Deleted: DRAFT

Deleted: 20141

CHOC Children's Hospital Medical Staff Bylaws

Deleted: of Orange County¶

Formatted: Top: 0.8"

Preamble

These Bylaws are adopted in recognition of the mutual accountability, interdependence and responsibility of the Medical Staff and the Board of Directors of CHOC Children's Hospital in protecting the quality of medical care provided in the hospital and assuring the competency of the hospital's Medical Staff. The Bylaws provide a framework for self-government, assuring an organization of the Medical Staff that permits the Medical Staff to discharge its responsibilities in matters involving the quality of medical care, to govern the orderly resolution of issues and the conduct of Medical Staff functions supportive of those purposes, and to account to the Board of Directors for the effective performance of Medical Staff responsibilities. These Bylaws provide the professional and legal structure for Medical Staff operations, organized Medical Staff relations with the Board of Directors, and relations with applicants to and members of the Medical Staff.

Deleted: of Orange County

Accordingly, the Bylaws address the Medical Staff's responsibility to establish criteria and standards for Medical Staff membership and privileges, and to enforce those criteria and standards; they establish clinical criteria and standards to oversee and manage quality assurance, utilization review, and other Medical Staff activities including, but not limited to, periodic meetings of the Medical Staff, its committees, and departments, and review and analysis of patient medical records; they describe the standards and procedures for selecting and removing Medical Staff Officers; and they address the respective rights and responsibilities of the Medical Staff and the Board of Directors.

Finally, notwithstanding the provisions of these Bylaws, the Medical Staff acknowledges that the Board of Directors must act to protect the quality of medical care provided and the competency of the Medical Staff, and to ensure the responsible governance of the hospital. In adopting these Bylaws, the Medical Staff commits to exercise its responsibilities with diligence and good faith; and in approving these Bylaws, the Board of Directors commits to allowing the Medical Staff reasonable independence in conducting the affairs of the Medical Staff. Accordingly, the Board of Directors will not assume a duty or responsibility of the Medical Staff precipitously, unreasonably, or in bad faith; and will do so only in the reasonable and good faith belief that the Medical Staff has failed to fulfill a substantive duty or responsibility in matters pertaining to the quality of patient care.

Definitions

1. **Allied Health Professional** or **AHP** means an individual, other than a licensed physician, dentist, clinical psychologist, or podiatrist, who exercises independent judgment within the areas of his or her professional competence and the limits established by the Board of Directors, the Medical Staff, and the applicable State Practice Act, who is qualified to render direct or indirect medical, dental, psychological or podiatric care under the supervision or direction of a Medical Staff member possessing privileges to provide such care in the hospital, and who may be eligible to exercise privileges and prerogatives in conformity with the policies adopted by the Medical Staff and Board of Directors, these Bylaws and the Rules. AHPs are not eligible for Medical Staff membership.

2. **Applicant** means any practitioner who is applying for membership and privileges.

3. **Board of Directors** or **Board** means the governing body of the hospital. As appropriate to the context and consistent with the hospital's Bylaws, it may also mean any Board of Directors committee or individual authorized to act on behalf of the Board of Directors.

4. **Chief Executive Officer ("CEO")** means the person appointed by the Board of Directors to serve in an administrative capacity or his or her designee.

5. **Clinical Privileges** or **Privileges** means the permission granted to Medical Staff members to provide patient care and includes access to those Hospital resources (including equipment, facilities and personnel) which are necessary to effectively exercise those privileges.

6. **Contractor** means a practitioner or an entity with whom the hospital contracts, as an employee or otherwise, to provide administrative services and/or clinical duties.

7. **Date of Receipt** means (a) the date any notice, special notice or other communication was delivered personally; (b) if such notice, special notice or communication was sent by mail, it shall mean 72 hours after the notice, special notice, or communication was deposited, postage prepaid, in the United States mail; or (c) if sent by an electronic means that has been approved by the Medical Executive Committee, the date that the notice, special notice or other communication was sent. (See also, the definitions of **Notice** and **Special Notice**.)

8. **Days** means calendar days unless otherwise specified.

9. **Emergency** means a condition or set of circumstances in which serious or permanent harm would result to a patient or in which the life of a patient is in immediate danger, and any delay in administering treatment or admitting the patient would add to that danger.

10. **Ex Officio** means service by virtue of office or position held. An ex officio appointment is with vote unless specified otherwise.

11. **Good Standing:**

Deleted: DRAFT

Deleted: 20141

Comment [A1]: The use of the term, "privileges," for AHPs goes in and out of vogue; we can discuss what CHOC prefers.

Comment [A2]: The term "privileges" will continue to be used. Bylaws comm. 9/3/13

Comment [A3]: As discussed in greater detail in comment 5, we have separated out the definitions of "member, practitioner, or applicant."

Comment [A4]: New definition accepted. Bylaws Comm. 9/3/13

Comment [A5]: 10/20/11 Based on discussions with C. Chabot and J. Gabriel, we determined that "CHOC Affiliate" is not a concept to include in present bylaws. It may be something to consider in the future.

Comment [A6]: We should discuss the value of adding this definition, as well has how it should be defined.

Deleted: <#>**CHOC Affiliate** means

Deleted: <#> _____. ¶

Comment [A7]: Requested by Bylaws Comm. 11/12/13

Comment [A8R7]: Bylaws Comm. 01/28/14

Deleted: [

Deleted: /Medical Staff]

Comment [A9]: Some hospitals are moving toward electronic notifications. This addition gives CHOC that option, but does not require it.

Comment [A10]: Accepted by Bylaws Comm. 9/3/13

Comment [A11]: Accepted by Bylaws Comm 9/3/13

Comment [A12]: We recommend including a definition for good standing, especially because there is a heightened level of good standing for medical staff officers.

(a) for all medical staff members means the member is currently not under suspension or serving with any limitation of voting or other prerogatives imposed by operation of the Bylaws, Rules and Regulations or policy of the medical staff; and

(b) in addition, for medical staff officers, chairs and other members in medical staff leadership positions (and candidates for such positions) means the member is board certified, attends necessary staff meetings, and otherwise meets the requirements for his/her office imposed by operation of the Bylaws, Rules and Regulations or policy of the medical staff.

12. **Hospital** means CHOC Children's Hospital (Inpatient and Outpatient settings).

13. **Health Care Facility** means any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the California Health and Safety Code or a facility certified to participate in the federal Medicare program as an ambulatory surgical center, or equivalent out-of-state facility with medical staff membership and/or privilege requirements.

14. **Investigation** means a process specifically instigated by the Medical Executive Committee to determine the validity, if any, of a concern or complaint raised against a member of the medical staff, and does not include activity of the Well-Being Committee.

15. **Limited License Member** means a member of the Medical Staff who is a dentist, podiatrist, or clinical psychologist.

16. **Medical Executive Committee** means the executive committee of the Medical Staff which shall constitute the governing body of the Medical Staff as described in these Bylaws.

17. **Medical Staff or Staff** means the organizational component of the hospital that includes all physicians (M.D. or D.O.), dentists, clinical psychologists (Ph.D), and podiatrists who have been granted recognition as members pursuant to these Bylaws.

18. **Medical Staff Year** means the period from January 1 through December 31.

19. **Member** means any practitioner who has been appointed to the Medical Staff.

20. **Notice** means a written communication delivered personally to the addressee; sent by United States mail, first-class postage prepaid, addressed to the addressee at the last address as it appears in the official records of the Medical Staff or the hospital; or sent by an electronic means approved by the Medical Executive Committee to the last electronic address as it appears in the official records of the Medical Staff or the hospital. (See also, the definitions of **Date of Receipt** and **Special Notice**.)

21. **Pediatrician-in-Chief** means the Physician member in charge of the Department of Pediatrics.

22. **Physician** means an individual with an M.D. or D.O. degree who is currently licensed to practice medicine.

Deleted: DRAFT

Deleted: 20141

Comment [A13]: Bylaws Comm. 01/28/14

Deleted: of Orange County

Comment [A14]: Recommended by Bylaws Comm. 9/3/13

Comment [A15]: Definition consistent with Business & Professions Code Section 805.

Comment [A16]: Bylaws Comm. 01/28/14

Comment [A17]: Recommended by Bylaws Comm. 9/3/13

Deleted: Physicians Health

Comment [A18]: Bylaws Comm. 9/3/13

Deleted: Board of Directors

Comment [A19]: The current CHOC bylaws have a single definition for "member, practitioner, or applicant." This may cause confusion, as a member will have different rights and responsibilities than an applicant, and "practitioner" can refer to both an applicant and a member. Therefore, for clarity, we have separated the definitions.

Comment [A20]: Recommended by Bylaws Comm. 9/3/13

Comment [A21]: This addition gives CHOC the option of providing notice electronically.

Comment [A22]: Recommended by Bylaws Comm. 9/3/13

Comment [A23]: Recommended by Bylaws Comm. 9/3/13

Comment [A24]: Bylaws Comm. 01/28/14

23. **Practitioner** means, unless otherwise expressly limited, any currently licensed physician (M.D. or D.O.), dentist, clinical psychologist, or podiatrist.

24. **President Of The Medical Staff** means the Chief Officer of the Medical Staff (or designee) elected by members of the Medical Staff.

25. **Privileges** or **Clinical Privileges** means the permission granted to a Medical Staff member or AHP to render specific patient services.

26. **Rules** refers to the Medical Staff and/or department Rules adopted in accordance with these Bylaws unless specified otherwise.

27. **Special Notice** means a notice delivered by hand with signed receipt, or sent by certified or registered mail, return receipt requested. (See also, the definitions of **Date of Receipt** and **Notice** above.)

28. **Subcontractor** means a practitioner or entity with whom a Contractor contracts, as an employee, partner or otherwise, to assist Contractor in providing administrative services and/or clinical duties pursuant to Contractor's agreement with the hospital.

29. **Surgeon-in-Chief** means the Physician member in charge of the Department of Surgery.

30. **Telehealth** is defined by California Business & Professions Code §2290.5 to mean the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth includes synchronous (a real-time interaction between a patient and a health care provider located at a distant site interactions and asynchronous (the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient) store and forward transfers. For purposes of these Bylaws, **Telemedicine** is that subset of Telehealth services delivered to hospital patients by practitioners who have been granted privileges by this hospital to provide services via Telehealth modalities.

31. **Vice-President, Medical Affairs/Chief Medical Officer** means a physician and a member of the Medical Staff in good standing designated by the Board, who serves as liaison between the Medical Staff and the Administration.

Deleted: DRAFT

Deleted: 20141

Comment [A25]: See comment 5.

Comment [A26]: Recommended by Bylaws Comm. 9/3/13

Comment [A27]: Again, the use of the term, "privileges" for AHPs may or may not be CHOC's preference.

Comment [A28]: Recommended by Bylaws Comm. 9/3/13

Deleted: /

Deleted: /

Comment [A29]: Bylaws comm. 11/12/13

Comment [A30]: Bylaws Comm. 01/28/14

Comment [A31]: Recommended by Bylaws Comm. 9/3/13

Comment [A32R31]: Bylaws Comm. 01/28/14

Comment [A33]: Bylaws Comm. 01/28/14

Comment [A34]: Revised to reflect changes enacted via AB 415 (2011) to Business & Professions Code §2290.5 changing the terminology and definition of telehealth, and to clarify that subset of telehealth services to which CMS and Joint Commission telemedicine rules apply.

Comment [A35]: This definition may or may not be consistent with current CHOC practices. We should discuss.
IS OK

Comment [A36]: Recommended by Bylaws Comm. 9/3/13

Deleted: Telemedicine

Deleted: is the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video or data communications.

Comment [A37]: Recommended by Bylaws Comm. 9/3/13

Deleted: Vice-President of Medical Affairs/

Deleted: DRAFT

Deleted: 20141

ARTICLE 1

NAME AND PURPOSES

Comment [A38]: Other than section 1.1, the provisions in this article appear not to be part of the current CHOC Bylaws.

1.1 Name

The name of this organization shall be the Medical Staff of CHOC Children's Hospital ("CHOC").

Deleted: of Orange County

1.2 Description

1.2-1 The Medical Staff organization is structured as follows: The members of the Medical Staff are assigned to a Staff category depending upon nature and tenure of practice at the hospital.

Comment [A39]: Bylaws Comm. 9/3/13

Deleted: All new members are assigned to the Provisional Staff. Upon satisfactory completion of the provisional period, the members

Deleted: are assigned to one of the Staff categories described in Bylaws, Article 3, Categories of the Medical Staff.

1.2-2 Members are also assigned to departments, depending upon their specialties, as follows: Anesthesia, Emergency Medicine, Medicine, Pathology, Radiology and Surgery. Each department is organized to perform certain functions on behalf of the department, such as credentials review and peer review.

Deleted: [

Formatted: Font color: Auto

Formatted: Font color: Auto

Comment [A40]: Bylaws Comm. 9/3/13

Deleted: [Insert list of departments – this will be the same as the

Deleted: list for your hospital at Bylaws, Section 10.2-1].

Formatted: Font color: Auto

Deleted:]

1.2-3 There are also Medical Staff committees, which perform staff-wide responsibilities, and which oversee related activities being performed by the department committees.

Comment [A41]: Bylaws Comm. 9/3/13

Deleted: *[departments]/[department committees*

Deleted: *]*

Deleted: *[*

Deleted: *]*

1.2-4 Overseeing all of this is the Medical Executive Committee, comprised of the elected officials of the Medical Staff, the department chairpersons, representatives elected at large, and ex officio members.

Comment [A42]: Bylaws Comm. 9/3/13

Deleted: *[insert other members of your hospital's Medical Executive Committee*

Deleted: *]*

1.3 Purposes and Responsibilities

1.3-1 The Medical Staff's purposes are:

a. To assure that all patients admitted or treated in any of the hospital services receive a uniform standard of quality patient care, treatment and efficiency consistent with generally accepted standards attainable within the hospital's means and circumstances.

b. To provide for a level of professional performance that is consistent with generally accepted standards attainable within the hospital's means and circumstances.

c. To organize and support professional education and community health education and support services.

d. To initiate and maintain Rules for the Medical Staff to carry out its responsibilities for the professional work performed in the hospital.

Deleted: DRAFT

Deleted: 20141

e. To provide a means for the Medical Staff, Board of Directors and administration to discuss issues of mutual concern and to implement education and changes intended to continuously improve the quality of patient care.

f. To provide for accountability of the Medical Staff to the Board of Directors.

g. To exercise its rights and responsibilities in a manner that does not jeopardize the hospital's license, Medicare and Medi-Cal provider status, accreditation, or tax exempt status.

1.3-2 The Medical Staff's responsibilities are:

a. To provide quality patient care.

b. To account to the Board of Directors for the quality of patient care provided by all members authorized to practice in the hospital through the following measures:

1. Review and evaluation of the quality of patient care provided through valid and reliable patient care evaluation procedures;

2. An organizational structure and mechanisms that allow on-going monitoring of patient care practices;

3. A credentials program, including mechanisms of appointment, reappointment and the matching of clinical privileges to be exercised or specified services to be performed with the verified credentials and current demonstrated performance of the Medical Staff applicant or member;

4. A continuing education program based at least in part on needs demonstrated through the medical care evaluation program;

5. A utilization review program to provide for the appropriate use of all medical services.

c. To recommend to the Board of Directors action with respect to appointments, reappointments, staff category and department assignments, clinical privileges and corrective action.

Deleted: [

Deleted:]

d. To establish and enforce, subject to the Board of Directors approval, professional standards related to the delivery of health care within the hospital.

e. To account to the Board of Directors for the quality of patient care through regular reports and recommendations concerning the implementation, operation, and results of the quality review and evaluation activities.

f. To initiate and pursue corrective action with respect to members where warranted.

g. To set and enforce expectations regarding members' professional conduct and behavior.

h. To provide a framework for cooperation with other community health facilities and/or educational institutions or efforts.

i. To establish and amend from time to time as needed Medical Staff Bylaws, Rules and policies for the effective performance of Medical Staff responsibilities, as further described in these Bylaws.

j. To select and remove Medical Staff officers.

k. To assess Medical Staff dues and utilize Medical Staff dues as appropriate for the purposes of the Medical Staff.

Deleted: DRAFT

Deleted: 20141

Comment [A43]: This addition is important for enforcement of codes of conduct.

Comment [A44]: Bylaws Comm. 9/3/13

Comment [A45]: A modified version of this section may be useful to CHOC at some point in the future, depending on connections that CHOC develops.
11/12/11 C.Chabot will discuss this with the officers and CMO; we have removed it from Bylaws at this time.

Comment [A46]: Not to be used. Bylaws Comm. 9/3/13

Deleted: *<#>**[Health System Affiliation]***¶

COMMENT: These are optional provisions for facilities desiring to develop and implement cooperative appointment, reappointment, and peer review procedures with other system members. Such cooperative processes are generally advisable only where the system members are located in the same geographic area and the involved practitioner seeks membership at more than one facility or entity in that area. (This could include

Deleted: geographically proximate acute care hospitals, surgery centers, medical foundations, etc.) These cooperative provisions are especially useful in effectively implementing and managing telemedicine programs operated among system affiliates.¶

[This hospital is part of, or affiliated with, the system. One of the purposes of the system is to maintain comparably high professional standards among its patient care facilities and to strive to provide efficient patient care and support services. In keeping with the foregoing, cooperative credentialing, peer review, corrective action, and procedural rights are hereby authorized, in accordance with the guidelines in these Bylaws.]¶

*<#>**[Credentialing]***¶

[The Medical Staff may enter into arrangements with other system members to assist it in credentialing activities. This may include, without limitation, relying on information in other system members' credentials and peer review files in evaluating applications for appointment and reappointment, and utilizing the other system members' medical or professional staff support resources to process or assist in processing applications for appointment and reappointment.]¶

*<#>**[Peer Review]***¶

[The Medical Staff may enter into arrangements with other system members to assist it in peer review activities. This may include, without limitation, relying on information in other system members' credentials and peer review files, and utilizing the other system members' medical or professional staff support resources to conduct or assist in conducting peer review activities.]¶

*<#>**[Corrective Action]***¶

[The Medical Staff may work cooperatively with any other system member at which a Medical Staff member holds privileges to develop and impose coordinated, cooperative, or joint corrective acti...

Deleted: DRAFT

Deleted: 20141

ARTICLE 2
MEDICAL STAFF MEMBERSHIP

2.1 Nature of Medical Staff Membership

Medical Staff membership and/or privileges may be extended to and maintained by only those professionally competent practitioners who continuously meet the qualifications, standards, and requirements set forth in these Bylaws and the Rules. A practitioner, including one who has a contract with the hospital to provide medical-administrative services, may admit or provide services to patients in the hospital only if the practitioner is a member of the Medical Staff or has been granted temporary privileges in accordance with these Bylaws and the Rules. Appointment to the Medical Staff shall confer only such privileges and prerogatives as have been established by the Medical Staff and granted by the Board of Directors in accordance with these Bylaws.

2.2 Qualifications for Membership

2.2-1 General Qualifications

Membership on the Medical Staff and privileges shall be extended only to practitioners who are professionally competent and continuously meet the qualifications, standards, and requirements set forth in the Medical Staff Bylaws and Rules. Medical Staff membership (except honorary Medical Staff) shall be limited to practitioners who are currently licensed or qualified to practice medicine, podiatry, clinical psychology, or dentistry in California.

2.2-2 Basic Qualifications

A practitioner must demonstrate compliance with all basic standards set forth in this Section in order to have an application for Medical Staff membership accepted for review. The practitioner must:

a. Meet the following education and licensing requirements, as is appropriate to his or her profession:

1. Physicians. An applicant for physician membership in the Medical Staff, except for the honorary staff, must:

i. hold an M.D. or D.O. degree or their equivalent; and

ii. hold a valid and unsuspended license to practice medicine issued by the Medical Board of California or the Board of Osteopathic Examiners of the State of California; or

iii. Telemedicine providers who are not licensed in California must be licensed to practice with an out-of-state license and

Deleted: An applicant for physician membership in the Medical Staff, except for the honorary staff, must

Deleted: and must also

Deleted: certificate

Comment [A47]: Bylaws Comm 9/3/13

Deleted: .

registered as a telemedicine provider with the Medical Board of California.

2. Dentists

An applicant for dental membership in the Medical Staff, except for the honorary staff, must hold a D.D.S., D.M.D., or equivalent degree and must also hold a valid and unsuspended license to practice dentistry issued by the Board of Dental Examiners of California.

3. Podiatrists

An applicant for podiatric membership on the Medical Staff, except for the honorary staff, must hold a D.P.M. degree and must hold a valid and unsuspended license to practice podiatry issued by the Medical Board of California.

4. Clinical Psychologists

An applicant for psychology membership on the Medical Staff, except for the honorary staff, must hold a Ph.D., Psy.D. or equivalent degree, have not less than two years clinical experience in a multi-disciplinary facility licensed or operated by this or another state or by the United States to provide health care or be listed in the latest edition of the National Register of Health Service Providers in Psychology, and must hold a valid and unsuspended license to practice psychology issued by the California Board of Psychology.

b. If practicing clinical medicine, dentistry, or podiatry, have a federal Drug Enforcement Administration number. Such requirement does not apply to members of the Pathology Department.

c. Meet the board certification requirements of the department in which the practitioner is applying to practice. At a minimum, this includes being certified by or currently qualify to take the board certification examination of a board recognized by the American Board of Medical Specialties, the American Osteopathic Association, the American Board of Podiatric Surgery, the American Board of Orthopedic Podiatric Medicine, the American Board of Podiatric Surgery, the American Board of Oral and Maxillofacial Surgery, the American Board of General Dentistry, the American Board of Pediatric Dentistry, or the Royal College of Physicians and Surgeons (Canada), as provided in the Department rules, or a board or association with equivalent requirements approved by the Medical Board of California in the specialty that the practitioner will practice at the hospital, or have completed a residency approved by the Accreditation

Deleted: DRAFT

Deleted: 20141

Comment [A48]: Business & Professions Code Section 2052.5 establishes a registration program to permit out-of-state physicians to register to practice telemedicine in California.

Comment [A49R48]: Bylaws Comm. 01/28/14

Comment [A50]: Bylaws Comm 9/3/13

Deleted: certificate

Comment [A51]: Bylaws Comm. 9/3/13

Deleted: certificate

Comment [A52]: Bylaws Comm. 9/3/13

Deleted:

Deleted: certificate

Comment [A53]: Bylaws Comm. 9/3/13

Comment [A54]: Some Medical Staffs make this "optional," depending on the practitioner's privileges. Cyndi will discuss with the officers whether want this requirement.

Comment [A55]: 10/21/11 As discussed with Cyndi, we have added a grandfathering clause. The Medical Staff will need to determine whether it wants to apply grandfathering clause to practitioners who reapply after resignation.

Comment [A56]: Bylaws Comm 9/3/13

Deleted: or practitioners who were members of the staff as of

Deleted: _____.

Deleted: Be

Deleted:

Deleted: DRAFT

Deleted: 20141

Council for Graduate Medical Education that provided complete training in the specialty or subspecialty that the practitioner will practice at the hospital; however, the following shall not be subject to this requirement:

1. Practitioners may be exempted from the Bylaws and Department board certification requirements if the Department determines that the practitioner's specialized skills and expertise merit exception from those requirements. Such exemptions shall be subject to MEC approval and shall be granted only in rare circumstances.

   Notwithstanding the above, certification requirements may be waived in individual instances upon request of the department chair, recommendation of the Medical Executive Committee and approval of the Board, but only when such waiver is in the best interest of patient health and wellbeing. The needs of the individual practitioner are irrelevant to such determination. It is the Medical Staff and Board's intent that exceptions to the board certification requirement be granted rarely. The Board, with a recommendation from the Medical Executive Committee, is a sole determiner of whether a waiver is in the best interest of patient's health and wellbeing. A determination that a waiver is or is not in the best interest of patients health and wellbeing is not a determination as to whether the practitioner is otherwise qualified to hold membership and does not entitle the practitioner the hearing and appeal rights in Article 14 of these bylaws.

2. Clinical psychologists and dentists.

3. Physicians licensed by the State of California who are enrolled in an accredited pediatric residency training program and who are providing medical health-related services to patients independent of the residency program. These members will be eligible for limited privileges as delineated by the Department of Medicine and subject to approval by the Medical Executive Committee and the Board of Directors.

d. Be eligible to receive payments from the federal Medicare and state Medicaid (Medi-Cal) programs.

e. Maintain in force professional liability insurance in not less than the minimum amounts jointly determined by the Board of Directors and the Medical Executive Committee, but in no event less than $1.0 million per incident and $3.0 million in the aggregate in a policy year; provided, however, that in the event that (and for so long as) such insurance is not available on commercially reasonable terms to physicians practicing in a particular specialty or sub-specialty area of medical practice, the foregoing requirements may be modified or waived with respect to all physicians

Comment [A57]: As written, this is a weak requirement. The requirement in the current CHOC bylaws at 2.2-1(d) also is weak. If CHOC would like a stronger board certification requirement, we can insert one here.
10/21/11 C. Chabot is aware of this issue. As discussed in the next comment, there are certain exceptions that the Medical Staff wants to make. Also, the Department rules have several exceptions that undermine the board certification requirements.

Comment [A58]: 10/21/11 C. Chabot has noted that there are several practitioners with specialized skills and expertise who do not meet the board certification requirements. The Medical Staff does not want to exclude these practitioners from the staff. Cyndi and I discussed that building in exceptions may make it harder to enforce the requirement uniformly.

Formatted: Body Text, Indent: Left: 2.25"

Comment [A59]: 11/12/2013 – Recommended and approved by the Committee.

Deleted: <#>Physicians licensed by the State of California who are enrolled in their final year of residency training in anesthesia and who are providing medical health-related services to patients independent of their program. These members will be eligible for limited privileges as delineated by the Department of Anesthesia and subject to approval by the Medical Executive Committee and the Board of Directors.

Deleted: <#>¶

Comment [A60]: Some Medical Staffs make this optional; it can, however, be very important for some hospitals (and usually is for children's hospitals).

Comment [A61R60]: Bylaws Comm. 9/3/13

practicing in such specialty or sub-specialty area, subject to the approval of the Board of Directors upon request of the Medical Executive Committee. Administrative Staff and Members on a Leave of Absence do not need to show evidence of insurance.

f. Pledge to provide continuous care to his or her patients. The distance to the hospital may vary depending upon the Medical Staff category and privileges that are involved and the feasibility of arranging alternative coverage, and may be defined in the Rules.

g. If requesting privileges only in department operated under an exclusive contract, be a member, employee or subcontractor of the group or person that holds the contract.

An applicant who does not meet these basic standards is ineligible to apply for Medical Staff membership, and the application will not be accepted for review, except that applicants for the honorary Medical Staff do not need to comply with any of the basic standards and applicants for the Telemedicine Staff need not comply with paragraph (f) of this Section 2.2-2.

If it is determined during the processing that an applicant does not meet all of the basic qualifications, the review of the application shall be discontinued. An applicant who does not meet the basic standards is not entitled to the procedural rights set forth in these Bylaws, but may submit comments and a request for reconsideration of the specific standards which adversely affected such practitioner. Those comments and requests shall be reviewed by the Medical Executive Committee and the Board of Directors, which shall have sole discretion to decide whether to consider any changes in the basic standards or to grant a waiver as allowed by Bylaws, Section 2.2-4, below.

2.2-3 Additional Qualifications for Membership

In addition to meeting the basic standards, the practitioner must:

a. Document his or her:

1. Adequate experience, education, and training in the requested privileges;

2. Current professional competence;

3. Good judgment; and

4. Adequate physical and mental health status (subject to any necessary reasonable accommodation) to demonstrate to the satisfaction of the Medical Staff that he or she is sufficiently

Deleted: DRAFT

Deleted: 20141

Comment [A62]: A CHA suggestion; we rarely see it in other bylaws. It may be inconsistent with the CHOC practitioner re-entry policy. 10/21/11 Although C. Chabot liked the concept, it is inconsistent with current policy.

Deleted: <#>Have actively practiced for an average of at least 20 hours per week in the specialty he or she will practice at the hospital for 12 of the previous 24 months (or have completed a residency within the previous 18 months).¶

Deleted: Be located close enough (office and residence) to the hospital to provide continuous care to his or her patients

Comment [A63]: Some hospitals require a uniform distance; others set it by specialty. We will amend this section according to CHOC practices. 10/21/11 C. Chabot approved this provision.

Comment [A64]: Bylaws Comm. 9/3/13

Deleted: <#>Pledge to provide continuous care to his or her patients.¶

Deleted: *[departments] [services]*

Deleted: practitioner

Deleted: shall

Deleted: *[and applicants for the affiliate Medical Staff need not comply with paragraphs (c), (d) and (f),*

Deleted: g

Deleted:]

Deleted: DRAFT

Deleted: 20141

healthy and professionally and ethically competent so that patients can reasonably expect to receive the generally recognized professional level of quality and safety of care for this community. Without limiting the foregoing, with respect to communicable diseases, practitioners are expected to know their own health status, to take such precautionary measures as may be warranted under the circumstances to protect patients and others present in the hospital, and to comply with all reasonable precautions established by hospital and/or Medical Staff policy respecting safe provision of care and services in the hospital.

