross examination, applicable to both sides, as may be necessary to avoid cumulative or irrelevant testimony or to prevent abuse of the hearing process;

b. Prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant, or abusive, or that causes undue delay;

c. Maintain decorum throughout the hearing;

d. Determine the order of procedure throughout the hearing;

e. Have the authority and discretion, in accordance with these Bylaws, to make rulings on all questions that pertain to matters of procedure and to the admissibility of evidence;

f. Act in such a way that all information reasonably relevant to the continued appointment or clinical privileges of the individual requesting the hearing is considered by the Hearing Panel in formulating its recommendations;

g. Conduct argument by counsel on procedural points; and

h. Seek legal counsel when they feel it is appropriate. Legal counsel to the Governing Body may advise the Presiding Officer or Hearing Panel.

Section 15. Pre-Hearing and Hearing Procedure

15.1 Provision of Relevant Information

15.1.1 The hearing is not a court of law and Affected Individuals are not afforded the same rights as defendants in a civil or criminal matter.There is no right to formal "discovery" in connection with the hearing. The Presiding Officer shall rule on any dispute regarding discoverability and may impose any safeguards, including denial or limitation of discovery to protect the peer review process and ensure a reasonable and fair hearing. In general, the Affected Individual shall be entitled, upon specific request, to the following, subject to a stipulation signed by both

parties, the Affected Individual's counsel and any experts that such documents shall be maintained as confidential consistent with all applicable state and federal peer review and privacy statutes and shall not be disclosed or used for any purpose outside of the hearing:

a. Copies of, or reasonable access to, all patient medical records referred to in the Statement of Reasons, at their expense;

b. Reports of experts relied upon by the MEC (or Governing Body if the if the Governing Body made the Adverse Recommendation);

c. Copies of redacted relevant committee minutes;

d. Copies of any other documents relied upon by the MEC (or Governing Body if the if the Governing Body made the Adverse Recommendation);

e. No information regarding other practitioners shall be requested, provided, or considered; and

f. Evidence unrelated to the reasons for the recommendation or to the Affected Individual's qualifications for appointment or the relevant clinical Privileges shall be excluded.

15.1.2 Prior to the hearing, on dates set by the Presiding Officer or agreed upon by counsel for both sides, each party shall provide the other party with all proposed exhibits. All objections to documents or witnesses to the extent then reasonably known shall be submitted in writing prior to the hearing. The Presiding Officer shall not entertain subsequent objections unless the party offering the objection demonstrates good cause.

15.1.3 There shall be no contact by the Affected Individual with those individuals appearing on MEC's (or Governing Body's, as applicable) witness list concerning the subject matter of the hearing; nor shall there be contact by the MEC (or Governing Body, as applicable) with individuals appearing on the affected individual's witness list concerning the subject matter of the hearing, unless specifically agreed upon by that individual or their counsel.

15.2 Pre-Hearing Conference

The Presiding Officer may require a representative for the Affected Individual and for the MEC (or Governing Body, as applicable) to participate in a pre-hearing conference. At the pre-hearing conference, the Presiding Officer shall resolve all procedural questions, including any objections to exhibits or witnesses, and determine the time to be allotted to each witness's testimony and cross-examination. The appropriate role of attorneys will be decided at the pre-hearing conference.

15.3 Failure to Appear

Failure, without good cause, of the Affected Individual to appear and proceed at such a hearing shall be deemed to constitute a waiver of all hearing rights and a voluntary acceptance of the recommendations or actions pending, which shall then be forwarded to the Governing Body for final action. Good cause for failure to appear will be determined by the Presiding Officer.

15.4 Record of Hearing

The Presiding Officer shall maintain a record of the hearing by a court reporter present to make a record of the hearing or a recording of the proceedings. The cost of such court reporter shall be borne by the ASC, but copies of the transcript shall be provided to the Affected Individual at the Affected Individual's expense. The Presiding Officer may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated to administer such oaths and entitled to notarize documents.

15.5 Rights of the Practitioner and the MEC (or Governing Body, as applicable)

15.5.1 At the hearing both sides shall have the following rights, subject to reasonable limits determined by the Presiding Officer:

a. To call and examine witnesses to the extent available;

b. To introduce exhibits;

c. To cross-examine any witness on any matter relevant to the issues and to rebut any evidence;

d. To have representation by counsel who may be present at the hearing, advise their client, and participate in resolving procedural matters. Attorneys may not argue the case for their client. Both sides shall notify the other of the name of their counsel at least ten (10) calendar days prior to the date of the hearing;

e. To submit a written statement at the close of the hearing.

15.5.2 Any individuals requesting a hearing who do not testify in their own behalf may be called and examined as if under cross-examination.

15.5.3 The Presiding Officer may question the witnesses, call additional witnesses or request additional documentary evidence.

15.6 Admissibility of Evidence

The hearing shall not be conducted according to legal rules of evidence. Hearsay evidence shall not be excluded merely because it may constitute legal hearsay. 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, regardless of the admissibility of such evidence in a court of law.