Comment [A65]: Does CHOC want to specifically require immunizations?
10/21/11 CHOC will address this in Medical Staff policy.

b. Be determined to:

1. Adhere to the lawful ethics of his or her profession;

2. Be able to work cooperatively with others in the hospital setting so as not to adversely affect patient care or hospital operations;

3. Keep confidential, as required by law, all private healthcare information that the practitioner receives in the course of his or her activities at the hospital;

Comment [A66]: Rather than limiting to physician-patient relationship, we have updated this to be more encompassing.

4. Be willing to participate in and properly discharge Medical Staff responsibilities;

5. Abide by and be bound by the Medical Staff Bylaws, rules and regulations, and policies and procedures, and Hospital policies and procedures.

2.2-4 Waiver of Qualifications

Insofar as is consistent with applicable laws, the Board has the discretion to deem a practitioner to have satisfied a qualification, after consulting with the Medical Executive Committee, if it determines that the practitioner has demonstrated he or she has substantially comparable qualifications and that this waiver is necessary to serve the best interests of the patients and of the hospital. There is no obligation to grant any such waiver, and practitioners have no right to have a waiver considered and/or granted. A practitioner who is denied a waiver or consideration of a waiver shall not be entitled to any hearing and appeal rights under these Bylaws.

Comment [A67]: This is a CHA provision; we think there are risks to adopting it and would like to discuss it with you further.
10/2/11 C. Chabot will address this with the officers.

2.3 Effect of Other Affiliations

No practitioner shall be entitled to Medical Staff membership merely because he or she holds a certain degree, is licensed to practice in this or in any other state, is a member of any professional organization, is certified by any clinical board, or because he or she had, or presently has, staff membership or privileges at another Health Care Facility. Except in instances where the Hospital has executed agreements with one or more medical groups to

Comment [A68]: Definition included above.

Deleted: h

Deleted: c

Deleted: f

exclusively provide services in an exclusive department, including, but not limited to, radiology, pathology, emergency medicine and anesthesiology, Medical Staff membership or clinical privileges shall not be conditioned or solely determined on the basis of an individual's participation or non-participation in a particular group, IPA, PPO, PHO, hospital-sponsored foundation, or other organization.

2.4 Nondiscrimination

Medical Staff membership or particular privileges shall not be denied on the basis of age, religion, race, creed, color, national origin, or any physical or mental impairment if, after any necessary reasonable accommodation, the applicant complies with the Bylaws or Rules of the Medical Staff or the hospital.

2.5 Administrative and Contract Practitioners

2.5-1 Contractors with No Clinical Duties

A practitioner employed by or contracting with the hospital in a purely administrative capacity with no clinical duties or privileges is subject to the regular personnel policies of the hospital and to the terms of his or her contract or other conditions of employment and need not be a member of the Medical Staff.

2.5-2 Contractors Who Have Clinical Duties

a. A practitioner with whom the hospital contracts to provide services which involve clinical duties or privileges must be a member of the Medical Staff, achieving his or her status by the procedures described in these Bylaws. Unless a written contract or agreement, executed after this provision is adopted, specifically provides otherwise, or unless otherwise required by law, those privileges made exclusive or semi-exclusive pursuant to a closed-staff or limited-staff specialty policy will automatically terminate, without the right of access to the review, hearing, and appeal procedures of the Bylaws, Article 14, Hearings and Appellate Reviews, upon termination or expiration of such practitioner's contract or agreement with the hospital.

b. Contracts between practitioners and the hospital shall prevail over these Bylaws and the Rules, except that the contracts may not reduce any hearing rights granted when an action will be taken that must be reported to the Medical Board of California or the federal National Practitioner Data Bank.

2.5-3 Subcontractors

Subcontractors may lose privileges granted pursuant to an exclusive or semi-exclusive arrangement between Contractor and hospital if their relationship with the Contractor is terminated, or the hospital and the Contractor's agreement or exclusive relationship is terminated. The hospital may enforce such an automatic termination even if the subcontractor's agreement fails to recognize this right. The

Deleted: DRAFT

Deleted: 20141

Comment [A69]: 10/8/13 Bylaws Comm

Comment [A70]: The language from the second sentence comes from Sectoin 2.3 of the current CHOC bylaws. As written, it would seem to eliminate the ability to deny privileges to someone who is not a member of a group that holds an exclusive contract. Is that the intent? If not, we need to amend.
10/21/11 We have amended to address this issue.

Deleted: or in contracts with a third party which contracts with this hospital

Comment [A71]: 11/25/13 – Bylaws Comm requested language to clarify the discrepancy between Sections 2.5-3 and 4.7-3.

Contractor and Subcontractor are defined in the Definitions section. Language clarifies that medical staff membership cannot be terminated pursuant to termination of contract between hospital and Contractor or Contractor and Subcontractor.

Deleted: Practitioners who subcontract with practitioners or entities

Deleted: who contract with the hospital

Deleted: contracting practitioner or entity

Deleted: contracting practitioner's or entity's

Subcontractor may lose his or her privileges pursuant to such termination but not his or her medical staff membership. Such termination of privileges shall not give rise to the review, hearing, and appeal procedures of the Bylaws, Article 14, Hearings and Appellate Reviews, unless otherwise required by law.

2.6 Basic Responsibilities of Medical Staff Membership

Except for honorary members, each Medical Staff member and each practitioner exercising temporary privileges shall continuously meet all of the following responsibilities:

2.6-1 Provide his or her patients with care that meets the professional standards of the Medical Staff of this Hospital, which shall not be below generally recognized professional level of quality and efficiency.

2.6-2 Base clinical decisions on identified patient health care needs regardless of how the Hospital compensates or shares financial risks with its leaders, managers, clinical staff and licensed independent practitioners.

2.6-3 Abide by the Medical Staff Bylaws and Rules and all other lawful standards, policies and Rules of the Medical Staff and the hospital.

2.6-4 Abide by all applicable laws and regulations of governmental agencies and comply with applicable standards of all accreditation agencies by which the Hospital is accredited.

2.6-5 Discharge in a responsible and cooperative manner such reasonable responsibilities and assignments imposed upon the member by virtue of Medical Staff membership, office, committee, department, section, and service assignments.

2.6-6 Abide by all applicable requirements for timely completion of all medical records for all patients to whom the member provides services in any way in the hospital, including the timely completion and recording of a physical examination and medical history, as further described at Section 5.4-3.

2.6-7 Acquire a patient's informed consent for all procedures and treatments identified in the Bylaws, if any, or hospital policies and abide by the procedures for obtaining such informed consent.

2.6-8 Comply with such Medical Information Systems (MIS) policies and protocols as have been implemented by the hospital.

2.6-9 Abide by the ethical principles of his or her profession.

2.6-10 Refrain from unlawful fee splitting or unlawful inducements relating to patient referral.

Deleted: DRAFT
Deleted: 20141
Deleted: If the practitioner has no privileges as a result of these events, his or her Medical Staff membership shall terminate.
Deleted: and, if appropriate, membership
Comment [A72]: Bylaws Comm. 01/28/14
Deleted: *(see Rule 1, Appendix 1E Honorary and Retired Staff)*
Deleted: Section 15.1-5
Comment [A73]: Bylaws comm. 10/8/13
Deleted:
Deleted: electronic health record (EHR
Deleted:)

2.6-11 Refrain from any unlawful harassment or discrimination against any person (including any patient, hospital employee, hospital independent contractor, Medical Staff member, volunteer, or visitor) based upon the person's race, color, religion, sex, gender, identity, pregnancy, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, veteran or military status, or any other characteristic protected y state or federal law ,or ability to pay, or source of payment.

2.6-12 Refrain from delegating the responsibility for diagnosis or care of hospitalized patients to a practitioner or Allied Health Professional who is not qualified to undertake this responsibility or who is not adequately supervised.

2.6-13 Coordinate individual patients' care, treatment and services with other practitioners and hospital personnel, including, but not limited to, seeking consultation whenever warranted by the patient's condition or when required by the Rules or policies and procedures of the Medical Staff or applicable department.

2.6-14 Actively participate in and regularly cooperate with the Medical Staff in assisting the hospital to fulfill its obligations related to patient care, including, but not limited to, continuous organization-wide quality measurement, assessment, and improvement, peer review, utilization management, quality evaluation, ongoing and Focused Professional Practice Evaluations and related monitoring activities required of the Medical Staff, and in discharging such other functions as may be required from time to time.

2.6-15 Upon request, provide information from his or her office records or from outside sources as necessary to facilitate the care of or review of the care of specific patients with the appropriate consent obtained, if required by law.

2.6-16 Communicate with appropriate Department officers and/or Medical Staff Officers when he or she obtains credible information indicating that a fellow Medical Staff member may have engaged in unprofessional or unethical conduct or may have a health condition which poses a significant risk to the well-being or care of patients and then cooperate as reasonably necessary toward the appropriate resolution of any such matter.

2.6-17 Accept responsibility for participating in Medical Staff proctoring in accordance with the Rules and policies and procedures of the Medical Staff.

2.6-18 Complete continuing medical education that meets all licensing requirements and is appropriate to the practitioner's specialty.

2.6-19 Work cooperatively with members, hospital associates, Hospital administration and others and adhere to the Medical Staff Standards of Conduct (as further described in Section 2.7, below), so as not to adversely affect patient care or hospital operations.

Deleted: DRAFT

Deleted: 20141

Comment [A74]: Military and Veteran status added to conform to new state law. Bylaw comm. 10/8/13

Deleted: age, sex, religion, race, creed, color, national origin, health status,

Comment [A75]: 10/8/13 Bylaws Comm

Deleted: nurses

2.6-20 Participate in emergency service coverage and consultation panels as allowed and as required by the Medical Staff Department rules.

2.6-21 Assist the Hospital in fulfilling the Hospital's obligations with respect to uncompensated or partially compensated patient care within such member's areas of professional competence, credentials, and clinical privileges; provided, however, that the foregoing shall not be construed as a general requirement to assume responsibility for the care of these patients without the Member's consent except to the extent required by departmental rules and regulations.

2.6-22 Aid in any Medical Staff approved educational programs for medical students, interns, resident physicians, resident dentists, staff physicians and dentists, nurses and other personnel.

2.6-23 Participate in patient and family education activities, as determined by the Department, Medical Staff Rules, or the Medical Executive Committee.

2.6-24 Make appropriate arrangements for coverage for his or her patients as determined by the Medical Staff.

2.6-25 Abide by the terms of the Notice of Privacy Practices prepared for and distributed to patients as required by the federal patient privacy regulations.

2.6-26 Agree to respect and maintain the confidentiality of all discussions, deliberations, proceedings and activities of Medical Staff committees and departments which have the responsibility for evaluating and improving the quality of care in the hospital.

2.6-27 Notify the Medical Staff office in writing promptly, and no later than seven calendar days, following any action taken regarding the member's license, Drug Enforcement Administration registration, privileges at other facilities, or Medicare or Medi-Cal provider status; changes in liability insurance coverage; any report filed with the National Practitioner Data Bank; or any other action or change in circumstances that could affect his/her qualifications for Medical Staff membership and/or clinical privileges at the hospital.

2.6-28 Continuously meet the qualifications for and perform the responsibilities of membership as set forth in these Bylaws. A member may be required to demonstrate continuing satisfaction of any of the requirements of these Bylaws upon the reasonable request of the Medical Executive Committee. This shall include, but is not limited to, mandatory health or psychiatric evaluation and mandatory drug and/or alcohol testing, the results of which shall be reportable to the Medical Executive Committee and the Well-Being Committee.

2.6-29 Discharge such other staff obligations as may be lawfully established from time to time by the Medical Staff or Medical Executive Committee.

Deleted: DRAFT

Deleted: 20141

Comment [A76]: We will discuss whether this is consistent with CHOC call requirements. 10/21/11 The change makes it consistent with CHOC practice.

Deleted: Rules

Deleted: ,

Deleted: DRAFT

Deleted: 20141

2.7 Standards of Conduct

Comment [A77]: CHOC currently has a Code of Conduct; we can discuss whether the Medical Staff wants to repeat elements of that Code here. The highlighted provisions are from the CHA model. 10/21/11 C. Chabot will discuss with the officers. Assuming they want this in the Bylaws, we will adapt according to CHOC practice. If not, then we will draft strong language that requires compliance with the current policy.

Members of the Medical Staff are expected to adhere to the Medical Staff Standards of Conduct including, but not limited to, the following:

2.7-1 General

a. It is the Medical Staff's policy to require that its members fulfill their Medical Staff obligations in a manner that is within generally accepted bounds of professional interaction and behavior. The Medical Staff is committed to supporting a culture and environment that values integrity, honesty and fair dealing with each other, and to promoting a caring environment for patients, practitioners, employees and visitors.

b. Rude, combative, obstreperous behavior, as well as willful refusal to communicate or comply with reasonable rules of the Medical Staff and the hospital may be found to be disruptive behavior. It is specifically recognized that patient care and hospital operations can be adversely affected whenever any of the foregoing occurs with respect to interactions at any level of the hospital, in that all personnel play an important part in the ultimate mission of delivering quality patient care.

c. In assessing whether particular circumstances in fact are affecting quality patient care or hospital operations, the assessment need not be limited to care of specific patients, or to direct impact on patient health. Rather, it is understood that quality patient care embraces—in addition to medical outcome—matters such as timeliness of services, appropriateness of services, timely and thorough communications with patients, their families, and their insurers (or third party payers) as necessary to effect payment for care, and general patient satisfaction with the services rendered and the individuals involved in rendering those services.

2.7-2 Conduct Guidelines

a. Upon receiving Medical Staff membership and/or privileges at the hospital, the member enters a common goal with all members of the organization to endeavor to maintain the quality of patient care and appropriate professional conduct.

b. Members of the Medical Staff are expected to behave in a professional manner at all times and with all people—patients, professional peers, hospital staff, visitors, and others in and affiliated with the hospital.

c. Interactions with all persons shall be conducted with courtesy, respect, civility and dignity. Members of the Medical Staff shall be cooperative and respectful in their dealings with other persons in and affiliated with the hospital.

d. Complaints and disagreements shall be aired constructively, in a nondemeaning manner, and through official channels.

e. Cooperation and adherence to the reasonable Rules of the hospital and the Medical Staff is required.

f. Members of the Medical Staff shall not engage in conduct that is offensive or disruptive behavior, whether it is written, oral, physical, or the use of electronic media.

2.7-3 Adoption of Rules

The Medical Executive Committee may promulgate Rules or policies and procedures further illustrating and implementing the purposes of this Section including, but not limited to, procedures for investigating and addressing incidents of perceived misconduct, and, where appropriate, progressive or other remedial measures. These measures may include alternative avenues for medical or administrative disciplinary action, which in turn may include but are not limited to conditional appointments and reappointments, requirements for behavioral contracts, mandatory counseling, referral to the Well Being Committee, practice restrictions, and/or suspension or revocation of Medical Staff membership and/or privileges, and may include restriction from nomination to be a candidate or hold an office/elected position.

2.8 Harassment Prohibited

Harassment by a medical staff member against any individual (e.g., against another medical staff member, house staff, hospital associate or patient) on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical disability, marital status, sex or sexual orientation shall not be tolerated.

"Sexual harassment" is unwelcome verbal or physical conduct of a sexual nature which may include verbal harassment (such as epithets, derogatory comments or slurs), physical harassment (such as unwelcome touching, assault, or interference with movement or work), and visual harassment (such as the display of derogatory cartoons, drawings, or posters).

Sexual harassment includes unwelcome advances, requests for sexual favors, and any other verbal, visual, or physical conduct of a sexual nature when (1) submission to or rejection of this conduct by an individual is used as a factor in decisions affection hiring, evaluation, retention, promotion, or other aspects of employment; or (2) this conduct substantially interferes with the individual's employment or creates an intimidating, hostile, or offensive work environment. Sexual harassment also includes conduct which indicates that employment and/or employment benefits are conditional upon acquiescence in sexual activities.

All allegations of sexual harassment shall be immediately investigated by the medical staff and, if confirmed, will result in appropriate corrective action, from reprimands up to and including termination of medical staff privileges or membership, if warranted by the facts.

Deleted: DRAFT

Deleted: 20141

Comment [A78]: Bylaws comm.. 10/8/13

Deleted: or behavioral

Deleted: *[establishing a Professional Conduct Committee to oversee practitioner conduct issues,]*

Comment [A79]: Bylaws comm.. 10/8/13

Deleted: *

Deleted: **COMMENT:** *The above changes further clarify the authority of the MEC to promulgate Rules that include specific disciplinary actions. These changes are recommended in light of MS.01.01.01, EPs 29 and 30, requiring the Medical Staff Bylaws to address the indications for disciplinary actions. This revised Section clarifies that behavioral misconduct is an indication for such actions, and also clarifies that not all remedial measures need be progressive (e.g., in particularly egregious circumstances immediate and severe action may be warranted).Additionally, the change accommodates and correlates with new provisions that have been added to the Rules, providing an alternative avenue for processing certain behavioral issues through administrative channels, rather than medical disciplinary channels, and establishing a Professional Conduct Committee. See additional comments accompanying changes to Bylaws, Section 14.8 and to Rules Section 2.3 and Appendix 4J.¶

Comment [A80]: Bylaws comm.. 10/8/13

Deleted: employee

Deleted: DRAFT

Deleted: 20141

Deleted: DRAFT

Deleted: 20141

ARTICLE 3

CATEGORIES OF THE MEDICAL STAFF

Comment [A81]: Do you like this set up, which places the categories and qualifications in the rules, rather than the Bylaws? It is a significant departure from the current CHOC bylaws.
10/23/2011 Based on feedback from C. Chabot, we have added the current CHOC provisions into this article and removed the CHA chart.

3.1 Categories

The categories of the Medical Staff shall include the following: active, courtesy, consulting, provisional, honorary and retired, resident, administrative, community active, , affiliate, and research. At each time of reappointment, the member's staff category shall be determined.

Deleted: and

Comment [A82]: 10/8/13 – Bylaws Comm requested assistance to develop a category for research physicians and telemedicine physicians. Please see draft language below under Section 3.11 for research physicians. Telemedicine physicians are included as members of the consulting staff and proposed language for telemedicine privileges is included in Article 5.

Each Medical Staff member shall be assigned to a Medical Staff category based upon the qualifications identified below. The members of each Medical Staff category shall have the prerogatives and carry out the duties defined in the Bylaws and Rules. Action may be initiated to change the Medical Staff category or terminate the membership of any member who fails to meet the qualifications or fulfill the duties described in the Bylaws or Rules. Changes in Medical Staff category shall not be grounds for a hearing unless they adversely affect the member's privileges.

Deleted: defined in the Rules *(see Rule 1, Categories of Membership)*

3.1-1

Comment [A83]: 10/23/11 Adopted similar CHOC provisions at end of Article.

3.2 Active Staff

Deleted: <#>General Exceptions to Prerogatives

Deleted: <#>¶
Regardless of the category of membership in the Medical Staff, podiatrists, clinical psychologists, dentists, and limited license members:¶
<#>May not hold any general Medical Staff office.¶
<#>Shall have the right to vote only on matters within the scope of their licensure. Any disputes over voting rights shall be determined by the chair of the meeting, subject to final decision by the Medical Executive Committee.¶
Shall exercise privileges only within the scope of their licensure and as limited by the Medical Staff Bylaws and Rules.

Comment [A84]: 10/23/11 Starting with Section 3.2, the following provisions are from the current CHOC Bylaws. Our recommended changes to those provisions appear in track changes.

3.2-1 Qualifications

Deleted: general

The Active Staff shall consist of members who:

a. meet the qualifications for membership set forth in Section 2.2.

b. have offices or residences which are located closely enough to the Hospital to provide continuity of quality care, as determined by each department, subject to the approval of the Medical Executive Committee and the Board of Directors.

c. regularly care for patients in this Hospital or are regularly involved in Medical Staff functions, as determined by the Medical Executive Committee (identified in the Point System located within the Medical Staff Rules and Regulations).

Comment [A85]: 10/23/11 How is this determined by the MEC? Is it in a P&P, or on case-by-case basis?

Comment [A86]: Bylaws comm.. 10/8/13

d. have satisfactorily completed their designated term in the Provisional Staff category.

3.2-2 Prerogatives

Except as otherwise provided, the prerogatives of an Active Medical Staff Member shall be to:

a. admit patients and exercise such clinical privileges as are granted pursuant to Article 5.

Deleted: VI

Deleted: DRAFT

Deleted: 20141

b. vote on matters presented at general and special meetings of the Medical Staff and of the department, section and committees of which he or she is a member.

c. hold staff, section, or department office and serve as a voting member of committees to which duly appointed or elected by the Medical Staff or duly authorized representative thereof so long as the activities required by the position fall within the member's scope of practice as authorized by law.

3.2-3 Transfer of active staff member

After two consecutive years in which a member of the Active staff fails to regularly care for patients in this hospital or be regularly involved in medical staff functions as determined by the medical staff (activity identified in the Point System), that member shall be automatically transferred to the appropriate category, if any, for which the member is qualified.

Comment [A87]: 10/23/11 Are "regularly care" or "regularly involved" defined elsewhere, such as in a policy or procedure? If not, we recommend adding some definition.

Comment [A88]: Bylaws comm.. 10/8/13

3.3 Courtesy Medical Staff

3.3-1 Qualifications

The Courtesy Medical Staff shall consist of members who:

a. meet the qualifications set forth in subsections a. - b. of Section 3.2-1.

Deleted: general

Deleted: (a)

Deleted: (b)

b. are members in good standing of the active Medical Staff of another California hospital that is accredited through an accreditation body that has been granted deeming status by the Centers for Medicare and Medicaid Services, although exceptions to the requirement may be made by the Medical Executive Committee for good cause.

Deleted: Joint Commission-accredited

Comment [A89]: 10/23/11 This change would broaden the pool to those hospitals that are accredited by DNV or HFAP.

c. have satisfactorily completed an appointment in the provisional staff category.

3.3-2 Prerogatives

Except as otherwise provided, the Courtesy Medical Staff member shall be entitled to:

a. admit and or provide professional services to at least two patients in the Hospital every two years and exercise such clinical privileges as are granted pursuant to Article 5.

Comment [A90]: 10/23/11 "at least two" means that this is a minimum that the courtesy staff member is required to meet. What if he/she only admits/provides services to one patient? Also, is there a maximum that the courtesy staff member is allowed to admit/treat, before being moved up to active?

Deleted: 2

Deleted: VI

b. attend in a non-voting capacity meetings of the Medical Staff and the department of which he or she is a member, including open committee meetings and educational programs, but shall have no right to vote at such meetings, except within committees when the right to vote is specified at

Deleted: DRAFT

Deleted: 20141

the time of appointment. Courtesy Staff Members shall not be eligible to vote in general or departmental elections, or hold Department office, or hold office in the Medical Staff.

Comment [A91]: 10/23/11 Does this revision accurately reflect the limitations? Or can courtesy members hold department/section office?

Comment [A92R91]: Courtesy members can hold a Section office.

Deleted: or Section

3.4 Consulting Medical Staff

3.4-1 Qualifications

Any member of the Medical Staff in good standing may consult in his/her area of expertise. However, the Consulting Medical Staff shall consist of such practitioners who:

a. are not otherwise members of the Medical Staff and meet the qualifications set forth in Section 2.2 except that this requirement shall not preclude an out-of-state practitioner from appointment as may be permitted by law if that practitioner is otherwise found to be qualified by the Medical Executive Committee.

Deleted: general

b. possess ability and knowledge that enable them to provide valuable assistance in difficult cases.

c. are willing and able to come to the Hospital on schedule or promptly respond when called to render clinical services within their area of competence.

d. are members of the active Medical Staff of another hospital that is accredited through an accreditation body that has been granted deeming status by the Centers for Medicare and Medicaid Services, although exceptions to this requirement may be made by the Medical Executive Committee for good cause.

Comment [A93]: 10/23/11 For Courtesy members, the hospital must be accredited. Is that not a requirement for Consulting members?

Comment [A94R93]: We have added language to make this a requirement for Consulting members.

Comment [A95R94]: Bylaws Comm. 01/28/14

Deleted: licensed by California

e. have satisfactorily completed an appointment in the provisional category.

3.4-2 Prerogatives

The Consulting Medical Staff member shall be entitled to:

a. exercise such clinical privileges as are granted pursuant to Article 5.

Deleted: VI

b. attend meetings of the Medical Staff and the department of which a member, including open committee meetings and educational programs, but shall have no right to vote at such meetings, except within committees when the right to vote is specified at the time of appointment. Consulting staff members shall not be eligible to vote in general or departmental elections, hold Department or Section office, or hold office in the Medical Staff organization, but may serve upon committees.

Deleted: DRAFT

Deleted: 20141

3.5 Provisional Staff

3.5-1 Qualifications

The Provisional Staff shall consist of members who:

a. meet the general Medical Staff membership qualifications set forth in Sections 3.2-1.a. – b. or 3.4-1.a. – d.

Deleted: (a)-(b)

Deleted: (a)-(d)

b. immediately prior to their application and appointment were not members of this Medical Staff.

Deleted: (or were no longer members)

A member shall remain in the Provisional Staff for a period of not less than one year and not more than two years.

Comment [A96]: 10/23/11 Are all provisional staff members appointed to the provisional staff for one year initially? If so, is the two year period simply an extension of the original one year appointment if, for example, the practitioner fails to successfully complete proctoring?

3.5-2 Prerogatives

The Provisional staff member shall be entitled to:

a. admit patients and exercise such clinical privileges as are granted pursuant to Article 5, subject to the monitoring requirements set forth in these Bylaws.

Deleted: VI

b. attend meetings of the Medical Staff and the department of which he/she is a member, including open committee meetings and educational programs, but shall have no right to vote at such meetings, except within committees when the right to vote is specified at the time of appointment. Provisional Staff members shall not be eligible to vote in general or departmental elections, hold Department or Section office, or hold office in the Medical Staff organization, but may serve upon committees.

3.5-3 Action At Conclusion Of Provisional Staff Status

a. To be eligible for placement in the active, courtesy or consulting staff, the Provisional staff member must, at a minimum, have successfully completed proctoring in the relevant Department or Section's core privileges. A Provisional staff member who has completed proctoring in the core privileges may be eligible for placement in the active, courtesy or consulting staff, as appropriate, even if he or she has not completed proctoring for privileges additional to the core privileges.

Comment [A97]: 10/23/11 This recommendation would clarify that (a) completion of core privilege proctoring is a prerequisite for moving beyond provisional status, and (b) a practitioner can be "elevated" to another status, even if he or she has not completed proctoring for special privileges.

b. If the Provisional staff member has met the minimum requirement above and otherwise appears qualified for continued Medical Staff membership, the member shall be eligible for placement in the active, courtesy or consulting staff, as appropriate, upon recommendation of the Medical Executive Committee and approval of the Board of Directors.

Deleted: satisfactorily demonstrated the ability to exercise the clinical privileges initially granted

Deleted: DRAFT

Deleted: 20141

Deleted: other

c. In all cases, the appropriate department shall advise the credentials committee which shall make its report to the Medical Executive Committee which, in turn shall make its recommendation to the Board of Directors regarding modification or termination of Medical Staff membership.

3.6 Honorary And Retired Staffs

3.6-1 Qualifications

a. The Honorary Staff shall consist of physicians, dentists, psychologists and podiatrists who have retired from active practice at the Hospital but are deemed deserving of membership by virtue of their outstanding reputation, noteworthy contributions to the health and medical sciences, or their previous long-standing service to the Hospital and who continue to exemplify high standards of professional and ethical conduct, and were members in good standing with 20 years of service to the Hospital.

b. The Retired Staff shall consist of members who have retired from practice and, at the time of their retirement were members of good standing of the Medical Staff, and who continue to adhere to appropriate professional and ethical standards.

3.6-2 Prerogatives

Honorary and Retired staff members are not eligible to admit patients to the Hospital or to exercise clinical privileges in the Hospital, or to vote or hold office in this Medical Staff organization, but they may serve upon committees without vote. They may attend staff and department meetings, including open committee meetings and educational programs. Dues and liability insurance requirements are waived.

3.7 Resident Staff

Comment [A98]: Bylaws comm.. 10/8/13

3.7-1 Qualifications

a. The Resident Staff shall consist of members who are:

Deleted: as defined in Section 2.2-1.

1. Physicians licensed by the State of California who are enrolled in an accredited pediatric residency training program and who are providing medical health-related services to patients independent of the residency program. These members will be eligible for limited privileges as delineated by the Department of Medicine and subject to approval by the Medical Executive Committee and the Board of Directors.

2. Physicians licensed by the State of California who are enrolled in their final year of residency training in anesthesia and who are

providing medical health-related services to patients independent of their program. These members will be eligible for limited privileges as delineated by the Department of Anesthesia and subject to approval by the Medical Executive Committee and the Board of Directors.

b. Are not otherwise members of the Medical Staff and meet the qualifications for membership set forth in Sections 2.2-2.a., b., and e. and 2.2-3.

c. Possess adequate clinical and professional expertise commensurate with their privileges.

3.7-2 Prerogatives

Except as otherwise provided, the Resident shall be entitled to:

a. exercise such clinical privileges as are granted pursuant to Article 5.

b. attend meetings of the medical staff, including open committee meetings and educational programs, but shall have no right to vote at such meetings, except within committees when the right to vote is specified at the time of appointment. Resident/Urgent Care staff members shall not be eligible to vote in general or departmental elections, hold Department or Section office, or hold office in the Medical Staff organization, but may serve upon committees.

3.7-3 Limitations

a. A Resident member shall not admit patients.

b. a Resident member is not eligible for another staff category.

3.8 The Community Active/Pediatrics/Family Practice Physicians

3.8-1 Qualifications

The Community Active/Pediatrics/Family Physicians Category Staff shall consist of members who meet the qualifications set forth in Section 2.2 , and are members in good standing at another hospital that is accredited through an accreditation body that has been granted deeming status by the Centers for Medicare and Medicaid Services. Such Community Active Category members may be privileged by their Department. The Community Active Staff member must make at a minimum two referrals per year (as per the Point System identified in the Rules and Regulations).

3.8-2 Prerogatives

Deleted: DRAFT
Deleted: 20141
Comment [A99]: 11/12/11 Does CHOC have podiatric or dental residents on staff?
Comment [A100R99]: Not allowed to join the medical staff.
Deleted: general
Deleted: ,
Comment [A101]: These section references should be verified by the Bylaws Comm.
Deleted: 1 a. -c
Deleted: .
Deleted: ¶
Deleted: VI
Deleted: general
Deleted: 2.2.1
Comment [A102]: 10/23/11 For other categories, CHOC requires that the hospital be a California hospital. That is not included here; should it be?
Deleted: Joint Commission accredited
Comment [A103]: 10/23/11 This change would broaden the pool to those hospitals that are accredited by DNV or HFAP.
Comment [A104]: Bylaws comm.. 10/8/13
Comment [A105]: 10/23/11 What does it mean to be privileged by the Department - is it a separate privileging from the process outlined in the Bylaws?
Deleted: refer
Comment [A106]: 10/23/11 We have not yet reviewed the Rules and Regulations.

Community Active/Pediatrics/Family Practice Physicians Category Staff membership provides the practitioner the opportunity to follow their patients who are admitted to the hospital, to take part in committees and educational activities provided for the medical staff, and to be informed of hospital and other medical staff activities.

The Community Active/Pediatrics/Family Practice Physicians Category Staff member shall be entitled to:

a. Attend department/section or general staff meetings, or provide teaching services;

b. If privileged to admit, cannot admit more than two patients per year. If more than two admissions per year are requested, then the member will be reassigned to the appropriate category of either Active or Courtesy.

c. Be eligible for membership on standing medical staff committees.

d. May vote.

e. Have satisfactorily completed an appointment in the provisional staff category.

f. May be a candidate for the following positions:

1. Medical Executive Committee Community Active Member; or

2. Medical Executive Committee, Member at Large.

3.8-3 Limitations

Community Active/Pediatrics/Family Practice Physicians Category staff members will have the following limitations:

a. Unless privileged, may not admit patients to the hospital. Members in this category who wish to admit will need to first apply and obtain approval for these privileges and may be transferred into another medical staff category.

b. If privileged to admit, cannot admit more than two patients per year. If more than two admissions per year are requested, then the member will be reassigned to the appropriate category of either Active or Courtesy.

3.9 Affiliate Staff

3.9-1 Qualifications

Deleted: DRAFT

Deleted: 20141

Comment [A107]: 10/24/11 This provision seems out of place here. What does it mean to be "entitled to meet the general qualifications ..."

Deleted: <#>Meet the general qualifications set forth in subsections (a)-(b) of Section 2.2-1.¶

Comment [A108]: Bylaws comm. 10/8/13

Comment [A109]: 10/24/11 In both department and general elections?
Yes.

Comment [A110]: Bylaws comm. 10/8/13

Comment [A111]: This is duplicative of subsection g. below.

Deleted: and if elected, hold the position on the Medical Executive Committee for Community Active Member-at-Large

Comment [A112]: 10/24/11 What does it mean for the member to "be entitled to ... have satisfactorily completed an appointment in the provisional staff"? Is it a requirement? If so, we need to reorganize this section a little.

Comment [A113]: Recommended and approved by the Committee on 11/12/2013.

Comment [A114]: Moved to 3.8-2.c. Bylaws comm. 10/8/13

Deleted: If privileged to admit, cannot admit more than two patients per year. If more than two admissions per year are requested, then the member will be reassigned to the appropriate category of either Active or Courtesy.

Deleted: (

Deleted:)

Comment [A115]: Bylaws comm. 10/8/13

Deleted: <#>May not hold office

Deleted: <#>.¶

The Affiliate Staff shall consist of members who meet the qualifications set forth in Section 2.2, are members in good standing at another hospital that is accredited through an accreditation body that has been granted deeming status by the Centers for Medicare and Medicaid Services., but have not had, nor intend to have, any clinical activity at this Hospital.

3.9-2 Prerogatives

Affiliate Staff membership provides the practitioner the opportunity to follow their patients who are admitted to the hospital, to take part in educational activities provided for the medical staff, and to be informed of hospital and medical staff activities.

The Affiliate Staff member shall be entitled to:

a. Visit their patients who are admitted to the Hospital, review the medical records of those patients, but not enter progress notes or write orders. The patients will remain under the specific control of the staff member with admitting privileges to whom the patients have been referred.

b. Attend department/section or general staff meetings, or provide teaching services.

3.9-3 Limitations

Affiliate staff members will have the following limitations:

a. May not admit patients to the hospital. (Members in this category who wish to admit will need to first apply and obtain approval for these privileges and be transferred into another medical staff category)

b. May not vote or hold office.

c. Shall not be entitled to any provisions of Article 14 (Hearing and Appellate Review) in the event of termination.

3.10 Administrative Staff

Administrative staff category membership shall be held by any physician who is not otherwise eligible for another staff category and who is retained by the hospital or medical staff solely to perform ongoing medical administrative activities:

The administrative staff shall consist of members who:

a. are charged with assisting the medical staff in carrying out medical-administrative functions, including but not limited to quality assessment and improvement and utilization review;

Deleted: DRAFT

Deleted: 20141

Deleted: general

Comment [A116]: 10/24/11 For other categories, CHOC requires that it be a California hospital. Do you want the same requirement here?

Deleted: .1

Deleted: Joint Commission accredited

Comment [A117]: 10/23/11 This change would broaden the pool to those hospitals that are accredited by DNV or HFAP.

Comment [A118]: 10/24/11 Is there a reason for the limiation?

Comment [A119]: Bylaws comm. 10/8/13

Deleted: Membership in the Affiliate staff category shall be limited to ten (10) years

Deleted: .

Deleted: ; however, are not eligible to vote or hold office

Deleted: VIII

Deleted: ,

Deleted: DRAFT

Deleted: 20141

b. document their (1) current licensure, (2) adequate experience, education and training, (3) current professional competence, (4) good judgment, and (5) current physical and mental health status, so as to demonstrate to the satisfaction of the medical staff that they are professionally and ethically competent to exercise their duties;

c. are determined (1) to adhere to the ethics of their respective professions, (2) to be able to work cooperatively with others so as not to adversely affect their judgement in carrying out the quality assessment and improvement functions, and (3) to be willing to participate in and properly discharge those responsibilities determined by the medical staff.

Comment [A120]: 10/24/11 Who determines this? Does the MEC review before it goes to the Board? There does not appear to be a process for those applying to the administrative staff. The MEC and then the governing body.

Administrative staff members shall not be entitled to hold Medical Staff or Department office, or to vote in Medical Staff elections. Administrative staff members may be eligible to vote on the committees on which they serve, unless otherwise provided for in these Bylaws.

Comment [A121]: 10/24/11 Does this accurately reflect the voting rights of administrative members?

3.11 Research Staff

Comment [A122]: Here is some draft language for creation of a Research Staff category. In developing this category, the Bylaws Comm will need to consider whether Research staff:
-will qualify for clinical privileges.
-Will qualiify for admitting privileges.
-any limits on the extent/volume of clinical activity.
-eligibility, if any, for Medical Staff-wide office.
- eligibility for Committee membership.
-Applicability of dues.
-will have a separate Medical Staff Department or Section.
- what will be the sequence of credentialing/re-credentialing considerations?
--applicability of professional liability insurance coverage.
etc.

3.11-1 Qualifications

Research Staff shall consist of those members who:

a. have been designated by the appropriate Department Chair to participate in research and research-related activities at the hospital;

b. are not involved in patient care and have minimal interactions with patients at the hospital

3.11-2 Prerogatives

Except as otherwise provided, Research Staff may:

a. engage in clinical/medical research that has been duly approved by the hospital's Institutional Review Board (IRB).

b. attend department/section or general staff meetings.

3.11-3 Limitations

Research staff members will have the following limitations:

a. May not admit patients to the hospital. (Members in this category who wish to admit will need to first apply and obtain approval for these privileges and be transferred into another medical staff category.)

b. May not vote or hold office.

c. Shall not be entitled to any provisions of Article 14 (Hearing and Appellate Review) in the event of termination.

3.12 Limitations of Prerogatives

The prerogatives set forth under each membership category are general in nature and may be subject to limitation by special conditions attached to a particular membership, by other sections of these Bylaws and by the Medical Staff Rules and Regulations.

3.13 Limited License Exceptions to Prerogatives

Regardless of the category of membership in the Medical Staff, unless otherwise required by law, limited licensed members:

a. shall only have the right to vote on matters within the scope of their licensure. In the event of a dispute over voting rights, that issue shall be determined by the chair of the meeting, subject to final decision by the Medical Executive Committee

b. shall exercise clinical privileges only within the scope of their license and as set forth in Section 5.4.

c. shall not hold office of the Medical Staff, with the exception of DDS, DMD and DPM limited license members.

3.14 Modification of Membership Category

On its own, upon recommendation of the Credentials Committee or the department chair, or pursuant to a request by a member under Section 4.5-1.b, the Medical Executive Committee may recommend, and the Board may grant, a change in the Medical Staff category of a member consistent with the requirements of the Bylaws.

Deleted: DRAFT
Deleted: 20141
Formatted: Article_L4
Comment [A123]: Bylaws Comm. 01/28/14
Deleted: ¶
Deleted: O
Deleted: T
Deleted: chairman
Deleted: 6
Comment [A124]: 10/8/13 – Bylaws Comm queried new CMS rules re limited license members holding medical staff office.
CMS allows doctors of dental surgery or dental medicine, and doctors of podiatric medicine to hold office. See 42 CFR § 482.22(b)(3).
Comment [A125]: Bylaws Comm. 01/28/14
Deleted: O
Deleted: chairman
Deleted: (b)5.4-1(b)
Deleted: <#>**Summary of Prerogatives and Responsibilities of the Medical Staff**¶
COMMENT: The Joint Commission MS.01.01.01, EP 15, requires that the Medical Staff Bylaws include a description of the roles and responsibilities of each category of practitioner on the Medical Staff. The following summary (replicated from the CHA Model Medical Staff Rules), fulfills this requirement.¶
¶
Section Break (Continuous).

Deleted: DRAFT

Deleted: 20141

ARTICLE 4

PROCEDURES FOR APPOINTMENT AND REAPPOINTMENT (INCLUDING TELEMEDICINE SERVICES)

Comment [A126]: What currently is in the CHOC bylaws.

4.1 General

The Medical Staff shall consider each application for appointment, reappointment and privileges, including temporary and telemedicine privileges, and each request for modification of Medical Staff category using the procedure and the criteria and standards for membership and clinical privileges set forth in the Bylaws and the Rules. The Medical Staff shall consider each application from an Allied Health Professional for privileges or prerogatives pursuant to the Allied Health Practitioner Rules and Regulations. The Medical Staff shall investigate each applicant for appointment or reappointment and make an objective, evidence-based decision based upon assessment of the applicant vis-à-vis the hospital's "general competencies," (as further described in the Bylaws, Section 5.2, before recommending action to the Board. The Board shall ultimately be responsible for granting membership and privileges (provided, however, that these functions may be delegated to the President of Staff and Chief Executive Officer with respect to requests for temporary privileges). By applying to the Medical Staff for appointment, reappointment, or temporary privileges (or by accepting honorary Medical Staff appointment), the applicant agrees that regardless of whether he or she is appointed or granted the requested privileges, he or she will comply with the responsibilities of Medical Staff membership and with the Medical Staff Bylaws and Rules as they exist and as they may be modified from time to time.

Deleted: perform this function also for practitioners who seek temporary privileges and for

Deleted: s

Comment [A127]: If CHOC wants to continue having AHP provisions in separate rules and regulations, we will need to modify this section slightly.
10/24/11 This modification addresses the decision to keep AHP provisions in separate rules and regulations.

Comment [A128]: Bylaws comm. 10/8/13

Deleted: a

Deleted: t

Deleted: or

4.2 Applicant's Burden

Comment [A129]: The provisions we added in this Section 4.2 do not appear in the CHA model bylaws; however, we believe them important to be part of the Bylaws. They expand on concepts already in the CHOC bylaws.

Comment [A130R129]: Approved. Bylaws comm. 10/8/13

4.2-1 Burden of Proof

In connection with all applications for initial membership, membership renewal, advancement, or transfer, the applicant shall have the burden of producing information for an adequate evaluation of the applicant's qualifications and suitability for the clinical privileges and staff category requested, of resolving any reasonable doubts about these matters, and of satisfying requests for information. The applicant's failure to sustain this burden shall be grounds for withdrawal or denial of the application or credentialing request.

4.2-2 Medical And Psychological Evaluation

To the extent consistent with law, the applicant's burden may include submission to a medical (including, but not limited to, blood, urine, or other biological tests) or psychological examination, at the applicant's expense, if deemed appropriate by the Medical Executive Committee. Any such examination shall be performed by a physician selected or approved by the Medical Executive Committee. The results of such examination shall be used only for credentialing and peer review purposes.

Deleted: DRAFT

Deleted: 20141

4.2-3 Complete Application Required

In order for the Medical Executive Committee to make a recommendation to the Board of Directors concerning an applicant for appointment or reappointment to the medical staff or additional clinical privileges, the medical staff must have in its possession adequate information for a conscientious evaluation of the applicant's training, experience and background as measured against the unique professional standards of this hospital. Accordingly, the medical staff will not take action on an application that is not "complete." An application is not deemed complete until the Credentials Committee determines that the applicant has complied with all requests for information or evaluation from the medical staff. The applicant shall submit all information required within thirty (30) days upon receipt of request from the medical staff. If the applicant does not submit the information required to complete the application or credentialing request(s) within this timeframe, or if the application is not complete within six months after the applicant first submits the application, then the application or credentialing request(s) shall be deemed voluntarily withdrawn from further processing and applicant shall be required to re-apply for application or credentialing request(s). Such withdrawal shall not entitle the practitioner to the hearing rights described in Article 14 of these Bylaws.

Deleted:

4.2-4 Misstatements And Omissions

Misstatement(s) or omission(s) in the application may result in a recommendation to deny the applicant's application for appointment, reappointment, or privilege request, or if such omissions or misstatements are discovered after membership and clinical privileges or practice prerogatives have been granted, then such misstatement(s) or omission(s) may result in the modification or revocation of the member's medical staff membership and clinical privileges or practice prerogatives. In either case, the medical staff shall promptly send written notice to the applicant/member of such recommendation. Such action shall entitle the member to the hearing and appellate review process set forth in the Hearings and Appellate Reviews article of these Bylaws, however, the issues at such proceedings shall be limited to the narrow question of whether or not the member made a misstatement and/or omission.

4.2-5 Action By Other Entity

Revocation, suspension, restriction, or other disciplinary or corrective action by any state licensing authority, professional organization, certification board, peer review body, or health care entity (including an IPA, HMO, PPO, health plan, or private payor) regarding a practitioner's license, certificate, membership or clinical privileges, whether contested or voluntarily accepted, may constitute grounds for denial of the applicant's application for appointment or reappointment for membership and clinical privileges or practice prerogatives. The medical staff shall consider the nature and gravity of the charges or allegations and any resulting disciplinary or corrective action, but shall not be obligated to conduct an investigation or evidentiary proceedings regarding events that occurred outside of this hospital.

Comment [A131]: Although we recommend this provision, it can be controversial and we would like to discuss it with you further.
10/24/11 C. Chabot will discuss this with the officers. Her initial position is that such action should be taken into consideration for a possible recommendation, but not for an automatic action.

4.3 Application For Appointment

4.3-1 Submission of Application

When an applicant requests an application form, that person shall be given a copy of these bylaws and the medical staff rules and regulations. All applications for initial appointment to the Medical Staff shall be in writing, signed by the applicant and submitted on a form prescribed by the Medical Executive Committee and shall be accompanied by payment of application fees. The application shall require the applicant to provide, at a minimum, the following:

a. Detailed information concerning the applicant's professional qualifications and current competency, including but not limited to, professional training and experience, current licensure, current DEA registration (if applicable), and continuing medical education information related to the clinical privileges to be exercised by the applicant.

b. The names of at least three persons who hold the same professional license as does the applicant (not including relatives, partners or current associates in practice), who can provide adequate references based on their current knowledge of the applicant's professional qualifications, professional competency, and ethical character.

c. Information regarding past or pending professional disciplinary action/limitations against licensure in any state or registration, and any voluntary or involuntary relinquishments, or related matters.

d. Information pertaining to the applicant's professional liability insurance coverage (with the amount to be established in accordance with Section 2.2-2.e), any professional liability claims, complaints, filed and served cases pending, or causes of action that have been lodged against him/her and the status or outcome of such matters; such as, final judgments or settlements.

e. Information as to any past or pending felony charges or any violations of the law involving moral turpitude.

f. Information as to details of any prior or pending government agency or third party payer proceeding or litigation challenging or sanctioning applicant's patient admission, treatment, discharge, charging, collection, or utilization practices, including, but not limited to, Medicare and Medi-Cal fraud and/or abuse proceedings and convictions.

g. Information pertaining to the condition of the applicant's current physical and mental health and authorization to produce existing medical records or to submit to a physical/mental examination by a physician of the Medical Staff's choice if requested.

Deleted: DRAFT

Deleted: 20141

Comment [A132]: 10/25/2011 Based on feedback from C. Chabot, we have added the current CHOC provisions, with revisions, into this article and removed the CHA chart.

Comment [A133]: 10/25/11 More accurate description of this section.

Deleted: Credentials File

Comment [A134]: 10/27/11 A credentials file usually is constituted of more than simply the application and its attachments.

Deleted: which will constitute the applicant/members credentials file

Deleted: .

Comment [A135]: 10/27/11 Does CHOC require the references to be non-partners, non-family members?

Comment [A136R135]: 10/8/13 Bylaws Comm proposed language and requested recommendation re language to prohibit references from family members. We recommend this language, which is consistent with language on the California Participating Physician Application form.

Comment [A137R136]: Bylaws Comm. 01/28/14

Deleted: P

Deleted: ¶

Deleted: 1 (c))

Deleted: e

h. Certification of the applicant's agreement to terms and conditions set forth in Section 4.4-2 regarding the effect of the application.

i. An acknowledgment that the applicant has received and read the Medical Staff Bylaws and Rules and Regulations, that applicant has received an explanation of the requirements set forth therein and of the appointment process, and agrees to be bound by the terms thereof, as they may be amended from time to time, if granted membership or clinical privileges, and to be bound by the terms thereof, without regard to whether or not applicant is granted membership and/or clinical privileges in all matters relating to consideration of this application.

j. The Staff category, clinical Department, and clinical privileges for which the applicant wishes to be considered.

k. The non-refundable application fee in the amount established by the Medical Executive Committee.

l. Personal information to establish authenticity of applicant, i.e., social security number, home address, etc.

m. A letter from a staff member with comparable specialty certification and training, in which such member agrees to provide patient coverage in the absence of the applicant.

n. Information regarding whether Medical Staff membership or clinical privileges at another Health Care Facility has been denied or voluntarily or involuntarily terminated, or if clinical privileges at another Health Care Facility have been voluntarily or involuntarily limited, reduced, suspended, or revoked, or been placed under mandatory proctoring.

o. Valid email address.

4.4 Processing The Application

4.4-1 Verification of Information

The applicant shall deliver a complete, signed, and dated application to the Medical Staff Services Department, which shall use its resources to expeditiously seek to collect and verify the references, MBC licensure report, National Practitioner Data Bank report, and other qualification evidence submitted. The application fee shall be required from the applicant before collection and verification commences. The Medical Staff Office or its designee shall promptly inform the applicant of any problems in obtaining the information required. It shall then be the applicant's obligation to obtain the required information.

When collection and verification is accomplished, the CEO or designee shall transmit the completed application and all supporting materials to the Chairperson of each Department in

Deleted: DRAFT
Deleted: 20141
Deleted: 5.3-2
Deleted: The applicant shall also identify t
Deleted: Each initial applicant for membership or Allied Health Professional shall pay a
Deleted: Applicant must indicate if
Deleted: hospital h
Deleted: c
Deleted: f
Deleted: hospital
Comment [A138]: 10/27/11 Would you like to expand this requirement to include disclosure of, for example, letters of reprimand or mandatory proctoring?
Comment [A139]: Bylaws comm. 10/8/13
Comment [A140]: 10/8/13 – Bylaws Comm queries whether it should add a requirement to query social media.
Comment [A141R140]: We recommend the Medical Staff adopt a credentialing policy and procedure for querying social media (at the discretion of the credentialing committee).
Deleted: O
Deleted: filled in
Deleted: CEO
Comment [A142]: Bylaws comm. 10/8/13
Deleted: who
Deleted: his/her
Deleted: An
Deleted: is begun
Comment [A143]: Bylaws comm. 11/12/13
Deleted: shall promptly be notified
Deleted: , and i
Comment [A144]: 10/27/11 Addressed more thoroughly in Section 4.2-3, above.
Deleted: An initial applicant whose application is not completed due to applicant's non-fulfillment of such obligation within six months after it was received by the CEO shall automatically be removed from consideration for staff membership. Such an applicant's application may, thereafter, be reconsidered only if all information therein which may change over time, including, but not limited to Hospital reports and personal references, have been resubmitted. Failure to complete the application within six months constitutes a voluntary withdra...
Deleted: .
Deleted: ¶
Comment [A145]: Bylaws Comm. 01/28/14

which the applicant seeks privileges and to the Credentials Committee. An application is completed when all letters of reference have been received and all inquiries have been answered. Within 90 days of completed application, or as soon thereafter as is practical, the applicant will be notified of any decision concerning his/her application.

4.4-2 Effect of Application

In addition to the matters set forth in Sections 4.1 and 4.2, by applying for appointment to the Medical Staff each applicant:

a. Signifies his/her willingness to appear for interviews in regard to the application.

b. Authorizes consultation with others who have been associated with applicant and who may have information bearing on his/her competence, qualifications and performance, and authorizes such individuals and organizations to candidly provide all such information.

c. consents to inspection of records and documents that the Medical Staff determines may be material to an evaluation of applicants qualifications and ability to carry out clinical privileges requested, and authorizes all individuals and organizations who have custody of such records and documents to permit such inspection and copying.

d. certifies that he/she will report to the Credentials Committee and the CEO or designee any changes in the information submitted on the application form during the time the application is pending within seven days of the applicant being notified of such changed information.

e. releases from any liability, to the fullest extent permitted by law, all persons for their acts performed in connection with investigating and evaluating the applicant.

f. releases from any liability, to the fullest extent permitted by law, all individuals and organizations who provide information regarding the applicant, including otherwise confidential information.

g. consents to the disclosure to other hospitals, medical associations, medical groups, foundations, and other peer review bodies, and licensing boards, and to other organizations as required by law, or as required as a condition of participation in any third-party reimbursement program (e.g., Medi-Cal), any information regarding his/her professional or ethical standing that the Hospital or Medical Staff may have, and releases the Medical Staff and Hospital from liability for so doing to the fullest extent permitted by law.

Deleted: DRAFT
Deleted: 20141
Deleted: a
Deleted: 5.1
Comment [A146]: Bylaws comm. 11/12/13
Deleted: ,
Comment [A147]: 10/27/11 This is addressed more thoroughly in Section 2.6-27
Deleted: , which may subsequently occur,
Deleted: to the Credentials Committee and the CEO
Deleted: Thereafter, any changes that occur that will materially affect Medical Staff status shall be reported to the Credentials Committee and the CEO
Deleted: .
Comment [A148]: Requires a release. Medical groups and foundations may be peer review bodies. This proposed language reflects the peer review information sharing requirement under Business & Professions Code Section 809.08.

Deleted: DRAFT

Deleted: 20141

h. pledges to maintain an ethical practice, seeking consultation when necessary, and refraining from delegating patient care responsibility to non-qualified or inadequately supervised practitioners.

i. pledges to be bound by the medical staff and hospital bylaws, rules and regulations and policies.

j. if a requirement then exists for medical staff dues, acknowledges responsibility for timely payment.

k. agrees to provide for continuous quality care for patients.

Formatted: Article_L4

Deleted: ¶

4.4-3 Department Action

After receipt of the application, the chair or appropriate committee of each department to which the application is submitted shall review the application and the verified supporting documentation and may conduct a personal interview with the applicant at chairperson's discretion. The chairperson or appropriate committee shall evaluate all matters deemed relevant to a recommendation, including information concerning the applicant's provision of services within the scope of privileges requested, and shall transmit to the Credentials Committee a written report and recommendation as to appointment and, if appointment is recommended, as to membership category, department affiliation, clinical privileges to be granted, and any special conditions to be attached. The chairperson may also request that the Medical Executive Committee defer action on the application.

Comment [A149]: Bylaws Comm. 01/28/14

Deleted: ,

Comment [A150]: 10/27/11 In practice, are interviews discretionary or mandatory?

Comment [A151R150]: In practice, interviews are mandatory.

Deleted: ,

4.4-4 Credentials Committee Action

Deleted: a

The Credentials Committee shall review the application, and evaluate the verified supporting documentation, the department chair's report and other relevant information. The Credentials Committee may elect to interview the applicant and may seek additional information. As soon as practical, the Credentials Committee shall transmit to the Medical Executive Committee a written report and its recommendations as to appointment and, if appointment is recommended, as to membership category, department affiliation, any comments concerning the privileges sought, and any special conditions to be attached to the appointment. The committee may also recommend that the Medical Executive Committee defer action on the application.

Comment [A152]: 10/27/11 Verification has been performed already, correct?

Comment [A153]: Bylaws comm. 11/12/13

Deleted: and verify

Deleted:

4.4-5 Medical Executive Committee Action

Deleted: a

Comment [A154]: 10/27/11 Addressed below.

At its next regular meeting after receipt of the Credentials Committee report and recommendation, or as soon thereafter as is practical, the Medical Executive Committee shall consider the report and any other relevant information. The Medical Executive Committee may request additional information, return the matter to the department or Credentials Committee for further investigation, and/or elect to interview the applicant. The committee may also make a recommendation regarding the application or defer action on the application. The reasons for each recommendation shall be stated.

Deleted: The Medical Executive Committee shall immediately forward to the CEO for prompt transmittal to the Board of Directors, or in cases eligible for expedited processing, the committee duly appointed by the board to handle expedited cases, a written report and recommendation as to Medical Staff if appointment is recommended, the department affiliation, clinical privileges to be granted, and any special conditions will be attached to the appointment

Deleted: .

Deleted: ¶

4.4-6 Effect of Medical Executive Committee Action

a. Favorable Recommendation: When the recommendation of the Medical Executive Committee is favorable to the applicant, it shall be forwarded, together with supporting documentation, to the Board of Directors, or in cases eligible for expedited processing, the committee duly appointed by the board to handle expedited cases. The recommendation shall include a recommendation as to department affiliation, clinical privileges to be granted, and any special conditions to be attached to the appointment.

b. Adverse Recommendation: When a final recommendation of the Medical Executive Committee is adverse to the applicant, the Board of Directors and the applicant shall be promptly informed by written notice. Depending on the reasons for the adverse recommendation, the applicant may then be entitled to the procedural rights provided in Article 14.

c. Partially Adverse Recommendation: When the recommendation of the Medical Executive Committee is to appoint the applicant to the Medical Staff, but to deny one or more privilege, the favorable recommendations shall be forwarded to the Board of Directors or in cases eligible for expedited processing, the committee duly appointed by the board to handle expedited cases, for its consideration and action. The recommendation shall include a recommendation as to department affiliation, clinical privileges to be granted, and any special conditions to be attached to the appointment. The favorable recommendation shall be accompanied by notice of the adverse recommendation, and, depending on the reason for the adverse recommendation, the applicant may then be entitled to the procedural rights provided in Article 14.

d. Deferral: the Medical Executive Committee may defer its recommendation in order to obtain or clarify information, or in other special circumstances. A deferral must be followed up within 60 days of receipt of information with a subsequent recommendation for appointment and privileges, or for rejection of staff membership.