15.7 Post-Hearing Memoranda

Each party shall have the right to submit a post-hearing memorandum, and the Presiding Officer may request such a memorandum to be filed with ten (10) business days, following the close of the hearing.

15.8 Official Notice

The Presiding Officer shall have the discretion to take official notice of any matters, either technical or scientific, relating to the issues under consideration. Participants in the hearing shall be informed of the matters to be officially noticed and such matters 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 noticed matter by evidence or by written or oral presentation of authority. Reasonable additional time shall be granted, if requested by either party, to present written rebuttal of any evidence admitted on official notice.

15.9 Postponements and Extensions

Postponements and extensions of time beyond any time limit set forth in this policy may be requested by anyone but shall be permitted only by the Presiding Officer or the Medical Director on a showing of good cause. The hearing shall not proceed unless all Hearing committee members are present.

15.10 Persons to be Present

The hearing shall be restricted to those individuals involved in the proceeding. Administrative personnel may be present as requested by the Medical Director. The Hearing Officer or all members of the Hearing Committee, as applicable, shall be present, absent good cause, for all stages of the hearing and deliberations.

15.11 Order of Presentation

The MEC (or Governing Body if the Governing Body made the Adverse Recommendation) shall first present evidence in support of its recommendation. Thereafter, the burden shall shift to the Affected Individual who requested the hearing to present evidence.

15.12 Adjournment and Conclusion

The Presiding Officer may recess the hearing and reconvene the same at the convenience and with the agreement of the participants. Upon conclusion of the presentation of evidence by the parties and questions by the Presiding Officer, the hearing shall be closed.

15.13 Deliberations and Recommendation of the Hearing Officer

Within twenty (20) calendar days after final adjournment of the hearing, the Hearing Committee or Hearing Officer, as applicable shall conduct its deliberations outside the presence of any other person and shall render a recommendation, accompanied by a report which shall contain a concise statement of the reasons for the recommendation.

15.14 Burden of Proof and Basis of Recommendation

It is the burden of the Affected Individual under review to demonstrate by a preponderance of the evidence, that the recommendation that prompted the hearing was arbitrary, capricious, or not supported by credible evidence. The Hearing Committee or Hearing Officer, as applicable shall recommend in favor of the MEC (or Governing Body, as applicable) unless it finds that the Affected Individual has proved, by a preponderance of the evidence, that the recommendation that prompted the hearing was arbitrary, capricious, or not supported by credible evidence.

15.15 Disposition of Hearing Committee/Hearing Officer Report

The Hearing Committee or Hearing Officer, as applicable, shall deliver its report and recommendation to the Medical Director, or designee who shall forward it, along with all supporting documentation, to the MEC (or Governing Body, as applicable) for further action. The Medical Director, or desginee shall also send a copy of the report and recommendation by Special Notice to the Affected Individual. The MEC or Governing Body, as applicable, may uphold its original recommendation or modify or adjust its recommendation and submit its new recommendation in writing to the Affected Individual, including a statement of the basis for its recommendation. If the final recommendation is an Adverse Recommendation, the Affected Individual shall have the right to appellate review as outlined below. If an appeal is not requested in accordance with Section 15.16, the Governing Body shall render a final decision as provided in Section 15.16.

15.16 Time for Appeal

Within ten (10) calendar days after the final Adverse Recommendation, the Affected Individual subject to the hearing may appeal. The request for appellate review shall be in writing, and shall be delivered to the Medical Director either in person or by certified mail, and shall include a brief statement of the reasons for appeal and the specific facts or circumstances which justify further review. If such appellate review is not requested within ten (10) calendar days, both parties shall be deemed to have accepted the recommendation involved, and the Hearing Committee's/Hearing Officer's report and recommendation shall be forwarded to the Governing Body. If an appeal is not requested in accordance with this Section, the Governing Body shall render a final decision in writing within thirty (30) calendar days after receiving the final recommendation, including specific reasons for its action, and shall deliver copies thereof to the Affected Individual by Special Notice and notify the MEC.

15.17 Grounds for Appeal

The grounds for appeal shall be limited to the following:

15.17.1 There was substantial failure to comply with the Bylaws prior to or during the hearing so as to deny a fair hearing; or

15.17.2 The recommendation of the Hearing Committee/Hearing Officer was made arbitrarily, capriciously, or with prejudice; or

15.17.3 The recommendation of the Hearing Committee/Hearing Officer was not supported by substantial evidence based upon the hearing record.

15.18 Time, Place, and Notice

Whenever an appeal is requested as set forth in the preceding sections, the chair of the Governing Body shall schedule and arrange for an appellate review as soon as arrangements can be reasonably made, taking into account the schedules of all individuals involved. The Affected Individual shall be given notice of the time, place, and date of the appellate review. The chair of the Governing Body may extend the time for appellate review for good cause.