4.4-7 Action on the Application

The Board of Directors, or in cases eligible for expedited processing, the committee duly appointed by the board to handle expedited cases may accept the recommendation of the Medical Executive Committee or may refer the matter back to the Medical Executive Committee for further consideration, stating the purpose for such referral and setting a reasonable time limit for making a subsequent recommendation. The following procedures shall apply with respect to action on the application:

a. If the Medical Executive Committee issues a favorable recommendation, the Board of Directors or its duly appointed committee in cases eligible for expedited processing may affirm the recommendation of the Medical

Deleted: DRAFT
Deleted: 20141
Deleted: a
Deleted: immediately
Comment [A155]: 10/28/11 Some unfavorable recommendations may not be for a medical disciplinary cause or reason, and therefore , may not be reportable and may not lead to hearing rights.
Deleted: T
Deleted: shall
Deleted: VIII
Comment [A156]: 10/28/11 For instances where the MEC recommends appointment and some, but not all, of the requested privileges.
Deleted: VIII
Comment [A157]: 10/28/11 For clarfication.
Deleted: a
Comment [A158]: Bylaws comm. 11/12/13
Deleted: (consisting of at least 2 two members of the board), meeting as often as necessary as determined by its chairman
Deleted: ,
Comment [A159]: Bylaws comm. 11/12/13
Deleted: shall

Executive committee if the Board of Directors determines that the Medical Executive Committee's decision is supported by substantial evidence.

1. If the Board of Directors concurs in that recommendation, the decision of the Board shall be deemed final action.

2. If any part of the tentative final action of the Board of Directors is unfavorable, the Board shall give the applicant written notice of the tentative adverse action and, depending on the rationale for the adverse recommendation, the applicant may be entitled to the procedural rights set forth in Article 14. If the applicant waives his or her procedural rights, the tentative adverse action of the Board shall be deemed final action.

3. In cases eligible for expedited processing, if the duly appointed committee and the Board concurs in that recommendation, the positive decision shall be ratified by the Board at its next regularly scheduled meeting. The ratification by the Board shall be deemed final. If the committee's decision is adverse to the applicant, or the Board fails to ratify the committee's decision, the matter shall be referred back to the Medical Executive Committee for evaluation.

b. In the event the recommendation of the Medical Executive Committee, or any significant part of it, is unfavorable to the applicant;

1. If the hearing rights set forth in Article 14 do not apply or if no Judicial Review Committee hearing is requested by the applicant, the recommendation of the Medical Executive Committee shall be forwarded to the Board of Directors for final action, which shall affirm the recommendation of the Medical Executive Committee if the Board of Directors determines that the Medical Executive Committee's decision is supported by substantial evidence.

2. If the hearing rights set forth in Article 14 apply and a hearing is requested following the adverse or partially adverse Medical Executive Committee recommendation pursuant to Section 4.4-7.a, or an adverse or partially adverse Board of Directors tentative final action pursuant to Section 4.4-7.a.2, the Board of Directors shall take final action only after the applicant has exhausted all procedural rights as established by Article 14. After exhaustion of the procedures set forth in Article 14, the board shall make a final decision consistent with the procedures detailed in Article 14.

c. Applicants are ineligible for expedited processing if, at the time of appointment, any of the following has occurred:

Deleted: DRAFT

Deleted: 20141

Comment [A160]: 10/28/11For clarification

Comment [A161]: 10/28/11 "Shall affirm" is falling out of favor at some hospitals; it does not reflect the governing body's full authority.

Deleted: shall

Deleted: VIII

Deleted: ,

Deleted: the procedural rights set forth in Article VIII shall apply and

Deleted: VIII

Deleted: VIII

Deleted: 5.3-7(b)

Deleted: 5.3-7(a) (2)

Deleted: VIII

Deleted: VIII

Comment [A162]: 10/28/11 Placing the standard of review in two different places in the bylaws can create confusion and inconsistency. It is better practice to simply refer to the hearing and appeals article.

Deleted: and shall affirm the decision of the Judicial Review Committee if the Judicial Review Committee's decision is supported by substantial evidence, following a fair procedure. The board's decision shall be in writing and shall specify the reasons for the action taken

Deleted: VIII

Comment [A163]: 10/28/11 TJC standards provide that numbers 3 through 6 can be evaluated on a case-by-case basis, and usually result in ineligibility. The hospital may choose to make it automatic; but CHOC also could choose the flexibility that TJC provides.

1. The applicant submits an incomplete application, unless the applicant subsequently, and as outlined in these Bylaws, submits adequate information to complete his or her application.

2. The Medical Executive Committee makes a final recommendation that is adverse or with limitation.

3. There is a current challenge or previously successful challenge to licensure or registration.

4. The applicant has received an involuntary termination of medical staff membership at another organization.

5. The applicant has received involuntary limitation, reduction, denial, or loss of medical privileges.

6. The hospital determines that there has been either an unusual pattern of, or an excessive number of, professional liability actions resulting in a final judgment against the applicant.

4.4-8 Notice of Final Decision

a. Notice of the final decision shall be given to the applicant, the President of Medical Staff, the Medical Executive Committee and Credentials Committee, the chairperson of each department concerned, and the CEO or designee.

b. A decision and notice to appoint or reappoint shall include, if applicable: (1) the staff category to which the applicant is appointed; (2) the department to which he/she is assigned; (3) the clinical privileges granted; and (4) any special conditions attached to the appointment.

4.4-9 Reapplication After Adverse Appointment Decision

a. Who is affected:

Except as otherwise provided below, a practitioner who falls within one of the following three categories shall be ineligible to apply for Medical Staff membership and/or privileges for a period of three years after the action described in the category becomes final:

1. An applicant who (a) has received a final adverse decision regarding appointment or (b) withdrew his or her application or request for membership or privileges while an adverse recommendation by the Medical Executive Committee or the Board of Directors was pending;

Deleted: DRAFT

Deleted: 20141

Comment [A164]: 10/28/11 Although this addition is not word-for-word TJC, it most likely reflects practice. After all, someone who submits an application with a reference missing and subsequently corrects that error by supplying the missing information should remain eligible for expedited appointment.

Comment [A165]: Bylaws comm. 11/12/13

Comment [A166]: 10/28/11 The TJC language is "The hospital determines that there has been either an unusual pattern of, or an excessive number of, professional liability actions resulting in a final judgment against the applicant." CHOC has applied a higher standards (i.e., a single final judgment, rather than a pattern or excessive number). The hospital can keep its higher standard, or adopt the more flexible TJC standard.

Deleted: There

Deleted: has been a final judgment adverse to the applicant in a professional liability action

Deleted: f

Deleted: d

Deleted: the applicant,

Comment [A167]: Bylaws comm. 11/12/13

Comment [A168]: 10/28/11 The added provisions below are more comprehensive and enforceable, and take into account rulings of recent court decisions related to waiting periods.

Deleted: a

Deleted: a

Deleted: a

Deleted: d

Deleted: DRAFT

Deleted: 20141

2. A former Member who has (a) received a final adverse decision resulting in termination of Medical Staff membership and/or privileges or (b) resigned from the Medical Staff or relinquished privileges while an investigation was pending or following the Medical Executive Committee or Board of Directors issuing an adverse recommendation;

3. A member who (a) has received a final adverse decision resulting in the termination or restriction of one or more of his or her privileges, (b) has received a denial of his or her request for one or more additional privileges, (c) has relinquished one or more privileges while an investigation was pending or following the Medical Executive Committee or Board of Directors issuing an adverse recommendation, or (c) withdrew his or her application or request for an additional privilege(s) while an adverse recommendation by the Medical Executive Committee or the Board of Directors was pending. In such cases, the waiting period shall apply only to the privilege(s) that were terminated, restricted, denied, withdrawn, or relinquished.

An action or decision is considered adverse only if it is based on the type of occurrences which might give rise to corrective action. An action is not considered adverse if it is based solely on reasons that do not pertain to medical or ethical conduct, such as actions based on a failure to maintain a practice in the area (which can be cured by a move), to pay dues (which can be cured by paying dues), or to maintain professional liability insurance (which can to cured by obtaining the insurance). The Medical Executive Committee shall, in its sole discretion, determine whether an action is not considered "adverse" under this Section.

b. Date when the action becomes final:

The action is considered final on the latest date on which the following occurred:

1. The application or request was withdrawn,

2. The member's resignation became effective,

3. The Board's action becomes final; if applicable, the Board action is not considered final until the practitioner exhausts or waives all Medical Staff and Hospital hearings and appellate rights; or

4. The conclusion of all judicial proceedings pertinent to the action served within two years after the completion of the Hospital proceedings. The practitioner may not apply for appointment and/or the denied privileges during the time in which he or she is judicially challenging the action, and the three year waiting period

Deleted: DRAFT

Deleted: 20141

shall not begin until such time as the judicial proceeding has concluded.

c. Effect of the Waiting period:

Deleted: w

Applicants subject to waiting periods cannot reapply for Medical Staff membership or the privileges affected by the adverse action for at least three years after the action became final, as described above. After the waiting period, the applicant may reapply. The application will be processed like an initial application or request, plus the applicant shall document that the basis for the adverse action no longer exists, that he or she has corrected any problems that prompted the adverse action, and/or he or she has complied with any specific training or other conditions that were imposed. Notwithstanding any other provision of these Bylaws, if an applicant who falls under Section 4.4-9.a. above tenders an application for membership and/or privileges, and it appears that the application is based on substantially the same information as when previously denied or terminated, the application shall be returned to the applicant as unacceptable for processing. The application shall not be processed and the applicant shall not be entitled to a hearing under Article 14 of these Bylaws, unless otherwise required by law.

Deleted: categories

Deleted: (a)

d. Waiver:

1. The Medical Executive Committee, in its sole discretion, may waive the three year waiting period when (a) the denial of the application was based solely on the failure to meet the minimum, universally-applied qualifications for membership or the minimum, universally-applied qualifications for a particular privilege, and (b) the applicant can demonstrate that he or she now meets the minimum qualifications.

2. No waiver will be granted for a denial based on a medical disciplinary cause or reason; a failure to meet the medical staff's ethical conduct requirements; or failure to establish compliance or ability to comply with the Medical Staff's Code of Conduct, unless the Medical Executive Committee and the practitioner agree in writing prior to the practitioner's withdrawal or resignation that the practitioner may reapply upon completion of certain conditions.

4.5 Reappointments And Requests For Modifications Of Such Status Or Privileges

Deleted: An applicant who has received a final adverse decision regarding appointment shall not be eligible to reapply to the Medical Staff for a period of three (3) years. Any such reapplication shall be processed as an initial application, and the applicant shall submit such additional information as may be required to completely update the application, including, but not limited to, such information as may be required to demonstrate that the basis for the earlier adverse action no longer exists.¶

4.5-1 Applications

a. At least four (4) months prior to the expiration date of the current staff appointment (except for temporary appointments), a reapplication form developed by the Medical Executive Committee shall be mailed or delivered to the member. If an application for reappointment is not

Deleted: DRAFT
Deleted: 20141

received at least 90 days prior to the expiration date, written notice by certified mail with return receipt requested, shall be promptly sent to the applicant advising that the application has not been received. At least 60 days prior to the expiration date, each Medical Staff member shall submit to the Credentials Committee the completed application form for renewal of appointment to the staff for the coming reappointment period, and for renewal or modification of clinical privileges. The reapplication form shall include all information necessary to update and evaluate the qualifications of the applicant including, but not limited to, the matters set forth in Section 4.3 as well as other relevant matters. Upon receipt of the application, the information shall be processed as set forth in Sections 4.5-3 and 4.5-5 (below).

Deleted: 5.2
Deleted: 5.3
Deleted: 5.4-3

b. A Medical Staff member who seeks a change in modification of Medical Staff status or clinical privileges may submit such a request at any time upon a form developed by the Medical Executive Committee, assuring that the requirements (if appropriate) for the change have been met.

Comment [A169]: Bylaws comm. 11/12/13

4.5-2 Effect of Application

Deleted: a

The effect of an application for reappointment or modification of staff status or privileges is the same as set forth in Section 4.4-2.

Deleted: 5.3-2

4.5-3 Standards and Procedures for Review

Deleted: p
Deleted: r

a. When a staff member submits the first application for reappointment, and every two years thereafter, or when the member submits an application for modification of clinical privileges, the member shall be subject to an in-depth review utilizing information from the physician's credentials file and quality review profile generally following the procedures set forth in Section 4.4. In addition, there shall be peer recommendations for reappointment provided from members familiar with the applicant's current clinical performance and competence. This could be from the Section or Department chair.

Deleted: 5.3
Deleted: s
Comment [A170]: Bylaws comm. 11/12/13
Deleted: chairman

b. The reappointment application shall be in writing, on a form prescribed by the Medical Staff, and it shall require detailed information concerning the changes in the applicant's qualifications since the last review. Specifically, the reappointment application form shall request an update of all information and certifications required in the credentials file, as described in Section 4.3, except for that information which cannot change over time, such as information regarding the member's premedical and medical education, date of birth, and so forth. The form shall also require information as to whether the applicant requests any change in staff status and/or in clinical privileges, including any reduction, deletion, or additional privileges. Request for additional privileges must be supported by the type

Deleted: 5.2

and nature of evidence which would be necessary for such privileges to be granted in an initial application for same.

c. At the time of reappointment, the chair of the Section or Department to which a member belongs will be queried regarding the appropriateness of reappointment based upon observation of member's clinical performance and review of the member's credentials file. Findings from this review will be forwarded to the department chair who will also review the member's quality review profile and submit his/her recommendations for reappointment/non-reappointment to the Credentials Committee.

d. After receipt and consideration of the chairs' findings, the Credentials Committee shall review the reappointment application and forward to the Medical Executive Committee a written report and recommendation as to medical staff reappointment. Once the Medical Executive Committee receives the application, it shall be processed as outlined in Section 4.4 above.

4.5-4 Limitation on Extension of Appointment

If an application for reappointment has not been fully processed before the member's appointment expires, the Medical Staff member's membership status and privileges shall be automatically suspended until the review is completed, unless:

a. Good cause exists for the care of a specific patient or patients and no other health professional currently privileged possesses the necessary skills and is available to provide care to the specific patient(s), in which case the member's privileges may be temporarily extended while his or her full credentials information is verified and approved; or

b. The delay is due to the member's failure to timely return the reappointment application form or provide other documentation or cooperation, in which case the appointment shall terminate as provided in the next Section. An extension of an appointment does not create a vested right for the member to be reappointed. Time period for submission and resulting effect are in the Rules.

4.5-5 Failure to File Reappointment Application

If a member fails to file a complete application for reappointment at least 90 days prior to appointment expiration, a written notice by certified mail shall be promptly sent to the applicant advising him or her that the application has not been received or is not complete. If the reappointment application is not filed or is not complete within 30 days after that letter was received, the President of the Medical Staff will send a second letter warning that the member will be deemed to have resigned his or her staff membership unless the material is received within 30 days before the appointment expires. Failure without good cause to timely file a completed application for reappointment within 30 days before the appointment expires,

Deleted: DRAFT
Deleted: 20141
Comment [A171]: Bylaws comm. 11/12/13
Deleted: chairman
Deleted: s
Deleted: chairman
Deleted: men'
Comment [A172]: 10/28/11 This refers to the process outlined for the initial applicants.
Deleted: e
Deleted: a
Comment [A173]: We recommend this revised language to clarify extension of appointments.
Comment [A174]: Bylaws Comm. 01/28/14
Comment [A175]: 10/28/11 The original CHOC provision is inconsistent with state law, TJC standards, and CMS CoPs. Unfortunately, there is no "approved" way to automatically extend an appointment beyond the two year maximum, even if the delay is attributable to the hospital. The best "fix" is to continue to treat the application as "reappointment," rather than initial appointment.
Deleted: If an application for reappointment has not been fully processed by the expiration date of the member's appointment the Medical Executive Committee and the Board of Directors, or its duly appointed committee in expedited cases, shall approve a time and member specific extension of the member's status and privilegesthe member's membership and privileges shall expire. However, unless the delay is due to the member's failure to timely complete and return the reappointment application form or provide other documentation or cooperation, the application shall continue to be processed as a reappointment application. in which case the appointment shall terminate. Any extension of an appointment pursuant to this section does not create a vested right in the member for continued appointment through the entire next term but only until such time as processing of the application is concluded. ¶
Deleted: f
Deleted: r
Deleted: a
Comment [A176]: 10/28/11 Until the member's privileges actually expire, the hospital may not suspend them simply because the reappointment application has not yet been completed.
Deleted: them
Deleted: and suspension of all privileges will occur within 30 days after the letter has been ...
Deleted: suspend the member and
Deleted: Member
Deleted: continue to be suspended and will

unless otherwise extended by the Medical Executive Committee with the approval of the Board of Directors, shall result in the automatic withdrawal of the member's application and the expiration of the member's medical staff membership and privileges at the end of the current appointment term. In the event membership terminates for the reasons set forth herein, the procedures set forth in Article 14 shall not apply. Any subsequent application by the practitioner for membership and privileges shall be processed as an initial application.

4.6 Leave Of Absence

4.6-1 Leave Status

Any member of the Medical Staff may request in writing a leave of absence for a period not to exceed one (1) year. Provisional staff members may not be granted a leave of absence. Such request shall be submitted to the Medical Executive Committee, which shall review all such requests and may recommend approval to the Board of Directors. In the case of a staff member seeking a leave of absence to fulfill a commitment to military service, a leave of absence may be approved for a period exceeding one (1) year, but may not exceed the time period required to fulfill the staff member's military commitments. During the period of the leave, the member shall not exercise clinical privileges at the hospital and membership rights and responsibilities shall be inactive, but the obligation to pay dues, if any, shall continue unless waived by the Medical Staff.

4.6-2 Reinstatement of Membership After Leave

At least 30 days prior to the expiration of the leave of absence, or at any earlier time, the Medical Staff member may request reinstatement of privileges by submitting a written notice to that effect to the Medical Executive Committee. The practitioner must submit the request at least 30 days prior to the date by which the member wants to be reinstated; however, such timely submission shall not guarantee that the member's request will be processed or granted by the date requested. The staff member shall submit a summary of relevant activities during the leave. The Medical Executive Committee shall make a recommendation concerning the reinstatement of the member's prior category, privileges and prerogatives, and the procedure provided in Sections 4.2 through 4.4-8 shall be followed.

4.6-3 Failure to Request Reinstatement

Failure, without good cause, to request reinstatement from a leave of absence shall be deemed a voluntary resignation from the Medical Staff and shall result in automatic termination of membership, privileges, and prerogatives. A member whose membership automatically terminates shall not be entitled to the procedural rights provided in Article 14 unless required by law. If the practitioner is legally entitled to a hearing, then the sole issue for consideration by the Judicial Review Committee at the hearing shall be whether the failure to request reinstatement was excusable. A request for Medical Staff membership subsequently received from a member so terminated shall be submitted and processed as an application for initial appointment.

Deleted: DRAFT
Deleted: 20141
Deleted: termination
Deleted: VIII
Deleted: ¶
Deleted: s
Comment [A177]: 10/28/11 What about consulting members or other categories?
Comment [A178]: Bylaws comm. 11/12/13
Deleted: Active, or Courtesy
Deleted: s
Deleted: ,
Deleted: ,
Comment [A179]: Bylaws comm. 11/12/13
Deleted: Termination of leave
Deleted: termination
Comment [A180]: 10/28/11 This procedure would seemingly require a whole new appointment application. Is that what is required, or is it a modified version of the appointment process?
Deleted: 5.1
Deleted: 5.3-9
Deleted: r
Deleted: r
Deleted: is
Deleted: d
Deleted: VIII
Deleted: for the sole purpose of determining whether
Comment [A181]: 10/28/11 Granting full hearing rights for LOAs is unnecessary and would expend resources. We recommend providing hearing rights only when required by law (such as if the termination is reportable).
Deleted: unintentional or
Deleted: , or otherwise
Deleted: in the manner specified for applications for
Deleted: s

4.7 Administrative And Contract Practitioners

4.7-1 Contractors with No Clinical Duties

A practitioner employed by or contracting with the Hospital in a purely administrative capacity with no clinical duties or privileges is subject to the regular personnel policies of the Hospital and to the terms of his or her contract or other conditions of employment and need not be a Member of the Medical Staff.

4.7-2 Contractors Who Have Clinical Duties

a. A practitioner with whom the Hospital contracts to provide services which involve clinical duties or privileges must be a member of the Medical Staff, achieving his or her status by the procedures described in these Bylaws. Unless a contract or agreement provides otherwise, or unless otherwise required by law, those privileges made exclusive pursuant to a closed-staff or specialty policy will automatically terminate, without the right of access to the review, hearing, and appeal procedures of Article 14 of these Bylaws, upon termination or expiration of such practitioner's contract or agreement with the Hospital.

b. Provisions in the contracts shall govern over these Bylaws and the Rules in administrative matters, but not in issues relating to professional character, performance or competence or where any action is taken that must be reported to the Medical Board of California or the federal National Practitioner Data Bank.

4.7-3 Subcontractors

a. All Contractors who have exclusive contracts with the hospital shall provide in their agreements with their Subcontractors that any privileges granted to such Subcontractors in connection with such exclusive contract may automatically be terminated if the Subcontractor's relationship with the Contractor is terminated or if the contract between the hospital and the Contractor is terminated.

b. Subcontractors may automatically lose any privileges (but not Medical Staff membership) granted to them in connection with an exclusive contract between the hospital and the Contractor if the Subcontractor's relationship with the Contractor is terminated, or if the contract between the hospital and the Contractor is terminated.

c. Unless otherwise required by law, the hearing rights set forth in Article 14 shall not apply to Subcontractors whose privileges are automatically terminated pursuant to this Section 4.7-3. The Hospital may enforce such automatic termination even if the Subcontractor's agreement fails to recognize such right.

Deleted: DRAFT
Deleted: 20141
Deleted: w
Deleted: n
Deleted: c
Deleted: d
Deleted: P
Comment [A182]: 11/12/13 – Bylaws Comm requested clarification re membership once a contract is terminated. Does the practitioner lose his/her privileges, but keep his/her membership if contract with the hospital is terminated?
Comment [A183R182]: The practitioner may lose his/her privileges, but will not lose his/her membership.
Deleted: Practitioner
Deleted: executed after this provision is adopted
Deleted: VIII
Deleted: P
Comment [A184]: 11/25/2013 – Bylaws Comm requested clarification on the discrepancy between Sections 2.5-1 and 4.7.3.
Deleted: Practitioners
Deleted: H
Deleted: ,
Deleted: employees, and partners (collectively
Deleted: P
Deleted: their
Deleted: contracting pPractitioner
Deleted: H
Deleted: contracting pPractitioner
Deleted: The
Deleted: of a Practitioner practitioner (or
Deleted: Privileges
Deleted: H
Deleted: Practitioner practitioner (or Practitione
Deleted: contracting Practitioner practitioner (c
Comment [A185]: Bylaws Comm. 01/28/14
Deleted: H
Deleted: contracting Practitioner practitioner (c
Deleted:
Deleted: The
Deleted: VIII
Deleted: 5.6-3, except in the circumstances

REAPPOINTMENT AND PRIVILEGES		
Person or Body	**Function**	**Report to**
Medical Staff Office	Verify reappointment information.	Section Chair. (See Bylaws, Section 4.5-3.a.)
Section Chair	Opinion regarding appropriateness of the reappointment based on observation of the applicant's clinical performance and review of the applicant's credentials file.	Department Chair. (See Bylaws, Section 4.5-3.c.)
Department Chair	Review the applicant's quality review profile; recommend reappointment/non-reappointment.	Credentials Committee. (See Bylaws, Section 4.5-3.c.)
Credentials Committee	Review Department Chair's recommendation and reappointment application and prepare a written report with recommendations as to medical staff reappointment.	Medical Executive Committee. (See Bylaws, Section 4.5-3.d)
Medical Executive Committee	Review recommendations of Credentials Committee; recommend appointment and privileges.	Board of Directors. (See Bylaws, Section 4.4-5)
Board of Directors	Review recommendations of the Medical Executive Committee; make decision.	Final Action. (See Bylaws, Section 4.4-7)

Deleted: DRAFT
Deleted: 2011
Deleted: Coordinator
Deleted: *[Department (See Rule 2.9-3)]*¶
Deleted: *[Department]*
Deleted: /Review
Deleted: *[Medical Executive Committee (See Rule 2.9-4) or Credentials Committee (See Optional Rule 2.9-4)]*
Deleted: *'s performance vis-à-vis standards developed by department; recommend appointment and privileges]*
Deleted: *[Other Review Committees]*
Deleted: *[Credentials Committee*¶ *(See Optional Rule 2.9-4)]*
Deleted: *[Report on any performance problems within scope of committee review]*
Deleted: [
Deleted: department and Credentials Committee
Deleted:]
Deleted: (See Rule 2.9-5) or (See Optional Rule 2.9-5)
Deleted: (See Rule 2.9-6)
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 5

PRIVILEGES

5.1 Exercise of Privileges

Except as otherwise provided in these Bylaws or the Rules, every practitioner or Allied Health Professional providing direct clinical services at this hospital or telemedicine services to the hospital shall be entitled to exercise only those setting-specific privileges granted to him or her.

Comment [A186]: The CHA Model places initial proctoring in Article 7, with performance monitoring.

Comment [A187]: Will need to reflect decision about AHPs - own rules, or detailed in bylaws.

Comment [A188]: CMS recently promulgated new rules regarding credentialing telemedicine applicants; however, CDPH appears to require that telemedicine applicants continue to be credentialed in the same manner as other applicants. 10/28/11 California now allows credentialing consistent with the CMS new rules; however, C. Chabot has indicated that telemedicine providers will continue to be credentialed through the full credentialing process.

5.2 Criteria for Privileges/General Competencies

5.2-1 Criteria for Privileges

Subject to the approval of the Medical Executive Committee and Board of Directors, each Department or Section will be responsible for developing criteria for granting setting-specific privileges (including, but not limited to, identifying and developing criteria for any privileges that may be appropriately performed via telemedicine). These criteria shall address the hospital's general competencies (as described below) and assure uniform quality of patient care, treatment, and services. Insofar as feasible, affected categories of Allied Health Professionals shall participate in developing the criteria for privileges to be exercised by Allied Health Professionals. Such criteria shall not be inconsistent with the Medical Staff Bylaws, Rules or policies. Each department's approved criteria for granting privileges shall be included in the department's rules.

Deleted: Practitioners who wish to participate in the delivery of telemedicine services (whether to patients of this hospital or to patients of another facility that this hospital is assisting via telemedicine technology) must apply for and be granted setting and procedure-specific telemedicine privileges. (Additionally, practitioners who are not otherwise members of this hospital's Medical Staff who wish to provide services via telemedicine technology must apply for and be granted membership and privileges as part of the Telemedicine Staff (per Rule 1, Categories of Membership, Appendix 1I Telemedicine Staff) in order to provide services to patients of this hospital.)

Comment [A189]: Bylaws Comm. 11/12/13

Deleted: *[*

Deleted: *]*

5.2-2 General Competencies

The Medical Staff shall assess all practitioners' current proficiency in the hospital's general competencies, which shall be established by the departments and shall include assessment of patient care, medical/clinical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and systems-based practice. Each department shall define how to measure these general competencies as applicable to the privileges requested, and shall use them to regularly monitor and assess each practitioner's current proficiency.

Deleted: *[*

Deleted: *] [Medical Staff]*

Deleted: [

Deleted:]

Deleted: *[*

Deleted: *] [The Medical Staff]*

5.3 Delineation of Privileges in General

5.3-1 Requests

Each application for appointment and reappointment to the Medical Staff must contain a request for the specific privileges desired by the applicant. A request for a modification of privileges must be supported by documentation of training and/or experience supportive of the request. The basic steps for processing requests for privileges are described in the Bylaws, Section 4.2.

Comment [A190]: Bylaws Comm. 11/12/13

Deleted: at

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

5.3-2 Basis for Privilege Determinations

Requests for privileges shall be evaluated on the basis of the hospital's needs and ability to support the requested privileges and assessment of the applicant's general competencies with respect to the requested privileges, as evidenced by the applicant's license, education, training, experience, demonstrated professional competence, judgment and clinical performance, (as confirmed by peers knowledgeable of the applicant's professional performance), health status, the documented results of patient care and other quality improvement review and monitoring, performance of a sufficient number of procedures each year to develop and maintain the applicant's skills and knowledge, and compliance with any specific criteria applicable to the privileges requested. Privilege determinations shall also be based on pertinent information concerning clinical performance obtained from other sources, especially other institutions and health care settings where an applicant exercises privileges.

5.3-3 Telemedicine Privileges

a. Practitioners who render a diagnosis or otherwise provide clinical treatment to a patient at this hospital by telemedicine are subject without exception to the Medical Staff credentialing and privileging processes in these Bylaws and the Rules.

b. Services provided by telemedicine shall be identified by each specific department, but such services shall include tele-radiology, tele-psychiatry and robotic telemedicine.

c. In order to qualify for telemedicine privileges, the practitioner must meet all the requirements set forth in these Bylaws and the Rules for privileges (either temporary or granted in connection with membership).

Comment [A191]: 10/8/13 – Bylaws Comm requested assistance to develop a category telemedicine physicians.

Comment [A192]: Bylaws Comm. 01/28/14

Comment [A193]: As noted in an earlier comment, these provisions may be inconsistent with CDPH requirements.
11/19/11 Per C. Chabot, CHOC will continue to privilege telemedicine providers through the full credentialing process.

Deleted: <#>The initial appointment of telemedicine privileges may be based upon

Deleted: <#>:¶
<#>The practitioner's full compliance with this hospital's privileging standards;¶
<#>By using this hospital's standards but relying on information provided by the hospital(s) at which the practitioner routinely practices; or¶
<#>If the hospital where the practitioner routinely practices is accredited by The Joint Commission and agrees to provide a comprehensive report of the practitioner's qualifications, by relying entirely on the privileging of that other hospital.¶
<#>Reappointment of a Telemedicine Staff member's privileges may be based upon performance at this hospital, and, if insufficient information is available, upon information from the hospital(s) where the practitioner routinely practices.¶

5.4 Admissions; Responsibility for Care; History and Physical Requirements; and Other General Restrictions on Exercise of Privileges by Limited License Practitioners

5.4-1 Admitting Privileges

Only Medical Staff members with admitting privileges may independently admit patients to the hospital.

5.4-2 Responsibility for Care of Patients

a. All patients admitted to the hospital must be under care of a member of the Medical Staff.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

b. The admitting member of the Medical Staff shall establish, at the time of admission, the patient's condition and provisional diagnosis.

c. For patients admitted by or upon order of a dentist, oral surgeon, clinical psychologist, or podiatrist members, a physician member must assume responsibility for the care of the patient's medical or psychiatric problems that are present at the time of admission or which may arise during hospitalization which are outside of the limited license practitioner's lawful scope of practice or clinical privileges.

5.4-3 History and Physicals and Medical Appraisals

a. Members of the Medical Staff, with appropriate privileges, may perform history and physical examinations.

b. When evidence of appropriate training, experience, and current competence is documented, a limited license practitioner may be granted privileges to perform the history or physical on his or her own patient. Otherwise, a physician member must conduct or directly supervise the admitting history and physical examination (except the portion related to dentistry, clinical psychology or podiatry).

c. All patients admitted for care in a hospital by a dentist, oral surgeon, clinical psychologist, or podiatrist shall receive the same basic medical appraisal as patients admitted to other services, and a physician member or a limited license practitioner with appropriate privileges shall determine the risk and effect of any proposed treatment or surgical procedure on the general health status of the patient. Where a dispute exists regarding proposed treatment between a physician member and a limited license practitioner based upon medical or surgical factors outside of the scope of licensure of the limited license practitioner, the treatment will be suspended insofar as possible while the dispute is resolved by the appropriate department.

d. The admitting or referring member of the Medical Staff shall assure the completion and documentation in the medical record of a physical examination and medical history on all patients within 24 hours after admission (or registration for a surgery or procedure requiring anesthesia or moderate or deep sedation), or immediately before. This requirement may be satisfied by a complete history and physical that has been performed within the 30 days prior to admission or registration, the results of which are recorded in the hospital's medical record, so long as an examination for any changes in the patient's condition is completed and documented in the hospital's medical record within 24 hours after admission or registration.

Deleted: DRAFT

Deleted: 2011

Comment [A194]: 10/29/11 C. Chabot noted that CHOC currently requires co-admittance. California law does not allow hospitals to discriminate against limited licensed practitioners acting within their scope of practice; therefore, a co-admittance requirement is not permitted. It is permissible, however, to have the provisions in this subsection.

Comment [A195R194]: Bylaws Comm. 11/12/13

Comment [A196]: 10/29/11 Under Califiornia law, H&Ps are within a podiatrist's scope of practice. Therefore, hospitals cannot refuse to grant qualified podiatrists H&P privileges.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

e. Additionally, the history and physical must be performed or updated within 24 hours prior to any surgical procedure or other procedure requiring general anesthesia or moderate or deep sedation. The practitioner responsible for administering anesthesia may, if granted clinical privileges, perform this updating history and physical. Except in emergency situations, no surgical procedure or other procedure requiring general anesthesia or moderate or deep sedation may begin until the history and physical has been documented or appropriately updated in the medical record.

f. If a history and physical is conducted by a Resident or an Allied Health Practitioner authorized to do so, the history and physical is countersigned within 24 hours or prior to any high risk diagnostic or therapeutic intervention, whichever comes first.

5.4-4 Surgery and High Risk Interventions by Limited License Practitioners

a. The Chair of the Department of Surgery, or the chair's designee, will be in charge of surgical procedures performed by dentists and podiatrists.

b. Additionally, the findings, conclusions, and assessment of risk must be confirmed or endorsed by a physician member with appropriate privileges, prior to major high-risk (as defined by the Department of Surgery) diagnostic or therapeutic interventions.

5.5 Temporary Privileges

5.5-1 Circumstances

a. Temporary privileges may be granted after appropriate application:

1. For no more than 120 days during the pendency of an application;

2. On a case by case basis when there is an important patient care need that mandates an immediate authorization to practice, for no more than 120days. Temporary privileges under this circumstance shall be granted no more than three times to any single practitioner in a two year period;

3. Locum Tenens: Upon receipt of a completed application a practitioner with documented competence who is serving as a locum tenens for an Active Medical Staff member and who is a member in good standing of the Active Staff of another hospital may be granted temporary privileges for an initial period of up to sixty (60) days provided that the procedure described in 5.5-2 has been completed. Application fee will

Deleted: DRAFT

Deleted: 2011

Deleted: Surgical procedures performed by dentists and podiatrists shall be under the overall supervision of

Deleted: -

Comment [A197]: 11/25/2013 – Bylaws Comm requested clarification re use of the term "supervision."

Comment [A198]: Bylaws Comm. 01/28/14

Comment [A199]: It appears from CHOC Policy J1001, that all practitioners requesting temporary privileges must submit an application for appointment. Is that the same application that all applicants must submit, or a different one? If it is the same one, we will modify this section accordingly.
10/30/11 Per discussion with C. Chabot, we recommend revision of Policy J1001 to reflect fact that temp privileges for an important care need does not require a complete application.

Comment [A200]: The CHOC provision differs; it is granted on a case-by-case basis. How would you like to address it here?
10/30/11 Per discussion with C. Chabot, have adopted the CHOC process.

Deleted: [FILL IN NUMBER OF DAYS; NO MORE THAN 120]

Deleted: For the care of up to *[4]* specific patients each consecutive *[12]* months

Comment [A201]: Bylaws Comm. 11/25/13

Deleted: 6.5-1(b)

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

apply to Locum Tenens. Such privileges may be renewed for 2 successive periods of thirty (30) days but not to exceed his/her services as locum tenens, and shall be limited to treatment of the patients of the practitioner for whom he is serving as locum tenens. He/she shall not be entitled to admit his/her own patients to the Hospital.

b. Temporary members of the Medical Staff who are granted temporary membership for purposes of serving on standing or Ad Hoc Committees for investigation proceedings, are not, by virtue of such membership, granted temporary clinical privileges.

5.5-2 Application and Review

a. Temporary privileges may be granted after the applicant completes the application procedure and the Medical Staff Services Department completes the application review process applicable to the category of temporary privileges the practitioner is requesting. The following conditions apply:

1. There must first be verification of:

   i. Current licensure;

   ii. Relevant training or experience;

   iii. Current competence;

   iv. Ability to perform the privileges requested.

2. The results of the National Practitioner Data Bank and Medical Board of California queries have been obtained and evaluated.

3. The applicant has:

   i. Filed a complete application with the Medical Staff office, if applicable;

   ii. Acknowledged in writing that he or she has received, or has been given access to, and read the Medical Staff Bylaws and Rules and Regulations and that he or she agrees to be bound by the terms thereof.

   iii. No current or previously successful challenge to licensure or registration;

   iv. Not been subject to involuntary termination of Medical Staff membership at another organization; and

Deleted: DRAFT

Deleted: 2011

Comment [A202]: Bylaws Comm. 11/25/13

Comment [A203]: Again the CHOC provision differs; how would you like to address it here. 10/30/11 Per discussion with C. Chabot, have adopted the CHOC process.

Deleted: For practitioners who will serve as locum tenens for a Medical Staff member for up to *[30]* days at a time, subject to renewal to a total of *[120]* days in any consecutive *[12]* months (if a locum tenens serves more than *[4]* times in a calendar year, or for greater than *[120]* days in a calendar year, he or she shall be required to apply for regular Medical Staff membership if he or she desires to exercise privileges at the hospital); or

Deleted: <#>As otherwise necessary to fulfill an important patient care need.¶

Comment [A204]: Bylaws Comm. 11/25/13

Deleted: office

Comment [A205]: 10/30/11 To reflect the difference in the "patient care need" category.

Deleted: ro

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

v. Not been subject to involuntary limitation, reduction, denial, or loss of clinical privileges.

b. There is no right to temporary privileges. Accordingly, temporary privileges should not be granted unless the available information supports, with reasonable certainty, a favorable determination regarding the requesting applicant's or Allied Health Professional's qualifications, ability and judgment to exercise the privileges requested.

c. If the available information is inconsistent or casts any reasonable doubts on the applicant's qualifications, action on the request for temporary privileges may be deferred until the doubts have been satisfactorily resolved.

d. Temporary privileges may be granted by the Chief Executive Officer (or his or her designee) on the recommendation of the President of the Medical Staff or his or her designee.

e. A determination to grant temporary privileges shall not be binding or conclusive with respect to an applicant's pending request for appointment to the Medical Staff.

5.5-3 General Conditions and Termination

a. Members granted temporary privileges shall be subject to the proctoring and supervision in accordance with the Focused Professional Practice Evaluation requirements specified in the Medical Staff policy. The chair of the Department to which the practitioner is assigned shall be responsible for supervising the performance of the practitioner granted temporary privileges, or for designating a department member who shall assume this responsibility. Special requirements of consultation and reporting may be imposed by that chair.

b. Temporary privileges shall automatically terminate at the end of the designated period, unless affirmatively renewed as provided in the Bylaws, Section 4.5-1.a.

c. Temporary privileges may be terminated, restricted, or suspended with or without cause at any time by the President of Staff or his or her designee, or by the Chief Executive Officer or his or her designee, after consultation with the Department Chairperson responsible for supervision. A person shall be entitled to the procedural rights afforded by the Bylaws, Article 14, Hearings and Appellate Reviews, only if the refusal to grant temporary privileges or the termination, suspension, or restriction of such privileges would require the Hospital

Deleted: DRAFT

Deleted: 2011

Comment [A206]: TJC requires these conditions this to apply to those getting temporary privileges during a pending application; we (and CHA) believe they should apply to all practitioners applying for temporary privileges.

Comment [A207]: Bylaws Comm. 11/25/13

Comment [A208]: Bylaws Comm. 11/25/13

Deleted: Rules

Deleted: chairman

Comment [A209]: 10/30/11 From the CHOC Bylaws.

Deleted: chairman

Deleted: at

Deleted: 5.5-1(a), page 41, or earlier terminated as provided at in the Bylaws, Section 5.5-3(c), below

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

to file a report pursuant to Business and Professions Code Section 805 or to the National Practitioner Data Bank. In all other cases (including a deferral in acting on a request for temporary privileges), the affected practitioner shall not be entitled to any procedural rights based upon any adverse action involving temporary privileges.

d. Whenever temporary privileges are terminated or suspended, the Department Chair responsible for supervision shall assign a member to assume responsibility for the care of the affected practitioner's patient(s). The wishes of the patient and affected practitioner shall be considered in the choice of a replacement member.

e. All persons requesting or receiving temporary privileges shall be bound by the Bylaws and Rules.

5.6 Disaster and Emergency Privileges

a. Disaster privileges may be granted when the hospital's disaster plan has been activated and the organization is unable to handle the immediate patient needs. In the case of a disaster in which the emergency management plan has been activated and the Hospital is unable to handle the immediate patient needs, the President of the Medical Staff, or in the absence of the President, the Vice-President of the Medical Staff, may grant emergency privileges. In the absence of the President and Vice-President and Department Chair(s), the Chief Executive Officer or the CEO's designee may grant the emergency disaster privileges. In the case of a national disaster, the most senior member of the Medical Staff may grant the emergency disaster privileges. The granting of emergency disaster privileges shall be on a case-by-case basis at the sole discretion of the individual authorized to grant such privileges. The individual authorized to grant disaster privileges shall follow the processes and requirements detailed in the hospital's disaster plan and in the Medical Staff Rules and Regulations.

5.6-2 In the case of an emergency, any practitioner or AHP, to the degree permitted by his/her license and regardless of Department, Medical Staff status, or clinical privileges, shall be permitted to do, and shall be assisted by Hospital personnel in doing everything possible to save a patient from such danger. The Department Chair(s), President of Staff or Hospital Administrator must declare that the situation is an emergency prior to the exercise of emergency privileges and document such in the medical record.

5.7 Transplant and Organ Harvest Teams

Properly licensed practitioners who individually, or as members of a group or entity, have contracted with the hospital to participate in transplant and/or organ harvesting activities

Deleted: DRAFT
Deleted: 2011
Comment [A210]: Bylaws Comm. 11/25/13
Deleted: Disaster and
Comment [A211]: CHOC does not include disaster privileges in its current bylaws; we recommend doing so.
10/30/11 Per discussion with C. Chabot, disaster privilege details shall remain in the Rules. However, TJC standard EM.02.02.13, EP 2 requires that the medical staff identify in the Bylaws those "individuals responsible for granting disaster privileges to volunteer licensed independent practitioners."
Deleted: If none of the above are available, i
Comment [A212]: Bylaws Comm. 11/25/13
Deleted: The following provisions apply
Deleted: :¶
<#>Disaster privileges may be granted on a case-by-case basis by the Chief Executive Officer, based upon recommendation of the President of Staff, *[or in his or her absence, the recommendation of the responsible Department Chair,]* upon presentation of a valid government-issued photo identification issued by a state or federal agency **and** any of the following:¶
<#>A current picture hospital identification card;¶
<#>A current license to practice and primary source verification of the license;¶
<#>Identification indicating that the practitioner is a member of a Disaster Medical Assistance Team;¶
<#>Identification indicating that the practitioner has been granted authority to render patient care in emergency circumstances, such authority having been granted by a federal, state, or municipal entity;¶
<#>Presentation by current hospital or Medical Staff member(s) with personal knowledge regarding the practitioner's identity.¶ ...
Deleted: Two active physicians
Deleted: Chief
Comment [A213]: Before or after the use of emergency privileges? ...
Comment [A214]: The bylaws should identify which officer this is. ...
Comment [A215]: Bylaws Comm. 11/25/13
Deleted: The Medical Staff Office must be notified of the event within one business day when ...
Deleted: .
Comment [A216]: Bylaws Comm. 11/25/13
Deleted: port
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶ ...
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

may exercise clinical privileges within the scope of their agreement with the hospital.

5.8 MODIFICATION OF CLINICAL PRIVILEGES OR DEPARTMENT ASSIGNMENT

On its own, upon recommendation of the Credentials Committee, or pursuant to a request under Section 4.5-1.b, the Medical Executive Committee may recommend to the Board of Directors a change in the clinical privileges, staff category, or department assignment(s), of a member. The Medical Executive Committee may also recommend that the granting of additional privileges to a current Medical Staff member be made subject to monitoring in accordance Section 7.4.

Deleted: 5.4-l(b)

Deleted: with procedures similar to those outlined in

Deleted: 6.3-l.

5.9 LAPSE OF APPLICATION

If a Medical Staff member requesting a modification of clinical privileges, staff category, or department assignments fails to timely furnish the information necessary to evaluate the request, the application shall automatically lapse, and the applicant shall not be entitled to a hearing as set forth in Article 14.

Deleted: VIII

5.10 Dissemination of Privileges List

Documentation of current privileges (granted, modified, or rescinded) shall be disseminated to the hospital admissions/registration office and such other scheduling and health information services personnel as necessary to maintain an up-to-date listing of privileges for purposes of scheduling and monitoring to assure that practitioners are appropriately privileged to perform all services rendered. Such information can be disseminated electronically.

Comment [A217]: Bylaws Comm. 11/25/13

Deleted: , including through the Intranet: Physician Inquiry program

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 6

ALLIED HEALTH PROFESSIONALS

Comment [A218]: The CHOC Bylaws currently place AHP provisions in the AHP rules and regulations. Do you want to keep them there, or move them to the Bylaws?

6.1 Allied Health Professionals Rules and Regulations

Unless otherwise addressed in these Bylaws, the credentialing, privileging, and corrective action processes applicable to Allied Health Professionals shall be addressed in the Allied Health Professional Rules and Regulations.

Deleted: COMMENT: These credentialing provisions for Allied Health Professionals (AHPs) envision that an Interdisciplinary Practice Committee will serve as the credentialing committee. (See additional comments at Appendix 4I Interdisciplinary Practice Committee).¶

Comment [A219]: Bylaws Comm. 11/25/13

Deleted: <#>**Qualifications of Allied Health Professionals**¶
Allied Health Professionals (AHPs) are not eligible for Medical Staff membership. They may be granted practice privileges if they hold a license, certificate or other credentials in a category of AHPs that the Board of Directors (after securing Medical Executive Committee comments) has identified as eligible to apply for practice privileges, and only if the AHPs are professionally competent and continuously meet the qualifications, standards and requirements set forth in the Medical Staff Bylaws and Rules.¶
<#>Categories¶
The Board of Directors shall determine, based upon comments of the Medical Executive Committee and such other information as it has before it, those categories of AHPs that shall be eligible to exercise privileges in the hospital. Such AHPs shall be subject to the supervision requirements developed *[in each department]* and approved by the Interdisciplinary Practice Committee, the Medical Executive Committee, and the Board of Directors.¶
<#>Privileges *[and Department Assignment]*¶
<#>AHPs may exercise only those setting-specific privileges granted to them by the Board of Directors. The range of privileges for which each AHP may apply, and any special limitations or conditions to the exercise of such privileges, shall be based on recommendations of the Interdisciplinary Practice Committee, subject to approval by the Medical Executive Committee and the Board of Directors.¶
<#>An AHP must apply and qualify for practice privileges, and practitioners who desire to supervise or direct AHPs who provide dependent services must apply and qualify for privileges to supervise approved AHPs. Applications for initial granting of practice privileges and biennial renewal thereof shall be submitted and processed in a similar manner to that provided for practitioners, unless otherwise specified in the Rules.¶
<#>Each AHP shall be *[assigned to the department or departments appropriate to his or her occupational or professional training and, unless otherwise specified in these Bylaws or the Rules, shall be]* subject to terms and conditions similar t...

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 7

PERFORMANCE EVALUATION AND MONITORING

Comment [A220]: We will review more closely to determine whether these provisions are consistent with CHOC's current OPPE and FPPE plans. 10/30/11 Pursuant to discussion with C. Chabot, we have made revisions that refer back to CHOC's current processes.

7.1 General Overview of Performance Evaluation and Monitoring Activities

The Medical Staff has developed ongoing performance evaluation and monitoring activities to ensure that decisions regarding appointment to membership on the Medical Staff and granting or renewing of privileges are, among other things, detailed, current, accurate, objective and evidence-based. Additionally, the Medical Staff has developed performance evaluation and monitoring activities to help assure timely identification of problems that may arise in the ongoing provision of services in the hospital. Problems identified through performance evaluation and monitoring activities are addressed via the appropriate performance improvement and/or remedial actions as described in Bylaws, Article 13, Performance Improvement and Corrective Action.

Deleted: credentialing and privileging processes described in Bylaws, Article 4, Procedures for Appointment and Reappointment, and Article 5, Privileges, require that the Medical Staff develop

Comment [A221]: Bylaws Comm. 11/25/13

7.2 Performance Monitoring Generally

7.2-1 Except as otherwise determined by the Medical Executive Committee and Board of Directors, the Medical Staff shall regularly monitor all members' privileges in accordance with the provisions set forth in these Bylaws and the performance monitoring policies developed by the Medical Staff and approved by the Medical Executive Committee and the Board of Directors.

Deleted: such

Deleted: as may be

7.2-2 Performance monitoring is an information-gathering activity. Performance monitoring does not give rise to the procedural rights described in Bylaws, Article 14, Hearings and Appellate Reviews, unless the Medical Executive Committee imposes or recommends a restriction requiring a report to the Medical Board of California or the National Practitioner Data Bank.

Comment [A222]: Bylaws Comm. 11/25/13

Deleted: not viewed strictlyas a disciplinary measure, but rather is

Deleted: (unless the form of monitoring is Level III proctoring and its imposition becomes a restriction of privileges because procedures cannot be done unless a proctor is present and proctors are not available after reasonable attempts to secure a proctor)

7.2-3 The Medical Staff shall clearly define how information gathered during performance monitoring shall be shared in order to effectuate change and additional disciplinary action, if determined necessary.

Comment [A223]: Bylaws Comm. 11/25/13

7.2-4 Performance monitoring activities and reports shall be integrated into other quality improvement activities.

7.2-5 The results of any practitioner-specific performance monitoring shall be considered when granting, renewing, revising or revoking clinical privileges of that practitioner.

7.3 Ongoing Professional Performance Evaluations and Focused Professional Performance Evaluation

The Medical Staff has developed Ongoing Professional Performance Evaluation and Focused Professional Performance Evaluation processes that are defined in Medical Staff policies and procedures. Medical Staff members are required to comply and cooperate with those processes.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

7.3-1

7.4 Proctoring

7.4-1 Proctoring Applicants for New Privileges

Provisional Medical Staff members and members requesting additional, new privileges shall be proctored as detailed in the Focused Professional Performance Evaluation policy and procedure and Rules and Regulations.

7.4-2 Proctoring for Performance

Medical Staff members may be subject to proctoring pursuant to the Focused Professional Performance Evaluation policy and procedures. Notwithstanding such policy, and pursuant to Article 13 of these Bylaws, the Medical Staff may impose proctoring as a corrective action without first initiating or completing the Focused Professional Performance Evaluation policy and procedure.

1.

Deleted: DRAFT

Deleted: 2011

Deleted: <#>¶
<#>*[Each department] [The Medical Staff]* shall recommend, for Medical Executive Committee and Board of Directors approval, the criteria to be used in the conduct of Ongoing Professional Performance Evaluations for its practitioners.¶
<#>Methods that may be used to gather information for Ongoing Professional Performance Evaluations include, but are not limited to:¶
<#>Periodic chart review;¶
<#>Direct observation;¶
<#>Monitoring of diagnostic and treatment techniques;¶
<#>Discussion with other individuals involved in the care of each patient including consulting physicians, assistants at surgery, nursing and administrative personnel.¶
<#>Ongoing performance reviews shall be factored into the decision to maintain, revise or revoke a practitioner's existing privilege(s).¶
<#>Focused Professional Practice Evaluation¶
<#>The Medical Staff is responsible for developing a focused professional practice evaluation process that will be used in predetermined situations to evaluate, for a time-limited period, a practitioner's competency in performing specific privilege(s). The Medical Staff may supplement these Bylaws with policies, for approval by the Medical Executive Committee and the Board of Directors, that will clearly define the circumstances when a focused evaluation will occur, what criteria and methods should be used for conducting the focused evaluation, the duration of the evaluation period, requirements for extending the evaluation period, and how the information gathered during the evaluation process will be analyzed and communicated.¶
<#>Information for a focused evaluation process may be gathered through a variety of measures including, but not limited to:¶
<#>Retrospective or concurrent chart review;¶
<#>Monitoring clinical practice patterns;¶
<#>Simulation;¶
<#>External peer review;¶
<#>Discussion with other individuals involved in the care of each patient;¶
<#>Proctoring, as more fully described at Bylaws, Section 7.4-4, below.¶ ...

Deleted: <#>Overview of Proctoring Levels¶
<#>Level I proctoring shall be considered routine and is generally implemented as a means to review initially requested privileges in accordance with Bylaws, Section 7.4-3(a), above, and for review of infrequently used privileges in accordance with Bylaws, Section 7.4-3(b), above.¶
<#>Level II proctoring is appropriate in situations where a practitioner's competency or performance ...

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 8

MEDICAL STAFF OFFICERS (AND VICE PRESIDENT OF MEDICAL AFFAIRS/CHIEF MEDICAL OFFICER)

Comment [A224]: We have assumed that CHOC wants to keep its election process and recall processes, so we have included those here.

8.1 Medical Staff Officers — General Provisions

8.1-1 Identification: There shall be the following general officers of the Medical Staff:

Deleted: ¶

a. President of Staff

b. President-Elect of Staff

c. Immediate Past President of Staff

d. Secretary-Treasurer

Comment [A225]: 10/30/11 C. Chabot will discuss this with the officers; we are determining whether there is a legal reason for this provision.

Comment [A226R225]: Bylaws Comm. 11/25/13

Deleted: In addition, the Medical Staff's *[department and section]* officers and Committee Chairs shall be deemed Medical Staff officers within the meaning of California law

Deleted: .

8.1-2 Qualifications

All Medical Staff officers shall:

a. Understand the purposes and functions of the Medical Staff and demonstrate willingness to assure that patient welfare always takes precedence over other concerns;

b. Understand and be willing to work toward attaining the hospital's lawful and reasonable policies and requirements;

c. Have administrative ability as applicable to the respective office;

d. Be able to work with and motivate others to achieve the objectives of the Medical Staff and hospital. Meets the criteria as defined by the Rules and Regulations under the Nomination Committee;

Comment [A227]: This provision addresses the determination that behavior is a factor in determining a practitioner's qualifications for an officer position.

Deleted: This includes not having an unacceptable record, as determined by the Nominating Committee, of complaints regarding the practitioner's behavior

e. Be Board certified, if available, and demonstrate clinical competence in his or her field of practice;

Comment [A228]: Bylaws Comm. 11/25/13

Comment [A229]: Bylaws Comm. 11/25/13

f. For the office of President of Staff and President of Staff-Elect, be a physician (MD or DO), or Ph.D./Psy.D., or DDS/DMD;

Comment [A230]: Under California law, Medical Staffs cannot discriminate against non-MD/DO members in office holding, except for President of Staff and other "medical" offices.

Comment [A231]: Bylaws Comm. 11/25/13

g. Be an active Medical Staff member at the time of nomination (and remain in good standing as an active Medical Staff member while in office);

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

h. Not, at the time of nomination, at the time of election, and during his or her term, be subject to any restrictions or recommendations to restrict privileges or membership for a medical disciplinary cause or reason; and

i. Not have any significant conflict of interest that would interfere with their ability to execute the duties of office.

8.1-3 Disclosure of Conflict of Interest

All nominees for election or appointment to Medical Staff offices (including those nominated by petition of the Medical Staff pursuant to Bylaws, Section 8.2-2.c.) shall, at least 20 days prior to the date of election or appointment, disclose in writing to the Medical Executive Committee those personal, professional, or financial affiliations or relationships of which they are reasonably aware that could foreseeably result in a conflict of interest with their activities or responsibilities on behalf of the Medical Staff. Generally, a conflict of interest arises when there is a divergence between an individual's private interests and his/her professional obligations, such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by those private interests. A conflict of interest depends on the situation and not on the character of the individual. The fact that an individual practices in the same specialty as a practitioner who is being reviewed does not by itself create a conflict of interest. The evaluation of whether a conflict of interest exists shall be interpreted reasonably by the persons involved, taking into consideration common sense and objective principles of fairness. The Medical Executive Committee shall evaluate the significance of such disclosures and discuss any significant conflicts with the nominee. If a nominee with a significant conflict remains on the ballot, the nature of his or her conflict shall be disclosed in writing and circulated with the ballot.

8.2 Method of Selection — General Officers

8.2-1 Succession

At the end of his or her term, the President of Staff shall automatically assume the office of immediate Past President of Staff and the President-Elect of Staff shall automatically assume the office of President of Staff.