15.19 Nature of Appellate Review

15.19.1 The Chair of the Governing Body shall appoint a review panel composed of at least one (1) member of the Governing Body to consider the information upon which the recommendation before the Governing Body was made. Member(s) of this review panel may not be direct competitors of the Affected Individual under review and should not have participated in any formal investigation leading to the recommendation for corrective action that is under consideration.

15.19.2 The review panel may, but is not required to, accept additional oral or written evidence subject to the same procedural constraints in effect for the Hearing Officer. Such additional evidence shall be accepted only if the party seeking to admit it can demonstrate that it is new, relevant evidence and that any opportunity to admit it at the hearing was denied. If additional oral evidence or oral argument is conducted, the review panel shall maintain a record of any oral arguments or statements by a reporter present to make a record of the review or a recording of the proceedings. The cost of such reporter shall be borne by the ASC, but copies of the transcript shall be provided to the Affected Individual at th Affected Individual's expense. The review panel may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person designated to administer such oaths and entitled to notarize documents in the state where the ASC is located.

15.19.3 Each party shall have the right to present a written statement in support of its position on appeal. In its sole discretion, the review panel may allow each party or its representative to appear personally and make a time-limited thirty (30) minute oral argument. The review panel shall recommend final action to the Governing Body.

15.19.4 The Governing Body may affirm, modify, or reverse the recommendation of the review panel or, in its discretion, refer the matter for further review and recommendation, or make its own decision based upon the Governing Body's ultimate legal responsibility to grant appointment and Privileges.

15.20 Final Decision of the Governing Body

Within thirty (30) calendar days after receiving the review panel's recommendation, the Governing Body shall render a final decision in writing, including specific reasons for its action, and shall deliver copies thereof to the Affected Individual by Special Notice and notify the MEC.

15.16 Right to One Hearing Only

Affected Individual's shall not be entitled as a matter of right to more than one (1) hearing or appellate review on any single matter. In the event that the Governing Body ultimately determines to deny Medical Staff appointment or reappointment to an applicant, or to revoke or terminate the Medical Staff appointment and/or Privileges or deny the application of an Affected Individual, that Affected Individual may not apply for Medical Staff appointment or for those Clinical Privileges at this or another Trinity Health facility unless the Governing Body advises otherwise.

15.17 Reporting Requirements

The Medical Director or their designee shall be responsible for assuring that ASC satisfies its obligations under State law and the Health Care Quality Improvement Act of 1986 and its successor statutes. Whenever a physician's or podiatrist's privileges are limited, revoked, or in any way constrained, ASC must, in accordance with State and Federal laws or regulations, report those constraints to the appropriate State and Federal authorities, registries, and/or data bases, such as the NPDB. Actions that must be reported include, but are not limited to, any negative professional review action against a physician or podiatrist related to professional incompetence or misconduct that leads to a denial of appointment and/or reappointment; reduction in clinical Privileges for greater than thirty (30) calendar days; resignation, surrender of privileges, or acceptance of privilege reduction either during an investigation or to avoid an investigation.

Part III: Credentials Procedures Manual

Section 16. Credentials Responsibilities

16.1 Composition

The voting members of the Credentials Committee consist of one member from each of the medical specialties on staff at the ASC, or at least 3 members if fewer than 3 specialties are represented. The voting members of the Credentials Committee serve at the discretion of the Medical Director. Alternately, the MEC may act as the Credentials Committee of the ASC.

16.2 Meetings

The Medical Staff Credentials Committee shall meet as needed and on call of the Chair or the Medical Director.

16.3 Responsibilities

16.3.1 To review and recommend action on all applications and reapplications for membership on the Medical Staff;

16.3.2 To review and recommend action on all requests regarding Privileges from eligible Practitioners;

16.3.3 To recommend eligibility criteria for the granting of Medical Staff membership and Privileges;

16.3.4 To develop, recommend, and consistently implement policy and procedures for all credentialing and privileging activities;

16.3.5 To review, and where appropriate take action on, reports that are referred to it from other Medical Staff committees or the Medical Staff as a whole;

16.3.6 To perform such other functions as requested by the MEC and/or Governing Body.

16.4 Confidentiality

This Committee shall function as a peer review committee consistent with federal and state law. All members of the Committee shall, consistent with Medical Staff confidentiality policies, keep in strict confidence all papers, reports, and information obtained by virtue of membership on the Committee.

16.4.1 The credentials file is the property of the ASC and will be maintained with strictest confidence and security. The files will be maintained securely. Medical Staff and administrative leaders may access credential files for appropriate peer review and company reasons.

16.4.2 Individual Practitioners may review their credentials file under the following circumstances:

Only upon written request approved by an Medical Director or chair of the Credentials Committee. Review of such files will be conducted in the presence of the Medical Director or designee. Confidential letters of reference may not be reviewed by Practitioners. Nothing may be removed from the file. Only items supplied by the Practitioner or directly addressed to the Practitioner may be copied and given to the Practitioner. The Practitioner may make notes for inclusion in the file. A written or electronic record will be made and placed in the file confirming the dates and circumstances of the review.

Section 17. Qualifications for Membership and/or Privileges

17.1 No Practitioner shall be entitled to be on the Medical Staff or to hold Privileges merely by virtue of licensure, membership in any professional organization, or privileges at any other healthcare organization.

17.2 The following qualifications must be met and continuously maintained by all applicants for Medical Staff appointment, reappointment, or clinical Privileges:

17.2.1 Demonstrate that they have successfully graduated from an approved school of medicine, osteopathy, podiatry, advanced practice nursing, physician assistant program, or applicable recognized course of training in a clinical profession eligible to hold privileges;

17.2.2 A physician applicant, MD, or DO, must have successfully completed an allopathic or osteopathic residency program, approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA) and be currently board certified or become board certified within five (5) years of completing formal training or longer as defined by the appropriate specialty board of the American Board of Medical Specialties (ABMS) or the American Osteopathic Association or foreign boards accepted by the American board or is deemed to meet the training/qualifications of the American board. They must maintain their certification; recertification may be through the ABMS, AOA, or the National Board of Physicians and Surgeons (NBPAS).

17.2.3 A podiatric physician, DPM, must have successfully completed a two-year (2) residency program in surgical, orthopedic, or podiatric medicine approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association (APMA), and be board certified or become board certified within five (5) years of completing formal training as determined by the American Board of Foot and Ankle Surgery, the American Board of Podiatric Medicine, or any foreign board accepted by the American board or is deemed to meet the training/qualifications of the American board.

17.2.5 Have a current state license or certification as a practitioner, applicable to their profession, and providing permission to practice. The license or certification must be unrestricted for appointment;

17.2.5 Have no history or license or certification revocation by any state licensing/certifying agency;

17.2.6 Have a record that is free from Medicare/Medicaid preclusion/exclusion and not be on the OIG List of Excluded Individuals/Entities or SAM (System for Award Management);

17.2.7 Have a record that shows the applicant has never been convicted of, or entered a plea of guilty or no contest to, any felony, relating to the death or injury of another person, insurance or health care fraud or abuse, violence, or abuse (physical, sexual, child or elder) in any jurisdiction; and

17.2.8 Have a record that shows the applicant has not been convicted of or entered a plea of guilty or not contest to any felony, relating to alcohol, controlled substances, illegal drugs in the past ten (10) years.

17.2.9 Have no history of termination from a hospital's, ambulatory surgery center's or health plan's Medical Staff, or resignation in lieu of conducting an investigation, for a reason of competence or conduct;

17.2.10 Possess a current and valid drug enforcement administration (DEA) number. The DEA must be unrestricted for initial appointment.

17.3 In Addition to Privilege-Specific Criteria, the Following Qualifications Must Also be Met and Maintained by All Applicants Requesting Privileges:

17.3.1 Demonstrate their background, experience, training, current competence, knowledge, judgment, and ability to perform all privileges requested;

17.3.2 Possess a valid NPI number, if applicable;

17.3.3 Have appropriate written and verbal communication skills;

17.3.4 Have appropriate personal qualifications, including applicant's consistent observance of ethical and professional standards. These standards include, at a minimum:

a. Abstinence from any participation in fee splitting or other illegal payment, receipt, or remuneration with respect to referral or patient service opportunities; and

b. A history of consistently acting in a professional, appropriate, and collegial manner with others in previous clinical and professional settings.

17.3.5 Upon request provide evidence of both physical and mental health that does not impair the fulfillment of their responsibilities of Medical Staff Membership and/or the specific Privileges requested by and granted to the applicant. This certification of physical and mental health must be from a practitioner acceptable to the Executive Board;

17.3.6 Demonstrate recent clinical performance within the last twenty-four (24) months with an active clinical practice in the area in which independent clinical Privileges are sought adequate to meet current clinical competence criteria; and

17.3.7 The applicant is requesting Privileges for a service the organization has determined appropriate for performance at the organization.

17.4 Exceptions

17.4.1 Only the MEC with approval of the Governing Body may create exceptions in extenuating circumstances and if there is documented evidence that a Practitioner demonstrates an equivalent competence in the areas of the requested Privileges.

Section 18. Initial Appointment Procedure

18.1 Completion of Application

18.1.1 Upon request, applicants will be provided with an application package, which will include a complete set or overview of the Medical Staff Bylaws or reference to an electronic source for this information. This package will enumerate the eligibility requirements for being on the Medical Staff and/or hold Privileges.

A completed application includes, at a minimum:

a. A completed, signed, dated application form;

b. A completed Privilege delineation form;

c. Copies of all requested documents and information necessary to confirm the applicant meets criteria for Membership and/or Privileges and to establish current competency;

d. All applicable fees;

e. Receipt of all references; references shall come from peers knowledgeable about the applicant's experience, ability, and current competence to perform the Privileges being requested;

f. Relevant practitioner-specific data as compared to aggregate data, when available; and

g. Morbidity and mortality data, when available.