8.2-2 Nomination

a. The Medical Staff election year shall be each even numbered Medical Staff year. A nominating committee shall be appointed by the Medical Executive Committee. The Nominating Committee shall be composed of the immediate Past President of Staff, two (2) staff members elected by the Medical Executive Committee, and two staff members appointed by the President of Staff. The Nominating Committee shall be provided access to the quality profiles of members who the Committee is considering for nomination. The Nominating

Deleted: DRAFT
Deleted: 2011
Comment [A232]: We have added this provision in and can discuss it with you further.
Deleted: 3
Comment [A233]: A more robust conflict of interest policy than currently appears in the CHOC Bylaws; we recommend it.
Comment [A234]: How will the nominating committee be composed?
Comment [A235]: Bylaws Comm. 01/28/14
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

Committee shall consider, among other things, diversity of representation, and the information on the quality profile when determining whether a practitioner will be an appropriate nominee.

b. The Nominating Committee shall nominate one or more nominees for the offices of President-Elect of Staff and Secretary-Treasurer. The nominations of the committee shall be reported to the Medical Executive Committee at least ninety (90) days prior to the end of the year and delivered or mailed to the voting members of the Medical Staff at least sixty (60) days prior to the end of the year.

c. Further nominations may be made for the positions of President-Elect and/or Secretary-Treasurer by any voting member of the Medical Staff, provided that the name of the candidate is submitted in writing to the Chair of the Nominating Committee, is endorsed by the signature of at least 10% of other members who are eligible to vote, and bears the candidate's written consent. These nominations shall be delivered to the chair of the nominating committee at least twenty (20) days prior to the date of election. If any nominations are made in this manner, the chair of the nominating committee shall be advised by notice delivered or mailed at least ten (10) days prior to the mailing of the ballot. If any nominations are made in this manner, the voting members of the medical staff shall be advised by notice delivered or mailed at least ten (10) days prior to the meeting. A nominee by petition must comply with all requirements applicable to nominees for office.

8.2-3 Elections

Voting shall be either by secret written ballot, or by an electronic voting process that provides sufficient safeguards for secrecy, fairness and authenticity and that has been adopted by the Medical Executive Committee and approved by the Board of Directors. Written ballots shall include handwritten signatures on the envelope for comparison with signatures on file, when necessary, and authenticated sealed mail ballots may be counted. No proxy votes will be allowed. The Chair of the Nominating Committee will appoint two members from the Nominating Committee to witness the counting of the ballots. The Vice President of Medical Affairs/Chief Medical Officer will serve as a witness on behalf of the Board of Directors. This applies to written ballots only. A nominee shall be elected upon receiving a majority of the valid votes cast. If no candidate for the office receives a majority vote on the first ballot, a runoff election shall be held promptly between the two candidates receiving the highest number of votes. In the case of a tie on the second ballot, the majority vote of the Medical Executive Committee shall decide the election by secret written ballot at its next meeting or a special meeting called for that purpose. The newly elected President-Elect of Staff and Secretary-Treasurer shall be announced by electronic communication.

Deleted: DRAFT
Deleted: 2011
Comment [A236]: We recommend including diversity of representation as a factor in considering appropriate nominees.
Comment [A237R236]: Bylaws Comm. 01/28/14
Comment [A238]: This language addresses the decision to give the nominating committee access to this information
Comment [A239]: Bylaws Comm. 11/25/13
Deleted: any office
Deleted: Chairman
Deleted: (
Deleted:)
Deleted: chairman
Comment [A240]: Notice should be provided to voting members.
Comment [A241R240]: Bylaws Comm. 01/28/14
Formatted: Font: Bold
Deleted: , and authenticated sealed mail ballots may be counted
Deleted: .
Comment [A242]: 10/30/11 This addition provides flexibility for the Medical Staff to develop an electronic voting process.
Comment [A243]: Bylaws Comm. 11/25/13
Comment [A244]: Bylaws Comm. 11/25/13
Deleted: mail
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

8.2-4 Term of Office

Each officer shall serve a two (2) year term, commencing on the first day of the Medical Staff year following the election. Each officer shall serve in office until the end of term, or until a successor is elected, unless he/she shall resign or be removed from office.

8.3 Recall of Officers

A general Medical Staff Officer may be recalled from office for any valid cause including, but not limited to, failure to carry out the duties of his or her office. Except as otherwise provided, recall of a general Medical Staff Officer may be initiated by 2/3 votes of the Medical Executive Committee or by a petition signed by at least 1/3 of the Medical Staff members eligible to vote for officers with each signature page identifying the reason for recall; but recall itself shall require a vote in favor of recall by 2/3 vote of the Medical Staff members eligible to vote for general Medical Staff Officers.

8.4 Filling Vacancies

Vacancies may be created by action, such as through resignation or removal, or automatically, such as through death or failure to continuously meet the qualifications for office identified in this Article. Such vacancies shall be filled as follows:

8.4-1 A vacancy in the office of President of Staff shall be filled by the President-Elect of Staff as follows:

a. If the remainder of the term is less than one year, then the President-Elect of Staff will hold office until the end of term and until a successor President-Elect of Staff is elected; or

b. If the remainder of the term is one year or more, then the President-Elect of Staff will hold office until an interim President-Elect of Staff is elected to serve the remainder of the term pursuant to a special election. Such special election shall be held in a process adopted by the Medical Executive Committee that is similar to that detailed in Bylaws, Section 8.2.

8.4-2 A vacancy in the office of President-Elect of Staff shall be filled by special election held in a process adopted by the Medical Executive Committee that is similar to that detailed in Bylaws, Section 8.2.

8.4-3 A vacancy in the office of Secretary-Treasurer shall be filled by appointment by the Medical Executive Committee.

8.4-4 A vacancy in the office of Immediate Past President shall be left vacant.

Deleted: DRAFT
Deleted: 2011
Comment [A245]: Bylaws Comm. 11/25/13
Comment [A246]: Bylaws Comm. 11/25/13
Comment [A247]: Bylaws Comm. 12/10/13
Deleted: who actually cast votes
Comment [A248]: The process below is different from that outlined in the current CHOC bylaws; however, we believe it to be a more clear process. Please let us know if you would like to use the current CHOC process instead.
10/30/11 C. Chabot will discuss with the officers.
Comment [A249]: 12/10/13 – Bylaws Comm requested specific recommended language to ensure continuity of leadership in case a President position should be vacant either early or late in the term.
Comment [A250R249]: Bylaws Comm. 01/28/14
Deleted: .
Deleted:
Deleted: s
Deleted: t
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

8.5 Duties of Officers

8.5-1 President of Staff

The President of Staff shall serve as the chief officer of the Medical Staff. The duties of the President of Staff shall include, but not be limited to:

a. Enforcing the Medical Staff Bylaws and Rules, promoting quality of care, implementing sanctions when indicated, and promoting compliance with procedural safeguards when corrective action has been requested or initiated;

b. Calling, presiding at, and being responsible for the agenda of all meetings of the Medical Staff;

c. Serving as Chair of the Medical Executive Committee, and in that capacity shall be deemed the individual responsible for the organization and conduct of the Medical Staff;

d. Serving as an ex officio member of all other Staff committees;

Comment [A251]: Bylaws Comm. 12/10/13

Deleted: without vote, unless his or her membership in a particular committee is required by these Bylaws

e. Appointing, in consultation with the Medical Executive Committee, committee members for all standing, ad hoc, and special Medical Staff, liaison, or multi-disciplinary committees except where otherwise provided by these Bylaws and, except where otherwise indicated, designating the Chairs of these committees;

f. Being a spokesperson for the Medical Staff in external professional and public relations;

g. Serving on liaison committees with the Board of Directors and administration, as well as outside licensing or accreditation agencies;

h. Appointing members of the Medical Staff to participate, as a Medical Staff liaison, in the development of hospital policies;

i. Regularly reporting to the Board of Directors on the performance of Medical Staff functions and communicating to the Medical Staff any concerns expressed by the Board of Directors;

j. In the interim between Medical Executive Committee meetings, performing those responsibilities of the committee that, in his or her reasonable opinion, must be accomplished prior to the next regular or special meeting of the committee;

Deleted: and

Comment [A252]: Bylaws Comm. 12/10/13

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

k. Interacting with the Chief Executive Officer, Board of Directors, and Chief Medical Officer/Vice President of Medical Affairs in all matters of mutual concern within the hospital;

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

l. Representing the views and policies of the Medical Staff to the Board of Directors and to the Chief Executive Officer and serving as an ex-officio member of the Board of Directors;

Comment [A253]: Added provision.

m. Serving on the Joint Conference Committee;

Comment [A254]: Added provision.

n. Being accountable to the Board of Directors, in conjunction with the Medical Executive Committee, for the effective performance, by the Medical Staff, of its responsibilities with respect to quality and efficiency of clinical services within the hospital and for the effectiveness of the quality assurance and utilization review programs; and

o. Performing such other functions as may be assigned to him or her by these Bylaws, the Medical Staff or the Medical Executive Committee.

8.5-2 President-Elect of Staff

The President-Elect of Staff shall assume all duties and authority of the President of Staff in the absence of the President of Staff. Other duties include:

Comment [A255]: Added provision.

Deleted: The President-Elect of Staff shall be a member of the Medical Executive Committee and of the Joint Conference Committee, and shall perform such other duties as the President of Staff may assign or as may be delegated by these Bylaws or the Medical Executive Committee.

a. Shall be a member of the Medical Executive Committee;

b. Shall be a member of the Joint Conference Committee

c. Shall be a co-chair of the Joint Conference Committee

d. Shall perform such other duties as the President of Staff may assign or as may be delegated by these Bylaws or the Medical Executive Committee.

Comment [A256]: Bylaws Comm. 12/10/13

8.5-3 Secretary-Treasurer

The Secretary-Treasurer shall be a member of the Medical Executive Committee. The duties shall include, but not be limited to:

a. Maintaining a roster of members;

b. Oversees keeping accurate and complete minutes of all Medical Executive Committee and Medical Staff meetings;

Comment [A257]: Bylaws Comm. 12/10/13

Deleted: K

c. Calling meetings on the order of the President of Staff or Medical Executive Committee;

d. Serving as Chair of the Credentials Committee;

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

e. Attending to correspondence and notices on behalf of the Medical Staff;

f. Oversees receiving and safeguarding all funds of the Medical Staff;

g. Presenting a financial report to the Medical Executive Committee on an annual basis;

h. Performing such other duties as ordinarily pertain to the office or as may be assigned from time to time by the President of Staff or Medical Executive Committee.

8.6 Vice-President of Medical Affairs/Chief Medical Officer

8.6-1 Appointment

The Vice-President of Medical Affairs/Chief Medical Officer shall be appointed by the Chief Executive Officer with consultative input from the Medical Executive Committee and approval by the Board of Directors

8.6-2 Responsibilities

a. The Vice-President of Medical Affairs/Chief Medical Officer's duties shall be delineated by the Board of Directors in keeping with the general provisions set forth in subparagraph (b) below. The Medical Executive Committee approval shall be required for any Vice-President of Medical Affairs/Chief Medical Officer duties that relate to authority to perform functions on behalf of the Medical Staff or directly affect the performance or activities of the Medical Staff.

b. In keeping with the foregoing, the Vice-President of Medical Affairs/Chief Medical Officer shall:

1. Serve as administrative liaison among hospital administration, the Board of Directors, outside agencies and the Medical Staff;

2. Assist the Medical Staff in performing its assigned functions and coordinating such functions with the responsibilities and programs of the hospital; and

3. In cooperation and close consultation with the President of Staff and the Medical Executive Committee, supervise the day-to-day performance of the Medical Staff Services Department.

8.6-3 Participation in Medical Staff Committees

The Vice-President of Medical Affairs/Chief Medical Officer:

Deleted: DRAFT
Deleted: 2011
Deleted: R
Comment [A258]: Bylaws Comm. 12/10/13
Deleted: Staff
Comment [A259]: Bylaws Comm. 12/10/13
Deleted: <#>Excusing absences from meetings on behalf of the Medical Executive Committee; and
Deleted: <#>¶
Comment [A260]: Bylaws Comm. 12/10/13
Comment [A261]: The inclusion of "quality improvement personnel" is not in the current CHOC bylaws. If it accurately reflects practice, it should be included here. If it does not, then we should delete it.
10/31/11 Deleted per C. Chabot.
Deleted: office
Deleted: and the hospital's quality improvement personnel
Deleted: .
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

a. Shall be an ex officio member of all Medical Staff Committees, except the Joint Conference Committee (which the Vice-President of Medical Affairs/Chief Medical Officer shall attend as a resource person) and any hearing committee.

b. May attend any meeting of any department or section.

Deleted: DRAFT

Deleted: 2011

Deleted: —without vote—

Comment [A262]: Reflects what is currently in the CHOC bylaws; just said in a different way.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 9

COMMITTEES

9.1 General

9.1-1 Designation

Medical Staff committees shall include but not be limited to, the Medical Staff meeting as a committee of the whole, meetings of departments and sections, meetings of committees established under Article 11 and meetings of special or ad hoc committees created by the MEC (pursuant to this Section) or by departments (pursuant to Sections 10.4(i) and (1)). The committees described in this Article and in the Rules shall be the standing committees of the Medical Staff. Special or ad hoc committees may be created by the Medical Executive Committee, department chair, section chair, or chair of committee established pursuant to this Article to perform specified tasks. Ad Hoc Committee Chair and membership shall be established by the Chair of the committee establishing the Ad Hoc Committee subject to the consultation with and approval by the establishing committee.

Deleted: XI

Deleted: a

Deleted: chairman

Deleted: chairman

Deleted: chairman

Deleted: a

Deleted: Chairman

Deleted: Chairman

Comment [A263]: Adopted current CHOC provisions; the last sentences in the CHOC provisions are found in subsequent sections here.

9.1-2 Appointment of Members

a. Unless otherwise specified, the Chair and members of all committees shall be appointed by, and may be removed by, the President of Staff, subject to consultation with and approval by the Medical Executive Committee.

b. A Medical Staff committee created in these Bylaws is composed as stated in the description of the committee in these Bylaws or the Rules. Except as otherwise provided in the Bylaws, committees established to perform Medical Staff functions required by these Bylaws may include any category of Medical Staff members; Allied Health Professionals; representatives from hospital departments such as administration, nursing services, or health information services; representatives of the community; and persons with special expertise, depending upon the functions to be discharged. Each Medical Staff member who serves on a committee participates with votes unless the statement of committee composition designates the position as nonvoting.

c. The Chief Executive Officer, or his or her designee, in consultation with the President of Staff, shall appoint any non-Medical Staff members who serve in non-ex officio capacities.

d. The Committee Chair, after consulting with the President of Staff and Chief Executive Officer, may call on outside consultants or special advisors.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

e. Each Committee Chair may appoint a Vice Chair to fulfill the duties of the Chair in his or her absence and to assist as requested by the Chair. The appointment of the Vice Chair shall commence at the beginning of the Medical Staff term.

f. Each Committee Chair or other authorized person chairing a meeting has the right to discuss and to vote on issues presented to the committee.

9.1-3 Representation on Hospital Committees and Participation in Hospital Deliberations

The Medical Staff may discharge its duties relating to accreditation, licensure, certification, disaster planning, facility and services planning, financial management and physical plant safety by providing Medical Staff representation on hospital committees established to perform such functions.

9.1-4 Ex Officio Members

The President of Staff and the Chief Executive Officer, or their respective designees and the Vice President of Medical Affairs/Chief Medical Officer are ex officio members of all standing and special committees of the Medical Staff unless provided otherwise in the provision or resolution creating the committee.

9.1-5 Action Through Subcommittees

Any standing committee may use subcommittees to help carry out its duties. The Medical Executive Committee shall be informed when a subcommittee is appointed. The Committee Chair may appoint individuals in addition to, or other than, members of the standing committee to the subcommittee.

9.1-6 Terms and Removal of Committee Members

Unless otherwise specified, a committee member shall be appointed for a term of two years subject to renewal upon approval by the Medical Executive Committee, and shall serve until the end of this period and until his or her successor is appointed, unless he or she shall sooner resign or be removed from the committee. Any committee member who is appointed by the President of Staff may be removed by a majority vote of the Medical Executive Committee. Any committee member who is appointed by the Department Chair may be removed by a majority vote of his or her Department Committee or the Medical Executive Committee. The removal of any committee member who is automatically assigned to a committee because he or she is a general officer or other official shall be governed by the provisions pertaining to removal of such officer or official.

Deleted: DRAFT
Deleted: 2011
Comment [A264]: Bylaws Comm. 01/28/14
Deleted: shall
Comment [A265]: Bylaws Comm. 12/10/13
Deleted: *[and the Medical Director]*
Comment [A266]: Ex officio members are typically not entitled to vote.
Comment [A267R266]: Bylaws Comm. 01/28/14
Deleted: and shall serve with vote
Deleted:
Comment [A268]: 10/31/11 Revised to reflect current practice.
Deleted: after consulting with the President of Staff regarding Medical Staff members, and the Chief Executive Officer regarding hospital staff
Formatted: Indent: Left: 1.25", Hanging: 0.25"
Comment [A269]: Bylaws Comm. 12/10/13
Deleted: unlimited
Deleted: *[*
Deleted: *]*
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

9.1-7 Vacancies

A vacancy in the Chair will be filled by the Vice Chair of that committee for the remainder of the term. Unless otherwise specified, vacancies on any committee shall be filled in the same manner in which an original appointment to such committee is made; provided however, that if an individual who obtains membership by virtue of these Bylaws is removed for cause, a successor may be selected by the Medical Executive Committee.

Comment [A270]: Bylaws Comm. 01/28/14

9.1-8 Conduct and Records of Meetings

Committee meetings shall be conducted and documented in the manner specified for such meeting in Bylaws, Article 11, Meetings.

9.1-9 Attendance of Nonmembers

Any Medical Staff member who is in good standing may ask the Chair of any committee for permission to attend a portion of that committee's meeting dealing with a matter of importance to that practitioner. The Committee Chair shall have the discretion to grant or deny the request and shall grant the request only if the member's attendance will reasonably aid the committee to perform its function. If the request is granted, the invited member shall abide by all Bylaws and Rules applicable to that committee.

9.1-10 Conflict of Interest

Comment [A271]: These provisions are more robust than current CHOC bylaws; we recommend them.

a. In any instance where a Medical Staff member has or reasonably could be perceived to have a conflict of interest, as defined below, such individual shall not participate in the discussion or voting on the matter, and shall be excused from any meeting during that time. However, the individual with a conflict may be asked, and may answer, any questions concerning the matter before leaving. Any dispute over the existence of a conflict of interest shall be resolved by the chairperson of the committee, or, if it cannot be resolved at that level, by the President of Staff.

b. A conflict of interest arises when there is a divergence between an individual's private interests and his/her professional obligations, such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by those private interests. A conflict of interest depends on the situation and not on the character of the individual. The fact that an individual practices in the same specialty as a practitioner who is being reviewed does not by itself create a conflict of interest. The evaluation of whether a conflict of interest exists shall be interpreted reasonably by the persons involved, taking into consideration common sense and objective principles of fairness. The fact that a committee member or Medical

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Staff leader chooses to refrain from participation, or is excused from participation, shall not be interpreted as a finding of actual conflict.

9.1-11 Accountability

All committees shall be accountable to the Medical Executive Committee.

9.2 Medical Executive Committee

9.2-1 Composition

a. The Medical Executive Committee (MEC) shall consist of eighteen (18) voting and nine (9) non-voting members and shall serve according to the following conditions:

1. The majority of membership shall be active members.
2. All members of the medical staff are eligible for Medical Executive Committee membership.
3. No voting member shall serve more than two (2) consecutive terms in the same position (unless agreed to by the MEC).
4. A term shall consist of two (2) years.

b. The MEC shall consist of the following:

1. President of the Staff (who shall serve as Chair)
2. President-Elect of the Staff
3. Secretary-Treasurer of the Staff
4. Immediate Past-President of the Staff
5. Chair, Department of Anesthesia
6. Chair, Department of Emergency Medicine
7. Chair, Department of Medicine
8. Chair, Department of Pathology
9. Chair, Department of Surgery
10. Chair, Department of Radiology
11. Two (2) representatives from the Department of Surgery

Deleted: DRAFT
Deleted: 2011
Deleted: eight
Deleted: 8
Deleted: office
Comment [A272]: Bylaws Comm. 12/10/13
Deleted: Chairman
Deleted: <#>Chief Executive Officer (ex officio) (non-voting)¶ <#>Vice President of Medical Affairs/Chief Medical Officer (ex officio) (non-voting)¶ <#>President of the Staff (who shall serve as Chairman)¶ <#>Immediate Past-President of the Staff¶ <#>President-Elect of the Staff¶ <#>Secretary-Treasurer of the Staff¶ <#>Head, Department of Medicine¶ <#>Head, Department of Surgery¶ <#>Head, Department of Radiology¶ <#>Head, Department of Pathology¶ <#>Head, Department of Anesthesiology¶ <#>Head, Department of Emergency Medicine¶
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

12. Two (2) representatives from the Department of Medicine

13. One (1) representative from the Category of Community Active/Pediatrics/Family Practice Physicians

14. Three (3) members at large elected for a two (2) year term by the general staff at the time of the general election. (There shall be at least four (4) names submitted for such vote by the nominating committee.)

15. Chief Executive Officer (ex officio) (non-voting)

16. The Chair of the Board of Directors or designee (ex officio) (non-voting)

17. Vice President of Medical Affairs/Chief Medical Officer (ex officio) (non-voting)

18. Director of Medical Education (ex officio) (non-voting)

19. Medical Director of Patient Safety and Quality (ex officio) (non-voting)

20. Chief Operating Officer (ex officio) (non-voting)

21. Chief Nursing Officer (ex officio) (non-voting)

22. Surgeon-in-Chief (ex officio) (non-voting)

23. Pediatrician-in-Chief (ex officio) (non-voting)

c. No substitutes on the above membership will be allowed. Other individuals may be invited at the discretion of the MEC.

d. Each member of the MEC shall assume office on the first day of the Medical Staff Year beginning after selection to the MEC or the Office designated.

e. The time of election of the members of the MEC elected or selected by departments shall be determined by the individual department involved; provided that each such department designee shall begin service on the first day of the staff year next following election, notwithstanding any contrary provisions herein or elsewhere relating to the time when the designee shall assume his/her departmental post.

Given the diversity of practice on the Medical Staff, the Nominating Committee shall strive to ensure diversity of specialty and practice model among the nominees for Medical Staff Officers and Members at

Deleted: DRAFT

Deleted: 2011

Deleted: <#>Pediatric Subspecialty Faculty Representative (ex officio) (non-voting)¶
<#>Director of Medical Education (ex officio) (non-voting)¶
<#>Ambulatory Services Medical Director (ex officio) (non-voting)¶
<#>Medical Director of Patient Safety and Quality (ex officio) (non-voting)¶

Comment [A273]: Bylaws Comm. 12/10/13

Comment [A274]: Bylaws Comm. 01/28/14

Formatted: Body Text, Indent: Left: 1.75"

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Large. To the fullest extent possible, the Nominating Committee shall strive to present qualified nominees to ensure that the composition of the officers and members of the MEC should inspire confidence in the voting membership that all members of the Medical Staff will be adequately represented.

f. The representatives of the Department of Medicine and the Department of Surgery shall be active members of the medical staff and shall be elected for a two (2)-year term by majority vote of their respective departments by mail ballot.

g. If the President of the Staff is a member of the MEC by virtue of holding another designated position in staff organization, the MEC shall select another member of the same department to serve on the MEC as a proxy for the designated position held by President.

h. Without good cause (as determined by the chair), repeated absence by an officer or Department Chair from any duly called MEC meetings may be cause for removal from office if she/he is not reasonably able to perform his/her duties, and/or has not attended at least 50% of scheduled meetings. The MEC may initiate the applicable removal proceedings as detailed elsewhere in these Bylaws. In the event of death, resignation, or repeated failure to attend duly called meetings without good cause by a member who is either a Department representative (but not a Department chair) or a Member-at-Large, the MEC may appoint an interim replacement to serve on the MEC until such time as position is filled by the respective departments or, in the case of Members-at-Large, by a general election.

9.2-2 Administrative Provisions

a. The Chief Executive Officer is expected to attend all meetings of the MEC as a non-voting member.

b. A majority of the total voting members of the MEC shall constitute a quorum for the transaction of business.

c. The Chief Executive Officer shall arrange for a recording secretary, and a written report of each meeting shall be filed as a part of the permanent records of the MEC.

9.2-3 Duties

The Medical Staff delegates to the Medical Executive Committee broad authority to oversee the operations of the Medical Staff. With the assistance of the President of Staff, and without limiting this broad delegation of authority,

Deleted: DRAFT
Deleted: 2011
Formatted: English (United States)
Comment [A275]: 10/31/11 Per discussion with C. Chabot, this provision has been deleted. Provision is inconsistent with MS.02.01.01, EP. 3.
Comment [A276R275]: Bylaws Comm. 01/07/14
Deleted: groups
Deleted: At no time shall there be more than one-third (1/3) of the authorized number of voting members of the MEC who are from the same medical partnership or corporation. In the event that more than one-third of the proposed voting members of the MEC at the commencement of any medical staff year are from the same medical partnership or corporation, then all of (i) the general representatives from the Departments of Medicine and Surgery and (ii) the members at large, shall draw lots to determine who shall serve on the MEC and who shall have to be replaced by a representative who is not in the same medical partnership or corporation. If replacement of all such departmental and at large representatives does not resolve the problem, another drawing shall be held among the heads of the Departments of Medicine and Surgery and the Secretary-Treasurer of the Medical Staff to determine additional physicians to be replaced. In the event a representative has to be replaced, he or she shall be replaced by the body which originally selected the replaced representatives. In the event a vacancy on the MEC occurs during the course of a Medical Staff year, the replacement selected to fil ...
Deleted: R
Deleted: Absence
Deleted:
Comment [A277]: Bylaws Comm. 01/28/14
Deleted: without good cause as determined by the chairman may be cause for removal from office
Deleted: dismissal from the MEC and an interim replacement shall be appointed by the chairman, ...
Deleted: or
Comment [A278]: This may be inconsistent with provisions for filling vacancies for Department ...
Deleted: of
Comment [A279]: Bylaws Comm. 01/07/14
Deleted: Such vacancies shall be filled in as expeditious a manner as possible by selection by t ...
Deleted: .
Comment [A280]: Is this the CEO's responsibility?
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ ...
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

the Medical Executive Committee shall perform in good faith the duties listed below.

a. Supervise the performance of all Medical Staff functions, which shall include:

   1. Requiring regular reports and recommendations from the departments, committees and officers of the Medical Staff concerning discharge of assigned functions, and acting as necessary upon such reports;

   2. Issuing such directives as appropriate to assure effective performance of all Medical Staff functions; and

   3. Following up to assure implementation of all directives.

b. Coordinate the activities of the committees and departments.

c. Assure that the Medical Staff adopts Bylaws and Rules establishing the structure of the Medical Staff, the mechanism used to review credentials and to delineate individual privileges, the organization of the quality assessment and improvement activities of the Medical Staff as well as the mechanism used to conduct, evaluate, and revise such activities, the mechanism by which membership on the Medical Staff may be terminated, and the mechanism for hearing procedures.

d. Based on input and reports from the departments and Credentials Committee, assure that the Medical Staff adopts Bylaws, Rules or regulations establishing criteria and standards, consistent with California law, for Medical Staff membership and privileges (including, but not limited to, any privileges that may be appropriately performed via telemedicine), and for enforcing those criteria and standards in reviewing the qualifications, credentials, performance, and professional competence and character of applicants and staff members.

e. Assure that the Medical Staff adopt Bylaws, Rules or regulations establishing clinical criteria and standards to oversee and manage quality assurance, utilization review, and other Medical Staff activities including, but not limited to, periodic meetings of the Medical Staff and its committees and departments and review and analysis of patient medical records.

f. Evaluate the performance of practitioners exercising clinical privileges whenever there is doubt about an applicant's, member's, or Allied Health Professional's ability to perform requested privileges.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

g. Based upon input from the Departments and Credentials Committee, make recommendations regarding all applications for Medical Staff appointment, reappointment and privileges.

h. Take reasonable steps to insure professional ethical conduct and competent clinical performance on the part of all members of the Medical Staff, including when indicated, initiating Focused Professional Practice Evaluations and/or pursuing disciplinary or corrective actions affecting Medical Staff members.

i. With the assistance of the President of Staff, implement and supervise the Medical Staff's compliance with:

1. The Medical Staff Bylaws, Rules, and policies;

2. The hospital's Bylaws, Rules, and policies;

3. State and federal laws and regulations; and

4. Accreditation requirements.

Comment [A281]: Bylaws Comm. 01/07/14

Deleted: The Joint Commission a

j. Oversee the development of Medical Staff policies, approve (or disapprove) all such policies, and oversee the implementation of all such policies.

k. Implement, as it relates to the Medical Staff, the approved policies of the hospital.

l. With the Department Chairs, set departmental objectives for establishing, maintaining and enforcing professional standards within the hospital and for the continuing improvement of the quality of care rendered in the hospital; assist in developing programs to achieve these objectives including, but not limited to, Ongoing Professional Practice Evaluations, as further described at Bylaws, Article 7, Performance Evaluation and Monitoring.

m. Regularly report to the Board of Directors through the President of Staff and the Chief Executive Officer on at least the following:

1. The outcomes of Medical Staff quality improvement programs with sufficient background and detail to assure the Board of Directors that quality of care is consistent with professional standards; and

2. The general status of any Medical Staff disciplinary or corrective actions in progress.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

3. Any other recommendations or suggestions considered necessary or beneficial to the Hospital, its patients, its educational programs, the local community, or the Medical Staff. Copies of such recommendations and suggestions shall be furnished to the Vice President of Medical Affairs/Chief Medical Officer and the Chief Executive Officer of the Hospital.

n. Make recommendations, as appropriate, regarding the structure of the Medical Staff including the organization of the departments, to create new sections and abolish old ones, as recommended by heads of departments and sections concerned. Copies of such recommendations shall be furnished to the Vice President of Medical Affairs/Chief Medical Officer, the Chief Executive Officer, and the Board of Directors.

o. Discharge the functions and responsibilities assigned to the Medical Staff by the Board of Directors.

p. Review and make recommendations to the Chief Executive Officer regarding quality of care issues related to exclusive contract arrangements for professional medical services. In addition, the Medical Executive Committee shall assist the hospital in reviewing and advising on sources of clinical services provided by consultation, contractual arrangements or other agreements, in evaluating the levels of safety and quality of services provided via consultation, contractual arrangements, or other agreements, and in providing relevant input to notice-and-comment proceedings or other mechanisms that may be implemented by hospital administration in making exclusive contracting decisions.

q. Prioritize and assure that hospital-sponsored educational programs incorporate the recommendations and results of Medical Staff quality assessment and improvement activities.

r. Establish, as necessary, such ad hoc committees that will fulfill particular functions for a limited time and will report directly to the Medical Executive Committee.

s. Establish the date, place, time and program of the regular meetings of the Medical Staff.

t. Represent and act on behalf of the Medical Staff between meetings of the Medical Staff, subject to such limitations as may be imposed by these Bylaws in the intervals between meetings of the Medical Staff as a whole.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

u. Prepare for approval of the staff annual budget for the expenditure of staff funds, to authorize expenditures and to audit the financial report of the Secretary-Treasurer.

v. Recognizing that the medical staff members of the Board of Directors are an important link in fostering communication and cooperation between the Board of Directors, the Medical Staff, and Administration, the Medical Executive Committee will recommend to the Board of Directors three candidates whom they consider to be exemplary for each medical position on the Board. These recommendations will be presented to the Hospital President by the President of the Medical Staff.

w. Take such other actions as defined in these Bylaws or which may reasonably be deemed necessary in the best interests of the Medical Staff and the hospital.