An application shall be deemed incomplete if any of the above items are missing or if the need arises for new, additional, or clarifying information in the course of reviewing an application. An incomplete application will not be processed. Anytime in the credentialing process it becomes apparent that an applicant does not meet all eligibility criteria for Membership or Privileges, the credentialing process will be terminated, and no further action taken.

18.1.2 The burden is on the applicant to provide all required information. It is the applicant's responsibility to ensure that ASC receives all required supporting documents verifying information on the application. If information is missing from the application, or new, additional, or clarifying information is required, notification requesting such information will be sent to the applicant. If the requested information is not returned to the ASC within forty-five (45) calendar days of the receipt of the request letter, the application will be deemed to have been voluntarily withdrawn.

18.1.3 Upon receipt of a completed application ASC staff or designated credentials verification organization (CVO) will determine if the requirements of Section 17 are met. In the event the requirements of Section 17 are not met, the potential applicant will be notified that they are ineligible to apply for Membership or Privileges on the Medical Staff and the application will not be processed. If the requirements of Section 17 are met, the application will be accepted for further processing.

18.1.4 Individuals seeking appointment shall have the burden of producing information deemed adequate by the organization for a proper evaluation of current competence, character, ethics, and other qualifications, and of resolving any doubts.

18.1.5 Upon receipt of a completed application, ASC staff or designated CVO will verify current licensure, education, relevant training, and current competence from the primary source whenever feasible. When it is not possible to obtain information from the primary source, reliable secondary sources may be used if there has been a documented attempt to contact the primary source. In addition, ASC staff or designated CVO will collect relevant additional information which may include:

a. Information from all prior and current liability insurance carriers concerning claims, suits, settlements, and judgments, (if any) during the past ten (10) years;

b. Verification of the applicant's past hospital and ambulatory surgery center affiliations for at least the past ten (10) years;

c. Licensure status in all current or past states of licensure at the time of initial granting of Membership or Privileges; in addition, ASC staff or designated CVO will primary source verify licensure at the time of renewal or revision of

clinical Privileges, whenever a new Privilege is requested, and at the time of license expiration;

d. Information from the AMA or AOA Physician Profile, and the OIG list of Excluded Individuals/Entities or SAM (System for Award Management);

e. Information from professional training programs including residency and fellowship programs;

f. For physicians and podiatrists, information from the National Practitioner Data Bank (NPDB); in addition, the NPDB will be queried at the time of renewal of Privileges and whenever a new Privilege(s) is requested through use of the continuous query process;

g. Verification of identity by comparing a current picture ID card issued by a state or federal agency (e.g., driver's license or passport) or current picture ASC ID card and comparing it to the applicant;

h. Other information about adverse credentialing and privileging decisions;

i. Three (3) peer recommendations chosen from practitioner(s) who have observed the applicant's clinical and professional performance and can evaluate the applicant's current medical/clinical knowledge, technical and clinical skills, clinical judgment, interpersonal skills, communication skills, and professionalism as well as the physical, mental, and emotional ability to perform requested privileges;

j. Information from a seven (7) year national criminal background check on initial application;

k. Information from any other sources relevant to the qualifications of the applicant to serve on the Medical Staff and/or hold privileges; and

l. Information from the Educational Commission for Foreign Medical Graduates (ECFMG), if applicable.

Note: In the event there is undue delay in obtaining required information, ASC staff or designated CVO will request assistance from the applicant. During this time period, the "time periods for processing" the application will be appropriately modified. Failure of an applicant to adequately respond to a request for assistance after forty-five calendar days will be deemed a voluntary withdrawal of the application.

18.1.6 When the items identified in Section 17 above have been obtained, the file will be considered verified and complete and eligible for evaluation.

18.2 Application Evaluation

18.2.1 Credentialing Process: All initial applications for being on the Medical Staff and/or privileges will be designated Category 1 or Category 2 as follows;

Category 1: A completed application that does not raise concerns as identified in the criteria for Category 2. Applicants in Category 1 may be granted temporary privileges after review and action by the following: the Medical Director or designee as outlined in Section 20.4.

Category 2: If one or more of the following criteria are identified in the course of reviewing a completed and verified application, the application will be treated as Category 2. Applications in Category 2 are not eligible for temporary Privileges. The MEC may request that an appropriate subject matter expert assess selected applications. At all stages in this review process, the burden is upon the applicant to provide evidence that they meet the criteria for being on the Medical Staff and for the granting of requested Privileges. Criteria for Category 2 applications include but are not necessarily limited to the following:

a. The final recommendation of the MEC is adverse or with limitation;

b. The applicant has a current challenge or a previously successful challenge to licensure or registration;

c. Applicant is, or has been, under investigation by a state medical board, state-controlled substance registration authority, DEA or has prior disciplinary actions or legal sanctions;

d. Applicant has had two [2] or more or an unusual pattern of malpractice cases judged or settled within the past [3] years or one final adverse judgment or settlement in a professional liability action in excess of $100,000;

e. Applicant changed medical schools or residency programs or has unexplained gaps in training or practice thirty-one (31) days or greater;

f. Applicant has changed practice affiliations three or more times in the past ten (10) years, excluding locum tenens practitioners and those serving in the military;

g. Applicant has one or more reference responses that raise concerns or questions;

h. Substantive discrepancy is found between information received from the applicant and references or verified information;

i. Applicant has an adverse National Practitioner Data Bank report unrelated to professional liability actions;

j. The request for Privileges is not reasonable based upon applicant's experience, training, and demonstrated current competence, and/or is not in compliance with applicable criteria;

k. Applicant has potentially relevant physical, mental, and/or emotional health problems which would preclude them from meeting the ASC requirements;

l. Other reasons as determined by a Medical Staff leader or other representative of the organization which raise questions about the qualifications, competency, professionalism, or appropriateness of the applicant for being on the Medical Staff or holding Privileges.

18.2.2 Applicant Interview

a. All applicants for appointment to the Medical Staff and/or the granting of clinical Privileges may be required to participate in an interview at the discretion of the ASC Administrator, Medical Director, Credentials Committee (if any), or MEC. The interview may take place in person or by telephone at the discretion of the interviewer. The interview may be used to solicit information required to complete the credentials file or clarify information previously provided, e.g., clinical knowledge and judgment, professional behavior, malpractice history, reasons for leaving past healthcare organizations, or other matters bearing on the applicant's ability to render care at the generally recognized level for the community.

b. Procedure: the applicant will be notified if an interview is requested. Failure of the applicant to appear for a scheduled interview will be deemed a voluntary withdrawal of the application.

18.2.3 Medical Director Action

a. All completed applications are presented to the Medical Director for review, and recommendation. The Medical Diretcor reviews the application to ensure that it fulfills the established standards for Membership and/or clinical Privileges. The Medical Director, in consultation with the Medical Staff professional, determines whether the application is forwarded as a Category 1 for temporary privileges or Category 2 for final determinations of whether the applicant will be on the Medical Staff or hold privileges. The Medical Director may obtain input if necessary from an appropriate subject matter expert. If a Medical Director believes a conflict of interest exists that might preclude their ability to make an unbiased recommendation, they will notify the Medical Director and forward the application without comment.

b. The Medical Director forwards to the Credentials Committee the following:

i. A recommendation as to whether to approve the applicant's request to Membership and/or privileges; to approve Membership but modify the requested privileges; or deny Membership and/or privileges; and

ii. A recommendation to define those circumstances which require monitoring and evaluation of clinical performance after initial grant of clinical privileges.

iii. Comments to support these recommendations.

18.2.4 Credentials Committee Action

If there is a separate Credentials Committee, the Credentials Committee reviews the application and forwards the following to the MEC:

a. A recommendation to approve the applicant's request to be on the Medical Staff and/or privileges; to modify the requested privileges; or deny being on the Medical Staff and/or holding of privileges; and

b. A recommendation to define those circumstances which require monitoring and evaluation of clinical performance after initial grant of clinical privileges.

c. Comments to support these recommendations.

18.2.5 MEC Action

The application is reviewed to ensure that it fulfills the established standards for being on the Medical Staff and/or clinical Privileges. The MEC shall either:

a. Approve the applicant's request for being on the Medical Staff and/or holding of Privileges, to modify the requested Privileges, or to not allow on the Medical Staff and/or holding of Privileges; and

b. Define those circumstances which require monitoring and evaluation of clinical performance after initial grant of clinical Privileges.

18.2.6 Governing Body Action

The Governing Body reviews the application and may adopt or reject in whole or in part a recommendation of the MEC or refer the recommendation to the MEC for further consideration stating the reasons for such referral back and setting a time limit within which a subsequent recommendation must be made. If the Governing Body concurs with the applicant's request for membership and/or Privileges it will grant the appropriate membership and/or Privileges for a period not to exceed thirty-six (36) months;

18.2.7 Notice of Final Decision: The applicant shall receive written notice of appointment. In the event the Governing Body makes an Adverse Recommendation, Special Notice shall be send in accordance with Section 13, and the applicant may be entitled to the procedural rights in the hearing plan. A decision and notice of appointment includes the clinical Privileges they may exercise, the timeframe of the appointment, and any special conditions attached to the appointment.

18.2.8 Time Periods for Processing: All individual and groups acting on an application for staff appointment and/or clinical Privileges must do so in a timely and good faith manner, and, except for good cause, each completed application will be processed within one-hundred twenty (120) calendar days.

These time periods are deemed guidelines and do not create any right to have an application processed within these precise periods.