The authority delegated pursuant to this Section 9.2-3 may be removed by the Medical Staff by amendment of these Bylaws.

9.2-4 Reporting

The MEC shall give a report concerning its activities to the Board of Directors and the Medical Staff at each regular staff meeting.

9.2-5 Meetings

The Medical Executive Committee shall meet at least ten times during the calendar year. A permanent record of its proceedings and actions shall be maintained.

9.3 Joint Conference Committee

9.3-1 Composition

The Joint Conference Committee shall be composed of eight members: the President of Staff, the President-Elect of Staff, the Immediate-Past President of Staff, the Medical Staff Secretary-Treasurer, the Board Chair, Board President, the Board First Vice Chair, and the Board Secretary/Treasurer. All members are voting members. The person serving as the Joint Conference Committee Chair shall alternate annually between the Board of Directors and the Medical Staff, as designated by the Chair of the Board or the President of the Medical Staff. The Vice President of Medical Affairs/Chief Medical Officer shall attend meetings of the committee as a resource person, but shall not have voting rights.

Deleted: DRAFT
Deleted: 2011
Formatted: Font color: Auto, Not Highlight
Comment [A282]: 10/31/11 We understand this to be a controversial provision and would like to discuss further.
Formatted: Font color: Auto, Not Highlight
Formatted: Not Highlight
Comment [A283]: These provisions encompass, in varying form, those provisions in current CHOC Bylaws Section 11.3-2. They also include additional matters, which should be reviewed.
Deleted: 3-2
Deleted: should be scheduled to meet on a monthly basis and
Deleted: Chairman
Deleted: Chairman
Deleted: Chairman
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

9.3-2 Duties and Meeting Frequency

a. Communication: The Committee shall conduct itself as a forum for the discussion of pertinent actions taken or contemplated by the Board or the Medical Staff, with particular emphasis on actions pertaining to the provision of efficient and effective patient care

b. Resolution of Differences: The Committee shall review and provide recommendations with regard to differences of opinion or judgment between the Board and the Medical Staff which are referred by the Board of Directors or by the Medical Executive Committee. The Committee shall also review and provide recommendations regarding matters involving applicants to the Medical Staff or corrective action which are referred by the Board of Directors or the Medical Executive Committee.

c. The committee shall also serve as the initial forum for exercise of the meeting and to confer provisions contemplated by Bylaws, Section 15.9; provided, however, that upon request of at least four committee members (which four must be comprised of at least three Medical Staff representatives and one Board of Directors representative, or of at least three Board of Directors representatives and one Medical Staff representative), a neutral mediator, acceptable to both contingents, shall be engaged to assist in dispute resolution. This provision shall assist the hospital and medical staff in their compliance with Business and Professions Code Section 2282.5.

Deleted: *[shall/may]*

Deleted: 7

Comment [A284]: This is a new provision that is designed to comply with B&P 2282.5 requiring that the hospital have an organized medical staff.

Comment [A285]: Bylaws Comm. 01/07/14

d. The Joint Conference Committee shall meet as needed and shall transmit written reports of its activities to the Medical Executive Committee and to the Board of Directors.

9.3-3 Accountability

The Joint Conference Committee is directly accountable to the Medical Executive Committee and to the Board of Directors

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 10

DEPARTMENTS AND SECTIONS

10.1 Organization of Clinical Departments

Each department shall be organized as an integral unit of the Medical Staff and shall have a Chair and a Vice Chair who are selected and shall have the authority, duties, and responsibilities specified in the Rules. Additionally, each department may appoint a Department Committee and such other standing or Ad Hoc Committees as it deems appropriate to perform its required functions. The composition and responsibilities of each standing Department Committee shall be specified in the Rules. Departments may also form sections as described below. A department may be further divided, as appropriate, into sections which shall be directly responsible to the department within which it functions, and which shall have a section chair selected and entrusted with the authority, duties and responsibilities specified in this Article.

Deleted: chairman

Deleted: a

10.2 Designation

10.2-1 Current Designation

The current departments are: (1) Medicine, (2) Surgery, (3) Anesthesiology, (4) Pathology, (5) Radiology, and (6) Emergency Medicine.

Comment [A286]:

Deleted: (Pain Management falls within the Department of Medicine).

10.2-2 Future Departments

When appropriate, the Medical Executive Committee may recommend to the Medical Staff the creation, elimination, modification, or combination of departments, which action shall take effect only through an amendment of these Bylaws.

Deleted: The Medical Executive Committee will periodically restudy the designation of the departments and recommend to the Board of Directors what action is desirable in creating, eliminating, or combining departments for better organizational efficiency and improved patient care. Action shall be effective upon approval by the Medical Executive Committee and the Board of Directors

Comment [A287]: In the current CHOC bylaws, the MEC can recommend to the Medical Staff the creation, elimination, etc. of departments, and such action can only take effect through a bylaws amendment. Please let us know whether you would like to retain the current provisions, or change to the CHA model.
10/31/11 Replaced with current CHOC Bylaws language from Section 10.1.

10.3 Assignment to Departments

Each member shall be assigned membership in at least one department and to a section, if any, within such department, but may also be granted membership and/or clinical privileges in other departments or sections consistent with the practice privileges granted.

10.4 Functions of Departments

The departments shall fulfill the clinical, administrative, quality improvement/risk management/utilization management, and collegial and education functions described herein. When the department or any of its Sections or committees meets to carry out the duties described in these bylaws, the meeting body shall constitute a peer review committee, which is subject to the standards and entitled to the protections and immunities afforded by federal and state law for peer review committees. Each

Deleted: in the Rules

Comment [A288]: Bylaws Comm. 01/28/14

Deleted: the Rules

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

department or its committee shall meet at least quarterly to perform the general functions which may include:

a. Conduct patient care reviews for the purpose of analyzing and evaluating the quality of care and appropriateness of treatment provided to patients within the department. The number of such reviews to be conducted during the year shall be determined by the Medical Executive Committee in consultation with other appropriate committees. The department shall routinely collect information about important aspects of patient care provided in the department, periodically assess this information, and develop objective criteria for use in evaluating patient care. Patient care reviews shall include all clinical work performed under its jurisdiction, whether or not the particular practitioner or AHP whose work is subject to such review is a member of the department.

b. Recommend to the Medical Executive Committee guidelines for the granting of clinical privileges and the performance of specified services within the department.

c. Evaluate and make appropriate recommendations regarding the qualification of applicants, including AHP applicants, seeking appointment or reappointment and clinical privileges within that department.

d. Conduct, participate and make recommendations regarding orientation and continuing education programs pertinent to departmental clinical practice.

e. Review and evaluate departmental adherence to:

   1. Medical Staff policies and procedures;

   2. sound principles of clinical practice.

f. Coordinate patient care provided by the department's members with nursing and ancillary patient care services.

g. Submit written reports to the Medical Executive Committee concerning:

   1. the department's review and evaluation activities, actions taken thereon, and the results of such action; and

   2. recommendations for maintaining and improving the quality of care provided in the department and the Hospital.

Deleted: DRAFT

Deleted: 2011

Comment [A289]: Bylaws Comm. 01/07/14

Deleted: shall

Comment [A290]: Departments should be involved in the credentialing of privileged AHPs.

Comment [A291]: 11/2/11 "Orientation" is included in the CHA Model.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

h. Meet regularly for the purpose of considering patient care review findings and the resulting of the department's other review and evaluation activities, as well as reports on other department and staff functions.

i. Establish such committees or other mechanisms as are necessary and desirable to perform properly the functions assigned to it, including proctoring protocols.

j. Take appropriate action when important problems in patient care and clinical performance or opportunities to improve care are identified.

k. Account to the Medical Executive Committee for all professional and Medical Staff administrative activities within the department.

l. Appoint such committees as may be necessary or appropriate to conduct department functions.

m. Formulate recommendations for departmental rules and regulations and policies reasonably necessary for the proper discharge of its responsibilities subject to the approval by the Medical Executive Committee and the Medical Staff.

Each department or its committees, if any, must meet regularly to carry out its duties.

10.5 Department Chair and Vice Chair

10.5-1 Qualifications

Each Department Chair and Department Vice Chair shall meet the following qualifications:

a. be (and remain during tenure in office) an active staff member in good standing;

b. have demonstrated ability in at least one of the clinical areas covered by the department;

c. be and remain Board certified during tenure;

d. have demonstrated understanding of the approach and methods of improving organizational performance;

e. have an understanding of the purposes and functions of the staff organization and a demonstrated willingness to promote patient safety over all other concerns;

Deleted: DRAFT
Deleted: 2011
Comment [A292]: Bylaws Comm. 01/28/14
Comment [A293]: CHA describes the department functions in the Rules; CHOC does it in the Bylaws (which is common). Which would CHOC prefer.
11/2/11 Per C. Chabot, used CHOC version in the Bylaws.
Comment [A294]: 11/2/11 The following list is an amalgam of current CHOC provisions and recommended CHA Model provisions.
Comment [A295]: See definition of Good Standing under Definitions.
Comment [A296R295]: 01/07/14 – Bylaws Comm. requested definition of good standing.
Deleted: be
Deleted: active Medical Staff members, shall
Deleted:
Deleted: ,
Comment [A297]: Bylaws Comm. 01/07/14
Deleted: shall
Deleted: ,
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

f. have an understanding of and willingness to work with the hospital toward attaining its lawful and reasonable goals;

g. have an ability to work with and motivate others to achieve the objectives of the Medical Staff organization in the context of the hospital's lawful and reasonable objectives. This includes not having an unacceptable record, as determined by the department's nominating committee and the Medical Executive Committee, of complaints regarding the practitioner's behavior;

h. attend at least 75% of Department and assigned committee meetings;

i. not have any significant conflict of interest; and

j. shall be willing and able to faithfully discharge the functions of his or her office.

10.5-2 Selection

Department chairs and vice-chairs shall be elected every (2) years by those members of the department. For the purpose of this election, each department chair shall appoint a nominating committee of three (3) members at least (60) days prior to the meeting at which election is to take place. The nominating committee shall be provided access to the quality profiles of members who the committee is considering for nomination. When determining whether a practitioner will be an appropriate nominee, the nominating committee shall consider, among other things:

a. diversity of representation with regard to specialty, practice model and employment. To the fullest extent possible, chair and vice chair nominees should inspire confidence that all members of the medical staff are adequately represented;

b. exemplary leadership values, collegiality, and commitment to excellent patient care;

c. respectful treatment of all members of the hospital community;

d. information in the practitioner's credentials file with weight given to his or her citizenship;

e. the information on the quality profile regarding both clinical quality and professional behavior; and

f. records of prior committee meeting attendance.

The recommendations of the nominating committee of one or more nominees for chair and vice-chair positions shall be circulated to the voting members of

Deleted: DRAFT
Deleted: 2011
Comment [A298]: 11/2/11 To address issues related to conduct.
Comment [A299]: Bylaws Comm. 01/28/14
Deleted: and
Comment [A300]: CHA includes other qualifications in the Rules.
Comment [A301]: This is a unique and excellent requirement. How is it assessed?
Comment [A302R301]: Bylaws Comm. 01/07/14
Deleted: ¶
Specific qualifications shall be set forth in the Rules. Each chair must have demonstrated understanding of the approach and methods of improving organizational performance
Deleted: .
Deleted: men
Deleted: men
Deleted: chairman
Deleted: T
Comment [A303]: 01/07/14 - Bylaws Comm requested development of language to be consistent with the Medical Executive Committee nominations guidelines.
Comment [A304R303]: Bylaws Comm. 01/28/14
Comment [A305]: Relevance of employment?
Deleted:
Deleted: ,
Deleted: ,
Deleted: when determining whether a practitioner will be an appropriate nominee
Deleted: ;
Deleted: chairman
Deleted: chairman
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

each department at least twenty (20) days prior to the election. Election of department chairs and vice-chairs shall be subject to ratification by the Medical Executive Committee. Vacancies due to any reason shall be filled for the unexpired term through special election by the respective department with such mechanisms as that department may adopt.

10.5-3 Term of Office

Each Department Chair and Vice Chair shall serve a two-year term, the expiration of which coincides with the Medical Staff year or until their successors are chosen, unless they shall sooner resign, be removed from office, or lose their Medical Staff membership or privileges in that department. Department officers are eligible to succeed themselves for one additional two-year term or more if approved by the Medical Executive Committee for extraordinary circumstances.

10.5-4 Removal

A department officer may be removed for failure to cooperatively and effectively perform the responsibilities of his or her office. Removal may be initiated by the Medical Executive Committee or by written request from 20 percent of the members of the department who are eligible to vote on department matters. Such removal may be effected by a 2/3 vote of the Medical Executive Committee members or by a 2/3 vote of the department members eligible to vote on department matters who cast votes.

All voting shall be conducted by written secret mail ballot (which may include email), which shall be sent to those eligible to vote within 45 days after the initiation of removal pursuant to this Rule. The ballots must be received no later than 21 days after they are mailed and shall be counted by the President of Staff, secretary-treasurer, and director of Medical Staff services. No removal shall be effective unless and until it is ratified by the Medical Executive Committee. The procedures for effecting removal shall be as described in the Bylaws.

10.5-5 Roles and Responsibilities of Department Officers

Specific roles and responsibilities include the following, which the vice chair, in the absence of the chair, shall assume and shall otherwise perform such duties as may be assigned him or her:

a. Acting as presiding officer at departmental meetings

b. Clinically related activities of the department.

c. Administratively related activities of the department, unless otherwise provided by the hospital.

Deleted: DRAFT
Deleted: 2011
Deleted: men
Deleted: men
Comment [A306]: 11/2/11 From the current CHOC Bylaws, with changes to reflect the nominating committee's duties. Do you want to include the election mechanism as well?
Comment [A307]: CHA puts the nominating process in the Rules; the current CHOC bylaws have it in the Bylaws. Which would CHOC prefer?
Comment [A308R307]: Bylaws Comm. 01/07/14
Deleted: Department
Deleted: officers shall be elected by a majority of the votes cast by the voting Medical Staff members of the department. Candidates shall be selected by the nominating and elections procedures described in the Rules
Deleted: .
Comment [A309]: Bylaws Comm. 01/28/14
Deleted: once, and
Comment [A310]: Bylaws Comm. 01/07/14
Comment [A311]: The CHOC Bylaws do not have further procedures for effecting removal. 11/2/11 We have added process from the CHA Model Rules. Can be modified as desired.
Comment [A312]: Bylaws Comm. 01/07/14
Deleted: Rules
Comment [A313]: Again, CHA puts additional roles, etc. in the Rules.
Deleted: of department chairs shall be as set forth in the Rules. These roles and responsibilities
Deleted: at least
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

d. Participate in every phase of administration of the department, including cooperation with the nursing service and the hospital administration in matters such as personnel (including assisting in determining the sufficient numbers, qualifications and competence of department/service personnel who are not licensed independent practitioners and who provide patient care services), supplies, special regulations, standing orders and techniques.

e. Continuing surveillance of the professional performance of all individuals in the department who have delineated clinical privileges, including evaluating the qualifications and competence of practitioners and Allied Health Professionals (AHPs) who provide patient care services within the purview of the department..

f. Recommending to the medical staff the criteria for clinical privileges that are relevant to the care provided in the department.

g. Transmitting to the medical executive committee the department's recommendations concerning practitioner appointment, classification, and privileges, reappointment, monitoring of specified services, and corrective action with respect to persons with clinical privileges in the department;

h. Assist in the preparation of such annual reports, including budgetary planning, recommendations for space and other resources pertaining to the department as may be required by the medical executive committee.

i. Assessing and recommending to the relevant hospital authority off-site sources for needed patient care, treatment, and services not provided by the department or the organization.

j. Integration of the department or service into the primary functions of the organization.

k. Be a member of the medical executive committee, and give guidance on the overall medical policies of the medical staff and hospital and make specific recommendations and suggestions regarding the department.

l. Coordination and integration of interdepartmental and intradepartmental services.

m. Development and implementation of policies and procedures that guide and support the provision of care, treatment, and services.

n. Recommendations for a sufficient number of qualified and competent persons to provide care, treatment, and services.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

o. Determination of the qualifications and competence of department or service personnel who are not licensed independent practitioners and who provide patient care, treatment, and services.

p. Continuous assessment and improvement of the quality of care, treatment, and services.

q. Maintenance of quality control programs, as appropriate.

r. Develop and implement departmental programs for patient care review, ongoing monitoring of practice, credentials review and privilege delineation, medical education, utilization review, the maintenance of quality control programs, and quality assessment and improvement.

s. Ensure orientation and continuing education of all persons in the department

t. Endeavor to enforce the medical staff bylaws, rules, policies and regulations within the department.

u. Implement within the department appropriate actions taken by the medical executive committee.

v. Serving as an ex officio member of all committees of his or her department and attending such committee meetings as deemed necessary for adequate information flow.

w. Assuring that records of performance are maintained and updated for all members of his or her department.

x. Reporting on activities of the Medical Staff to the Governing Body when called upon to do so by the President of Staff or the Chief Executive Officer.

y. Performing such additional responsibilities as may be delegated to him or her by the Medical Executive Committee or the President of Staff.

10.5-6 Roles and Responsibilities of Members-At-Large

Specific roles and responsibilities include the following, and shall otherwise perform such duties as may be assigned him or her:

a. Attend assigned medical staff committee meetings;

b. Represent peers;

c. Attend assigned Department committee meetings;

Deleted: DRAFT
Deleted: 2011
Comment [A314]: Bylaws Comm. 01/07/14
Deleted: O
Comment [A315]: Bylaws Comm. 01/07/14
Deleted: Chief
Comment [A316]: The CHA Bylaws are designed to meet the TJC requirements. It does not include all the provisions that are in the current CHOC bylaws. This may be a time to reevaluate what is currently listed, and decide what should be included here. We have added MEC membership as a duty here.
11/2/11 This list contains the responsibilities identified in the CHA model and the CHOC Bylaws.
Comment [A317]: Bylaws Comm. 01/07/14
Deleted: Chief
Comment [A318]: 01/07/14 – Bylaws Comm. requested section addressing duties of Members-at-Large.
Comment [A319R318]: Bylaws Comm. 01/28/14
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

d. Report to the Department and/or Medical Executive Committee on involvement.

10.6 Sections

Subject to approval by the Medical Executive Committee, within each department, the practitioners of the various specialty groups may organize themselves as a clinical section and perform such functions as assigned to the section by the department chair. Such functions may include, without limitation, retrospective patient care reviews, evaluation of patient care practices, credentials reviews and privilege delineation, and continuing education programs. The section shall transmit regular reports to the department chair on the conduct of its assigned functions. If a section is inactive, the Medical Executive Committee shall consider elimination every nominating year. Each section may develop Rules specifying the purpose and responsibilities. These Rules shall be effective when approved as required by Bylaws, Article 15, General Provisions. While sections may assist departments in performance of departmental functions, responsibility and accountability for performance of departmental functions shall remain at the departmental level.

10.7 Section Chair

10.7-1 Qualifications

Each section shall have a chair who shall be a member of the Active Medical Staff, if possible, and be a member of the section which he or she is to head, and shall be qualified by training, experience, and demonstrated current ability in the clinical area covered by the section. The section chair must remain in good standing on the active staff for the duration of his or her term. The section chair must have an ability to work with and motivate others to achieve the objectives of the Medical Staff organization in the context of the hospital's lawful and reasonable objectives. This includes not having an unacceptable record, as determined by the Medical Executive Committee, of complaints regarding the practitioner's behavior.

10.7-2 Election

Each section chair shall be elected by the section and ratified by the department chair and the Medical Executive Committee. Vacancies due to any reason shall be filled for the unexpired term by the department chair.

10.7-3 Term of Office

Each section chair shall serve a two (2) year term which coincides with the Medical Staff year or until a successor is chosen, unless he or she shall resign or be removed from office or lose Medical Staff membership or clinical privileges in that section. Section chairs shall be eligible to succeed themselves once, and more if approved by the Medical Executive Committee for extraordinary circumstances.

10.7-4 Removal

Deleted: DRAFT
Deleted: 2011
Deleted: man
Deleted: man
Comment [A320]: CHA assigns the process of selecting section heads in Rules; we agree with the current CHOC approach to include the process in the Bylaws. This will avoid variation. Note the requirement that the remaining rules be effective as required in Article 15.
Deleted: man
Formatted: Font: Bold
Deleted: man
Deleted: a
Comment [A321]: 11/2/11 To address the desire to have a "good citizenship" requirement.
Comment [A322]: The original CHOC provisions state that the chair shall be a member of the active staff "if possible." Here, for discussion, we have proposed times when it may be impossible to have an active staff chair. This list can be modified and supplemented.
Comment [A323]: Bylaws Comm. 01/07/14
Deleted: A section may have a chair who is not a member of the active Medical Staff if (a) no section member is active staff, (b) no active staff members desire to be section chair, or (c) no section member who is a member of the active staff receives a majority of the votes in an election described below
Formatted: Font: Bold
Deleted: man
Deleted: man
Deleted: chairman
Formatted: Font: Bold
Deleted: chairman
Deleted: men
Comment [A324]: Bylaws Comm. 01/07/14
Deleted: .
Formatted: Font: Bold
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

After appointment and ratification, a section chair may be removed by the recommendation of the department chair and approval of the Medical Executive Committee or as defined in the Section's Rules.

Deleted: chairman

Deleted: chairman

Comment [A325]: Bylaws Comm. 01/07/14

10.7-5 Duties

Formatted: Font: Bold

Each section chair shall:

Deleted: chairman

a. Act as presiding officer at section meetings.

b. Assist in the development and implementation, in cooperation with the department chair, of programs to carry out the quality review, and evaluation and monitoring functions assigned to the section.

c. Evaluate the clinical work performed in the section.

d. Conduct investigations and submit reports and recommendations to the department chair regarding the clinical privileges to be exercised within his section by members of or applicants to the Medical Staff.

e. Oversee the proctoring of Provisional Staff members, and other members requesting expanded privileges, when such members exercise privileges in his/her section.

Deleted: ¶

f. Oversee administratively related activities of the section, unless otherwise provided by the hospital.

Comment [A326]: Recommend mirroring the department chair's duties.

Comment [A327R326]: Bylaws Comm. 01/28/14

g. Participate in every phase of administration of the section, including cooperation with the nursing service and the hospital administration in matters such as personnel (including assisting in determining the sufficient numbers, qualifications and competence of section personnel who are not licensed independent practitioners and who provide patient care services), supplies, special regulations, standing orders and techniques.

h. Continuing surveillance of the professional performance of all individuals in the section who have delineated clinical privileges, including evaluating the qualifications and competence of practitioners and Allied Health Professionals (AHPs) who provide patient care services within the purview of the section.

i. Recommend to the medical staff the criteria for clinical privileges that are relevant to the care provided in the section.

j. Transmit to the Medical Executive Committee the section's recommendations concerning practitioner appointment, classification, and privileges, reappointment, monitoring of specified services, and

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

corrective action with respect to persons with clinical privileges in the section;

k. Assist in the preparation of such annual reports, including budgetary planning, recommendations for space and other resources pertaining to the section as may be required by the Medical Executive Committee.

l. Assess and recommend to the relevant hospital authority off-site sources for needed patient care, treatment, and services not provided by the section or the organization.

m. Oversee integration of the section into the primary functions of the organization.

n. Give guidance on the overall medical policies of the medical staff and hospital and make specific recommendations and suggestions regarding the section.

o. Oversee coordination and integration of intersectional and intrasectional services.

p. Oversee development and implementation of policies and procedures that guide and support the provision of care, treatment, and services.

q. Provide recommendations for a sufficient number of qualified and competent persons to provide care, treatment, and services.

r. Oversee determination of the qualifications and competence of section personnel who are not licensed independent practitioners and who provide patient care, treatment, and services.

s. Continuously assess and improve the quality of care, treatment, and services.

t. Maintain quality control programs, as appropriate.

u. Develop and implement section programs for patient care review, ongoing monitoring of practice, credentials review and privilege delineation, medical education, utilization review, the maintenance of quality control programs, and quality assessment and improvement.

v. Ensure orientation and continuing education of all persons in the section

w. Endeavor to enforce the medical staff bylaws, rules, policies and regulations within the section.

Deleted: DRAFT
Deleted: 2011
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

x. Implement within the section appropriate actions taken by the Medical Executive Committee.

y. Serve as an ex officio member of all committees of his or her section and attend such committee meetings as deemed necessary for adequate information flow.

z. Assure that records of performance are maintained and updated for all members of his or her section.

aa. Report on activities of the Medical Staff to the Governing Body when called upon to do so by the President of Staff or the Chief Executive Officer.

bb. Perform such other duties commensurate with the office as may be requested by the department chairman, the Medical Staff or the Medical Executive Committee.

Deleted: DRAFT
Deleted: 2011
Deleted: ¶
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 11

MEETINGS

11.1 Medical Staff Meetings

11.1-1 Medical Staff Meetings

There shall be at least one meeting of the Medical Staff during each Medical Staff year. The date, place and time of the meeting(s) shall be determined by the President of Staff. The President of Staff shall present a report on significant actions taken by the Medical Executive Committee during the time since the last Medical Staff meeting and on other matters believed to be of interest and value to the membership. No business shall be transacted at any Medical Staff meeting except that stated in the notice calling the meeting.

Comment [A328]: The current CHOC bylaws do not have any provision for a general Medical Staff meeting.
11/2/11 C. Chabot will discuss with the officers.

11.1-2 Special Meetings

Special meetings of the Medical Staff may be called at any time by the President of Staff, Medical Executive Committee, or Board of Directors, or upon the written request of 10 percent of the active members. The person calling or requesting the special meeting shall state the purpose of such meeting in writing. The meeting shall be scheduled by the Medical Executive Committee within thirty (30) days after receipt of such request. No later than ten (10) days prior to the meeting, notice shall be electronically delivered to the members of the staff which includes the stated purpose of the meeting. No business shall be transacted at any special meeting except that stated in the notice calling the meeting.

Comment [A329R328]: 01/07/14 – Bylaws Comm requested last sentence stay if it is a regulatory requirement that the medical staff meet at least one a year.

California regulations require the medical staff to meet "regularly." Meeting annually is probably the minimum amount necessary to satisfy meeting "regularly."

Comment [A330]: CHOC Bylaws currently do not give the board the right to call a special medical staff meeting.
11/2/11 Per C. Chabot, keep this new provision.

Deleted: voting

Comment [A331]: Bylaws Comm. 01/07/14

Deleted: mailed or

11.1-3 Communication

The Medical Staff shall be informed about significant issues by means of regularly published newsletters, memoranda, and all department meetings. Medical Staff members shall be encouraged to participate and comment on matters of interest to the Medical Staff at department meetings, as well as through elected representatives.