Section 19. Reappointment

19.1 Criteria for Reappointment

It is the policy of the organization to approve for reappointment and/or renewal of Privileges only those Practitioners who meet the criteria for initial appointment as identified in Section 18, and the minimum activity requirements at ASC to ensure that ASC can conduct meaningful ongoing monitoring and peer review of the care provided. The minimum activity requirement to qualify for reappointment is defined as 36 cases performed at the ASC per 36 month appointment cycle, as pro rated for shorter appointment periods. The MEC must also determine that the Practitioner provides effective care that is consistent with organizational standards regarding ongoing quality and organizational performance improvement program. All reappointments and renewals of clinical Privileges are for a period not to exceed thirty-six (36) months. The granting of new clinical Privileges to existing Medical Staff Members or other Practitioners will follow the steps described in Section 18 above concerning the initial granting of new clinical Privileges and Section 21 below concerning focused professional practice evaluation.

19.2 Information Collection and Verification

19.2.1 From appointee: On or before four (4) months prior to the date of expiration of a Medical Staff appointment or grant of Privileges, ASC staff or designated CVO will notify the Practitioner of the date of expiration and supplies him/her with an application for reappointment for Membership and/or Privileges. At least sixty (60) calendar days prior to this expiration date the Practitioner must return the following to the desiganted ASC staff:

a. A completed reapplication form, which includes complete information to update their file on items listed in their original application and any required new, additional, or clarifying information;

b. Information concerning continuing training and education during the preceding period.

19.2.2 From internal and/or external sources: ASC staff or designated CVO collects and verifies information regarding each Practitioner's professional and collegial activities to include those items listed on the application.

19.2.3 The following information is also collected and verified:

a. A summary of clinical activity at this organization for each Practitioner due for reappointment;

b. Performance and conduct in this organization, and, if applicable, other healthcare organizations in which the Practitioner has provided substantial clinical care since the last reappointment, including patient care, medical/clinical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and system-based practice;

c. Attestation of any required hours of continuing medical education activity;

d. Timely and accurate completion of medical records;

e. Compliance with all applicable Bylaws and Medical Staff Policies;

f. Verification of current licensure;

g. National Practitioner Data Bank query and information from the OIG List of Excluded Individuals/Entities or SAM (System for Award Management); and

h. Malpractice history for the past three (3) years, which is primary source verified by ASC staff or designated CVO with the Practitioner's malpractice carrier(s).

19.3 Evaluation of Application for Reappointment of Membership and/or Privileges

The reappointment application will be reviewed and acted upon as described in Section 18 above. The terms "applicant" and "appointment" as used in these sections shall be read respectively, as "staff appointee" and "reappointment."

Section 20. Clinical Privileges

20.1 Exercise of Privileges

A Practitioner providing clinical services at the organization may exercise only those Privileges granted to him/her by the Governing Body or temporary Privileges as described herein.

20.2 Requests

When applicable, each application for appointment or reappointment to the Medical Staff or for Privileges must contain a request for the specific clinical Privileges the applicant desires. Specific requests must also be submitted for temporary Privileges and for modifications of Privileges in the interim between reappointments and/or granting of Privileges.

20.3 Basis for Privileges Determination

20.3.1 Requests for clinical Privileges will be considered only when accompanied by evidence of education, training, experience, and demonstrated current competence as specified by the MEC in its approved criteria for clinical Privileges.

20.3.2 Requests for clinical Privileges will be consistently evaluated on the basis of prior and continuing education, training, experience, utilization practice patterns, current ability to perform the Privileges requested, and demonstrated current competence, ability, and judgment. Additional factors that may be used in determining Privileges are patient care needs and the organization's capability to support the type of Privileges being requested. The basis for Privileges determination to be made in connection with periodic reappointment or a requested change in Privileges must include documented clinical performance and results of the applicant's performance improvement program activities. Privilege determinations may also be based on pertinent information from other sources, such as peers and/or faculty from other institutions and health care settings where the applicant exercises clinical privileges.

20.3.3 The procedure by which requests for clinical Privileges are processed are as outlined in Section 18 above.

20.4 Temporary Privileges

The Medical Director or designee may grant temporary Privileges. Temporary Privileges may be granted only in two (2) circumstances: 1) to fulfill an important patient care, treatment, or service need, or 2) when an initial applicant with a complete application that raises no concerns is awaiting review and approval of the MEC and Governing Body.

20.4.1 **Important Patient Care, Treatment, or Service Need:** Temporary Privileges may be granted on a case-by-case basis when an important patient care, treatment, or service need exists that mandates an immediate authorization to practice, for a limited period of time, not to exceed 120 calendar days. When granting such Privileges, the ASC verifies NPDB, current licensure and current competence.

20.4.2 **Clean Application Awaiting Approval:** Temporary Privileges may be granted for up to one hundred and twenty (120) calendar days when the new applicant for Medical Staff Membership and/or Privileges is waiting for review and approval by the MEC and Governing Body. Criteria for granting temporary Privileges in

these circumstances include a complete application that is fully verified. Additionally, the application must meet the criteria for Category 1 credentialing consideration as noted in Section 18.

20.4.3 Special requirements of consultation and reporting may be imposed as part of the granting of temporary Privileges. Except in unusual circumstances, temporary Privileges will not be granted unless the applicant has agreed in writing to abide by the Bylaws and Medical Staff and ASC Policies in all matters relating to their temporary Privileges. Whether or not such written agreement is obtained, these Bylaws and Medical Staff Policies control all matters relating to the exercise of clinical Privileges.

20.4.4 **Termination of temporary privileges:** The Medical Director may terminate any or all of the Practitioner's Privileges based upon the discovery of any information or the occurrence of any event of a nature which raises questions about a Practitioner's Privileges.

Section 21. Clinical Competency Evaluation

21.1 Focused Professional Practice Evaluation (FPPE)

All initially requested Privileges shall undergo a period of FPPE. The MEC will define the circumstances which require monitoring and evaluation of the clinical performance of each Practitioner following their initial grant of clinical Privileges at the organization. Such monitoring may utilize prospective, concurrent, or retrospective proctoring, including but not limited to: chart review, the tracking of performance monitors/indicators, external peer review, simulations, morbidity and mortality reviews, and discussion with other healthcare individuals involved in the care of each patient. The MEC will also establish the duration for such FPPE and triggers that indicate the need for performance monitoring.

In addition, each Practitioner may be subject to FPPE when issues affecting the provision of safe, high quality patient care are identified through the OPPE process.

21.2 Ongoing Professional Practice Evaluation (OPPE)

The Medical Staff will also engage in OPPE to identify professional practice trends that affect quality of care and patient safety. Information from this evaluation process will be factored into the decision to maintain existing Privileges, to revise existing Privileges, or to revoke an existing Privilege prior to or at the time of reappointment. OPPE shall be undertaken as part of the Medical Staff's evaluation, measurement, and improvement of Practitioner's current clinical competency. Decisions to assign a period of performance monitoring or evaluation to further assess current competence must be based on the evaluation of an individual's current clinical competence, practice behavior, and ability to perform a specific Privilege.

Section 22. Reapplication after Modifications of Membership Status or Privileges

22.1 Reapplication After Adverse Credentials Decision

Except as otherwise determined by the MEC or Governing Body, an individual who has received a final adverse decision or who has resigned or withdrawn an application for appointment or reappointment or clinical Privileges while under investigation or to avoid an investigation is not eligible to reapply to the Medical Staff or for clinical Privileges

22.2 Request for Modification of Appointment Status or Privileges

A Practitioner, either in connection with reappointment or at any other time, may request modification of clinical Privileges by submitting a written request to the designated ASC staff. A modification request must be on the prescribed form and must contain all pertinent information supportive of the request. All requests for additional clinical Privileges must be accompanied by information demonstrating additional education, training, and current clinical competence in the specific Privileges requested. A modification application is processed in the same manner as a reappointment, which is outlined in Section 18 of this manual. A Practitioner who determines that they no longer exercise, or wish to restrict or limit the exercise of, particular Privileges that they have been granted shall send written notice, through thedesignated asc staff, to the MEC. A copy of this notice shall be included in the Practitioner's credentials file.

22.3 Resignation of Staff Appointment or Privileges

A Practitioner who wishes to resign their staff appointment and/or clinical privileges must provide thirty (30) days' written notice to the Medical Director. The resignation shall specify the reason for the resignation and the effective date. A Practitioner who resigns their staff appointment and/or clinical Privileges is obligated to fully and accurately complete all portions of all medical records for which they are responsible prior to the effective date of resignation. Failure to do so shall result in an entry in the Practitioner's credentials file acknowledging the resignation and indicating that it became effective under unfavorable circumstances.

Section 23. Leave of Absence

23.1 Leave Request

An elective leave of absence must be requested for any absence from patient care responsibilities longer than ninety (90) days and whether such a Practitioner who wishes to obtain an elective leave of absence must provide written notice thirty (30) calendar days in absence of the requested absence to the Medical Director stating the reasons for the leave and approximate period of time of the leave, which may not exceed one (1) year, except for military service or express permission by the MEC.

If there is a concern regarding the Practitioner's physical or mental health reason and his or her ability to care for patients safely and competently, a medical leave of absence may be instituted. Under such circumstances, the Medical Director, may trigger an automatic leave of absence for health reasons.

While on leave of absence, the Practitioner may not exercise clinical privileges or prerogatives and has no obligation to fulfill Medical Staff responsibilities. Leaves of absence are matters of courtesy, not of right.

23.2 Termination of Leave

Prior to the termination of the leave, the Practitioner should request reinstatement at least thirty (30) days in advance of the anticipated return date, by sending a written notice to the Medical Director. The Practitioner must submit a written summary of relevant activities during the leave if the MEC so requests. A Practitioner returning from a leave of absence for health reasons must provide a report from their physician that answers any questions that the MEC may have as part of considering the request for reinstatement.

23.3 Failure to Request Reinstatement

Failure, without good cause, to request reinstatement shall be deemed a voluntary resignation from the Medical Staff and shall result in automatic termination of membership, Privileges, and prerogatives.