11.2 Committee, Department, and Section Meetings

11.2-1 Regular Meetings

Except as otherwise specified in these Bylaws, the chairs of committees, departments and sections may establish the times for the holding of regular meetings. The chairs shall make every reasonable effort to ensure the meeting dates are disseminated to the members with adequate notice. Each department shall meet regularly, at least quarterly, to review and discuss patient care activities and to fulfill other departmental responsibilities.

Deleted: men

Deleted: men

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

11.2-2 Special Meetings

A special meeting of any committee, department, or section may be called by, or at the request of, the Chair thereof, the Medical Executive Committee, President of Staff, or by one-third of the group's current members, but not fewer than three members. No business shall be transacted at any special meeting except that stated in the notice calling the meeting.

Comment [A332]: The CHA model has no fewer than two members.

Comment [A333]: This provision is not in the CHOC bylaws; we recommend it.

Comment [A334]: Bylaws Comm. 01/28/14

Comment [A335]: This paragraph does not exist in the current CHOC bylaws. It is not strictly necessary, but is a good provision to have.
11/2/11 C. Chabot will address with officers.

11.3 Notice of Meetings

11.3-1 On an annual basis, written notice stating the place, day and hour of any regularly scheduled Medical Staff, department, section or committee meetings (not held pursuant to resolution) for the forthcoming year shall be delivered electronically to each person entitled to be present. If such annual notice is not provided or the place, day or hour of the regularly scheduled meeting is subject to change, then notice of such regular meeting shall be provided in accordance with the Bylaws, Section 11.3-2.

Deleted: regular or

Deleted: or of any regular or special department, section, or committee meeting

Deleted: either personally or by mail

Deleted: [two]

Deleted: [45]

Comment [A336]: This paragraph does not exist in the current CHOC bylaws. It is not strictly necessary, but is a good provision to have.
11/2/11 C. Chabot will address with officers.

11.3-2 Written notice stating the place, day and hour of any special Medical Staff, department, section or committee meeting not held pursuant to resolution shall be delivered electronically to each person entitled to be present not fewer than five working days nor more than 45 days before the date of such meeting.

Comment [A337]: Bylaws Comm. 01/07/14

Deleted: twenty five percent (25%)

11.3-3 Personal attendance at a meeting shall constitute a waiver of notice of such meeting.

Comment [A338]: The CHOC bylaws quorum provision, which we have pasted here, differentiates quorum requirements in a way that the CHA model does not. We believe the differentiation is the better way to go.
11/8/11 C. Chabot asked that we add language that takes into account the function of the town hall-type meetings. WE WILL NEED TO CLARIFY THIS WITH C. CHABOT FURTHER.

11.4 Quorum

11.4-1 Special Medical Staff Meetings

The presence of a majority of the total members of the active Medical Staff at any special meeting in person or through written ballot shall constitute a quorum for the purpose of amending these Bylaws or the rules and regulations of the Medical Staff or for the election or removal of Medical Staff officers. The presence of one third (33%) of such members shall constitute a quorum for all other actions.

Comment [A339]: Bylaws Comm. 01/07/14

Deleted: [50]

Deleted: [30]

Comment [A340]: This is the CHA model; the current CHOC provision requires only three voting members, and does not set a percent minimum for department and section quroums. This may be problematic in larger departments, as it allows a very small number to set policy for the whole department. Shall we discuss?
11/8/11 C. Chabot confirms that CHOC wants to keep the quorum as no less than three members.

11.4-2 Committee, Department, and Section Meetings

The presence of 50 percent of the voting members shall be required for Medical Executive Committee meetings. For other committees, a quorum shall consist of 30 percent of the voting members of a committee but in no event less than three voting committee members. For department and section meeting, a quorum shall consist of no less than three (3) members.

Deleted: <#>Department Meetings¶
The presence of [25] percent of the voting Medical Staff members at any regular or special department meeting shall constitute a quorum

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

11.5 Manner of Action

Except as otherwise specified, the action of a majority of the members present and voting at a meeting at which a quorum is present shall be the action of the group. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of members, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as may be required by these Bylaws. Committee action may be conducted by telephone or internet conference, which shall be deemed to constitute a meeting for the matters discussed in that telephone or internet conference. Valid action may be taken without a meeting if at least 10 days notice of the proposed action has been given to all members entitled to vote, and it is subsequently approved in writing setting forth the action so taken, which is signed by at least two-thirds of the members entitled to vote. All duly appointed members of a medical staff committee are entitled to vote on committee matters..

11.6 Minutes

Minutes of all meetings shall be prepared and shall include a record of the attendance of members and the vote taken on each matter. The minutes shall be presented for approval at the next meeting. A copy of the minutes shall be reported to the appropriate Medical Staff committee. Each committee shall maintain a permanent file of the minutes of each meeting.

11.7 Attendance Requirements

11.7-1 Regular Attendance Requirements

Except as stated below, each member of the Active staff shall be expected to attend at least twenty-five (25%) percent of all meetings of each department, or section, and fifty (50%) percent of the committees of which he or she is a member. (See Rules on Reappointment Point System). Attendance is required if the member is seeking election for or is a member in an elected position.

Each member of the temporary, consulting or courtesy staff and members of the provisional staff who qualify under criteria applicable to courtesy or consulting members shall be required to attend such meetings as may be determined by the Medical Executive Committee.

].

11.7-2 Special Appearance

A committee, at its discretion, may require the appearance of a practitioner during a review of the clinical course of treatment regarding a patient. A certified return receipt requested mail notice of the meeting will be sent to the practitioner requested to attend the special meeting. If possible, the Chair of the meeting should give the practitioner at least 10 days advance written notice of the time and place of the meeting. In addition, whenever an

Deleted: DRAFT

Deleted: 2011

Comment [A341]: Note that internet conference will be new to the CHOC bylaws.

Comment [A342]: The current CHOC bylaws do not have a notice requirement.
11/8/11 C. Chabot will ask the officers whether they want to add this requirement.

Deleted: signed by the presiding officer or his or her designee

Deleted: and forwarded to the Medical Executive Committee or other designated committee and Board of Directors

Comment [A343]: The current bylaws do not require that the minutes be forwarded to the board, or that the committee retain a perminent record of the meeting minutes.

Deleted: a

Deleted: required

Comment [A344]: Bylaws Comm. 01/07/14

Comment [A345]: The CHOC attendence requirements is considerably different from the CHA ones; we should discuss which provisions CHOC wants to use.
11/8/11 Per C. Chabot, we have deleted the CHA language and included the current CHOC language at Section 12.6-1.

Deleted: Each member of a Medical Staff category required to attend meetings under Rule 1.3, Prerogatives and Responsibilities, shall be required to attend *[two]* general staff meetings *[and [six] department or section meetings]* during the two-year reappointment period

Comment [A346]: See above comment.
11/8/11 Per C. Chabot, we have deleted the CHA language and included the current CHOC language at 12.6-2.

Comment [A347R346]: Bylaws Comm. 01/07/14

Deleted: <#>**Failure to Meet Attendance RequirementsAbsence From Meetings**¶
Any member who is compelled to be absent from any Medical Staff, department, section, or committee meeting shall promptly provide to the regular presiding officer thereof the reason for such absence. Unless excused for good cause by the presiding officer of the department, section or committee, or the secretary-treasurer for Medical Staff meetings, failure to meet the attendance requirements may b ...

Comment [A348]: Bylaws Comm. 01/07/14

Comment [A349]: Current CHOC bylaws provide for 7 days notice.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶ ...

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

appearance is requested because of an apparent or suspected deviation from standard clinical practice, special notice shall be given and shall include a statement of the issue involved and that the practitioner's appearance is mandatory. Failure of a practitioner to appear at any meeting with respect to which he or she was given special notice shall (unless excused by the Medical Executive Committee upon a showing of good cause) result in an automatic suspension of the practitioner's privileges for at least two weeks, or such longer period as the Medical Executive Committee deems appropriate. Unless otherwise determined by the Medical Executive Committee, the practitioner shall not be entitled to the procedural rights described in Bylaws, Article 14, Hearings and Appellate Reviews. The practitioner shall, however, be entitled to meet with the Medical Executive Committee to present information supporting the practitioner's claim that the absence was for good cause.

Comment [A350]: The current CHOC bylaws do not have an automatic suspension provision. Such a provision could be effective in encouraging attendence, but also is somewhat draconian. Let's discuss whether CHOC would want to adopt it or something similar.
11/8/11 C. Chabot will discuss with the officers.

Deleted: The

Comment [A351]: Such review rights may not be required, if this is an automatic suspension (like a medical records delinquincy).

11.8 Conduct of Meetings

Unless otherwise specified, meetings shall be conducted according to Robert's Rules of Order; however, technical failures to follow such rules shall not invalidate action taken at such a meeting.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 12

CONFIDENTIALITY, IMMUNITY, RELEASES AND INDEMNIFICATION

12.1 Authorization and Conditions

Comment [A352]: This provision is from the CHA Rules and Regulations. CHOC currently places similar provisions in its bylaws. We agree that it is appropriate to have these provisions in the Bylaws, and have used the CHA Rules model (which is slightly more thorough).

By applying for or by accepting appointment or reappointment to the Medical Staff, the applicant:

12.1-1 Signifies his or her willingness to appear for interviews in regard to his or her application for appointment.

12.1-2 Authorizes Medical Staff and hospital representatives to consult with other hospitals, persons or entities who have been associated with him or her and/or who may have information bearing on his or her competence and qualifications or that is otherwise relevant to the pending review and authorizes such persons to provide all information that is requested orally and in writing.

12.1-3 Consents to the inspection and copying, by hospital representatives, of all records and documents that may be relevant or lead to the discovery of information that is relevant to the pending review, regardless of who possesses these records, and directs individuals who have custody of such records and documents to permit inspection and/or copying.

12.1-4 Certifies that he or she will report any subsequent changes in the information submitted on the application form to the Credentials Committee and the Chief Executive Officer.

12.1-5 Releases from any and all liability the Medical Staff and the hospital and its representatives for their acts performed in connection with evaluating the applicant.

12.1-6 Releases from any and all liability all individuals and organizations who provide information concerning the applicant, including otherwise privileged or confidential information, to hospital representatives.

12.1-7 Authorizes and consents to hospital representatives providing other hospitals, professional societies, licensing boards and other organizations concerned with provider performance and the quality of patient care with relevant information the hospital may have concerning him or her, and releases the hospital and hospital representatives from liability for so doing.

12.1-8 Agrees that the hospital and Medical Staff may share information with a representative or agent from any CHOC Children's Hospital affiliated entity, including information obtained from other sources, and releases each person and each entity who received the information and each person and each entity who disclosed the information from any and all liability, including any claims

Deleted: of Orange County

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

of violations of any federal or state law, including the laws forbidding restraints of trade, that might arise from the sharing of the information and likewise agrees that the hospital and any and all affiliated entities may act upon such information.

Deleted: system

12.1-9 Consents to undergo and to release the results of a physical or mental health examination by a practitioner acceptable to the Medical Executive Committee, at the applicant's expense, if deemed necessary by the Medical Executive Committee.

12.1-10 Signifies his or her willingness to abide by all the conditions of membership, as stated on the appointment application form, on the reappointment application form, and in the Bylaws and these Rules.

12.1-11 For purposes of this Section, the term "hospital representative" includes the Board; its individual Directors and committee members; the Chief Executive Officer; the Medical Staff; all Medical Staff, department, and section officers and/or committee members having responsibility for collecting information regarding or evaluating the applicant's credentials; and any authorized representative or agent of any of the foregoing.

12.2 General

Medical Staff, department, section or committee minutes, files and records — including information regarding any member or applicant to this Medical Staff — shall, to the fullest extent permitted by law, be confidential. Such confidentiality shall also extend to information of like kind that may be provided by third parties. This information shall become a part of the Medical Staff committee files and shall not become part of any particular patient's file or of the general hospital records. Dissemination of such information and records shall be made only where expressly required by law or as otherwise provided in these Bylaws.

12.3 Breach of Confidentiality

Inasmuch as effective credentialing, quality improvement, peer review and consideration of the qualifications of Medical Staff members and applicants to perform specific procedures must be based on free and candid discussions, and inasmuch as practitioners and others participate in credentialing, quality improvement, and peer review activities with the reasonable expectations that this confidentiality will be preserved and maintained, any breach of confidentiality of the discussions or deliberations of Medical Staff departments, sections, and committees, except in conjunction with another health facility, professional society or licensing authority for peer review activities, is outside appropriate standards of conduct for this Medical Staff and will be deemed disruptive to the operations of the hospital. If it is determined that such a breach has occurred, the Medical Executive Committee may undertake such corrective action as it deems appropriate. A disclosure of credentialing, quality improvement, peer review and applicant information to an organization or person contracted with the Medical Staff or

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

hospital to assist the Medical Staff or hospital in fulfilling its legal obligations or its duties under these Bylaws shall not be considered a breach if authorized by the President of Staff or his or her designee, the Medical Executive Committee, the Chief Executive Officer, or the Board.

12.4 Access to and Release of Confidential Information

12.4-1 Access for Official Purposes

Medical Staff records, including confidential committee records and credentials files, shall be accessible by:

a. Committee members, and their authorized representatives, for the purpose of conducting authorized committee functions.

b. Medical Staff, department, and section officials, and their authorized representatives, for the purpose of fulfilling any authorized function of such official.

c. The Chief Executive Officer, the Board, and their authorized representatives, for the purpose of enabling them to discharge their lawful obligations and responsibilities.

d. Upon approval of the Chief Executive Officer and President of Staff, other the peer review bodies, as defined in California Business and Professions Code Section 805, as reasonably necessary to facilitate review of an applicant or member of such peer review body's professional staff.

Information which is disclosed to the Board or its appointed representatives and to other peer review bodies shall be maintained as confidential.

12.4-2 Member's Access

a. A Medical Staff member shall be granted access to his or her own credentials file, subject to the following provisions:

1. Notice of a request to review the file shall be given by the member to the President of Staff (or his or her designee) at least three days before the requested date for review.

2. The member may review and receive a copy of only those documents provided by or addressed personally to the member. A summary of all other information, including peer review committee findings, letter of reference, proctoring reports, complaints, etc., shall be provided to the member, in writing, by the designated officer of the Medical Staff within a reasonable period of time (not to exceed two weeks). Such

Deleted: DRAFT

Deleted: 2011

Comment [A353]: More robust than what is currently in the CHOC bylaws.

Deleted: of CHOC Affiliates

Deleted: Affiliate's

Comment [A354]: 11/8/11 Our new suggested language greatly expands with whom the Medical Staff can share information. We believe that this is appropriate under both new state law and general policy. Note, the revised language does not mandate expanded sharing.

Comment [A355]: Similar, but not identical to, CHOC 14.8-3.

Deleted: of System Affiliates

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

summary shall disclose the substance, but not the source, of the information summarized.

3. The review by the member shall take place in the Medical Staff office, during normal work hours, with an officer or designee of the President of Staff present.

4. In the event a Notice of Charges is filed against a member, access to that member's credentials file shall be governed by Bylaws, Section 14.5-9.

b. A member may be permitted to request correction of information as follows:

1. After review of his or her file, a member may address to the President of Staff a written request for correction of information in the credentials file. Such request shall include a statement of the basis for the action requested.

2. The President of Staff shall review such a request within a reasonable time and shall recommend to the Medical Executive Committee whether to make the correction as requested, and the Medical Executive Committee shall make the final determination.

3. If the Medical Executive Committee determines that correction is warranted, the Medical Executive Committee shall insert in the member's file (without altering, deleting, or removing any existing information in the file) a statement and/or other pertinent material setting forth such correction.

4. The member shall be notified promptly, in writing, of the decision of the Medical Executive Committee.

5. In any case, a member shall have the right to add to his or her credentials file a statement responding to any information contained in the file. Any such written statement shall be addressed to the Medical Executive Committee, and shall be placed in the credentials file immediately following review by the Medical Executive Committee.

12.5 Immunity and Releases

12.5-1 Immunity from Liability for Providing Information or Taking Action

Each representative of the Medical Staff and hospital and all third parties shall be exempt from liability to an applicant, member or practitioner for damages or other relief by reason of providing information or making recommendations

Deleted: DRAFT
Deleted: 2011
Deleted: 6
Comment [A356]: This provision is similar, but not identical to, the provisions at CHOC 14.8-4. Subsection (3) is taken directly from 14.8-4(g).
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

to a representative of the Medical Staff, hospital, CHOC Affiliate, or any other health-related organization concerning such person who is, or has been, an applicant to or member of the Medical Staff or who did, or does, exercise privileges or provide services at this hospital or by reason of otherwise participating in a Medical Staff or hospital credentialing, quality improvement, or peer review activities.

12.5-2 Activities and Information Covered

a. Activities

Formatted: Font: Not Bold

The immunity provided by this Bylaws, Article 12, shall apply to all acts, communications, reports, recommendations or disclosures performed or made in connection with this or any other health-related institution's or organization's activities concerning, but not limited to:

1. Applications for appointment, privileges, or specified services;
2. Periodic reappraisals for reappointment, privileges, or specified services;
3. Corrective action;
4. Hearings and appellate reviews;
5. Quality improvement review, including patient care audit;
6. Peer review;
7. Utilization reviews;
8. Morbidity and mortality conferences;
9. Queries of and reports to other peer review organizations, the Medical Board of California, the National Practitioner Data Bank, and similar entities; and
10. Other hospital, department, section or committee activities related to monitoring and improving the quality of patient care and appropriate professional conduct.

b. Information

Formatted: Font: Not Bold

The acts, communications, reports, recommendations, disclosures, and other information referred to in this Bylaws, Article 12, may relate to a practitioner's professional qualifications, clinical ability, judgment, character, physical and mental health, emotional stability, professional

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ethics or other matter that might directly or indirectly affect patient care.

12.6 Releases

Each practitioner shall, upon request of the Medical Staff or hospital, execute general and specific releases in accordance with the tenor and import of these Bylaws, Article 12; however, execution of such releases shall not be deemed a prerequisite to the effectiveness of these Bylaws, Article 12.

12.7 Cumulative Effect

Provisions in these Bylaws and in Medical Staff application forms relating to authorizations, confidentiality of information, and immunities from liability shall be in addition to other protections provided by law and not in limitation thereof.

12.8 Indemnification

The hospital shall indemnify, defend, and hold harmless the Medical Staff and its individual members ("Indemnitee(s)") from and against losses and expenses (including reasonable attorneys' fees, judgments, settlements, and all other costs, direct or indirect) incurred or suffered by reason of or based upon any threatened, pending or completed action, suit, proceeding, investigation, or other dispute relating or pertaining to any alleged act or failure to act within the scope of peer review or quality assessment activities including, but not limited to:

a. As a member of or witness for a Medical Staff, department, section, committee, or hearing committee;

b. As a member of or witness for the hospital Board of Directors or any hospital task force, group or committee; and

c. As a person providing information to any Medical Staff or hospital group, officer, Board of Directors member or employee for the purpose of aiding in the evaluation of the qualifications, fitness or character of a Medical Staff member or applicant.

The hospital shall retain responsibility for the sole management and defense of any such claims, suits, investigations or other disputes against Indemnitees, including, but not limited to, selection of legal counsel to defend against any such actions. The indemnity set forth herein is expressly conditioned on Indemnitees' good faith belief that their actions and/or communications are reasonable and warranted and in furtherance of the Medical Staff's peer review, quality assessment or quality improvement responsibilities, in accordance with the purposes of the Medical Staff as set forth in these Bylaws. In no event will the hospital indemnify an Indemnitee for acts or omissions taken in bad faith or in pursuit of the Indemnitee's private economic interests.

Comment [A357]: The current CHOC bylaws do not have an indemnity provision; we recommend including one.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 13

PERFORMANCE IMPROVEMENT AND CORRECTIVE ACTION

Comment [A358]: The CHA model takes a comprehensive approach to its performance improvement/corrective action chapter that differs from the CHOC bylaws. The CHA model appears to focus on both TJC requirements as well as TJC attitudes. However, its approach is not mandatory. We have revised this article in a manner we believe is appropriate, but can discuss with you whether it is the approach CHOC wants to take.

13.1 Peer Review Philosophy

13.1-1 Role of Medical Staff in Organizationwide Quality Improvement Activities

The Medical Staff is responsible to oversee the quality of medical care, treatment and services delivered in the hospital. An important component of that responsibility is the oversight of care rendered by members and Allied Health Professionals practicing in the hospital. The following provisions are designed to achieve quality improvements through collegial peer review and educative measures whenever possible, but with recognition that, when circumstances warrant, the Medical Staff is responsible to embark on informal corrective measures and/or corrective action as necessary to achieve and assure quality of care, treatment and services. Toward these ends:

Comment [A359]: This is a "mission statement" provision. It is not necessary, but does set the tone.

a. Members of the Medical Staff are expected to actively and cooperatively participate in a variety of peer review activities to measure, assess and improve performance of their peers in the hospital.

b. The initial goals of the peer review processes are to prevent, detect and resolve problems and potential problems through routine collegial monitoring, education and counseling. However, when necessary, corrective action, including formal investigation and discipline, must be implemented and monitored for effectiveness.

Deleted: measures

c. Peers in the departments and committees are responsible for carrying out delegated review and quality improvement functions in a manner that is consistent, timely, defensible, balanced, useful and ongoing. The term “peers” generally requires that a majority of the peer reviewers be members holding the same license as the practitioner being reviewed, including, where possible, at least one member practicing the same specialty as the member being reviewed. Notwithstanding the foregoing, DOs and MDs shall be deemed to hold the “same licensure” for purposes of participating in peer review activities.

d. The departments and committees may be assisted by the Vice President of Medical Affairs/Chief Medical Officer.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

13.1-2 Informal Corrective Activities

The Medical Staff officers, Departments and committees may counsel, educate, issue letters of warning or censure, or institute focused professional practice evaluation processes in accordance with Bylaws, Section 7.3 in the course of carrying out their duties without initiating formal corrective action. Comments, suggestions and warnings may be issued orally or in writing. The practitioner shall be given an opportunity to respond in writing and may be given an opportunity to meet with the officer, Department or committee. Any informal actions, monitoring or counseling shall be documented in the member's file. Medical Executive Committee approval is not required for such actions, although the actions shall be reported to the Medical Executive Committee. The actions shall not constitute a restriction of privileges or grounds for any formal hearing or appeal rights under Bylaws, Article 14, Hearings and Appellate Reviews.

Comment [A360]: We should discuss what this includes for CHOC and whether it covers concurrent monitoring (notification only) requirements.

Deleted: 7.4(a)(2)

13.1-3 Criteria for Initiation of Formal Corrective Action

A formal corrective action investigation may be initiated whenever reliable information indicates a member may have exhibited acts, demeanor or conduct, either within or outside of the hospital, that is reasonably likely to be:

Deleted:

a. Detrimental to patient safety or to the delivery of quality patient care within the hospital;

b. Unethical;

c. Contrary to the Medical Staff Bylaws or Rules;

d. Below applicable professional standards;

e. Disruptive of Medical Staff or hospital operations; or

f. An improper use of hospital resources.

Generally, formal corrective action measures should not be initiated unless reasonable attempts at informal resolution have failed; however, this is not a mandatory condition, and formal corrective action may be initiated whenever circumstances reasonably appear to warrant formal action. Any recommendation of formal corrective action must be based on evaluation of member-specific information.

13.1-4 Initiation

a. Any person who believes that formal corrective action may be warranted may provide information to the President of Staff, any other Medical Staff officer, any Department Chair, any Medical Staff committee, the chair of any Medical Staff Committee, the Board of

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Directors, the Vice President of Medical Affairs/Chief Medical Officer, or the Chief Executive Officer.

b. If any individual identified in Section 13.1-4.a. determines that formal corrective action may be warranted under Bylaws, Section 13.1-3, that person, entity, or committee may request the initiation of a formal corrective action investigation or may recommend particular corrective action. Such requests may be conveyed to the Medical Executive Committee orally or in writing and shall reference the specific activities or conduct alleged.

c. The President of Staff shall notify the Chief Executive Officer, or his or her designee in his or her absence, and the Medical Executive Committee and shall continue to keep them fully informed of all action taken. In addition, the President of Staff shall immediately forward all necessary information to the committee or person that will conduct any investigation, provided, however, that the President of Staff or the Medical Executive Committee may dispense with further investigation of matters deemed to have been adequately investigated by a committee pursuant to Bylaws, Section 13.1-6, below, or otherwise.

13.1-5 Expedited Initial Review

a. Whenever information suggests that corrective action may be warranted, the President of Staff or his or her designee and/or the Vice President of Medical Affairs/Chief Medical Officer may, on behalf of the Medical Executive Committee, immediately investigate and conduct whatever interviews may be indicated without first seeking the approval of the Medical Executive Committee. The information developed during this initial review shall be presented to the Medical Executive Committee, which shall decide whether to initiate a formal corrective action investigation.

b. In cases of complaints of harassment or discrimination by a Medical Staff member involving any person at the hospital, including patients, visitors, employees, contractors, and other medical staff members, an expedited initial review shall be conducted on behalf of the Medical Executive Committee by the President of Staff, the President of Staff's designee, or the Vice President of Medical Affairs/Chief Medical Officer, together with representatives of administration and/or the human resources director, or by an attorney for the hospital. The investigating individuals shall use best efforts to complete the expedited initial review within the time frame set out in the Bylaws, Section 13.1-8, below. The President of Staff shall be kept apprised of the status of the initial review. All efforts will be taken to afford the maximum legal protection against discovery for the information gathered during the review, and legal counsel shall be consulted to

Deleted: DRAFT
Deleted: 2011
Deleted: (a)
Comment [A361]: The current CHOC bylaws only allow the request to be relayed in writing.
Comment [A362R361]: Bylaws Comm. 01/28/14
Comment [A363]: This is not currently in the CHOC bylaws; however, an expedited review process is very useful when it is not clear whether a concern rises to the level of a formal investigation, or when action must be taken immediately before a formal investigation.
Comment [A364]: Some medical staffs object to giving administration the authority to begin an investigation without the President or MEC's approval.
11/8/11 C. Chabot will discuss with the officers.
Comment [A365]: Bylaws Comm. 01/28/14
Deleted: Director
Comment [A366]: Bylaws Comm. 01/28/14
Deleted: s
Comment [A367]: See above comment.
Comment [A368]: Bylaws Comm. 01/28/14
Deleted: *Director*
Deleted: at
Deleted: information
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

determine how to best achieve this result. The information gathered from an expedited initial review shall be referred to the Medical Executive Committee if it is determined that corrective action may be indicated against a Medical Staff member.

Deleted: who

Comment [A369]: Bylaws Comm. 01/28/14

13.1-6 Formal Investigation

a. If the Medical Executive Committee concludes action is indicated but that no further investigation is necessary, it may proceed to take action without further investigation. In such instances, the Medical Executive Committee shall thoroughly document the basis for this conclusion, including the information that led to the conclusion that no further investigation is necessary.

b. If the Medical Executive Committee concludes a further investigation is warranted, it shall direct a formal investigation to be undertaken. The Medical Executive Committee may conduct the investigation itself or may assign the task to an appropriate officer or standing or ad hoc committee to be appointed by the President of Staff. The investigating body should not include partners, associates or relatives of the individual being investigated. Additionally, the investigating person or body may, but is not required to, engage the services of one or more outside reviewers as deemed appropriate or helpful in light of the circumstances (e.g., to help assure an unbiased review, to firm up an uncertain or controversial review or to engage specialized expertise). If the investigation is delegated to an officer or committee other than the Medical Executive Committee, such officer or committee shall proceed with the investigation in a prompt manner, using best efforts to complete the expedited initial review within the time frame set out in the Bylaws, Section 13.1-8, below, and shall forward a written report of the investigation to the Medical Executive Committee as soon as practicable. The report may include recommendations for appropriate corrective action.

Deleted: at

c. Prior to any adverse action being approved, the Medical Executive Committee shall assure that the member was given an opportunity to provide information in a manner and upon such terms as the Medical Executive Committee, investigating body, or reviewing committee deems appropriate. The investigating body or reviewing body may, but is not obligated to, interview persons involved; however, such an interview shall not constitute a hearing as that term is used in Bylaws, Article 14, Hearings and Appellate Reviews, nor shall the hearings or appeals Rules apply.

d. Despite the status of any investigation, at all times the Medical Executive Committee shall retain authority and discretion to take

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

whatever action may be warranted by the circumstances, including summary action.

e. The provisions of this Bylaws Section 13.1-6 (including a determination to dispense with formal investigation and proceed immediately to further action pursuant to Section 13.1-6.a.) shall demark the point at which an "impending investigation" is deemed to have commenced within the meaning of Business & Professions Code Section 805(c).

13.1-7 Medical Executive Committee Action

a. Within 90 days after the conclusion of the investigation, the Medical Executive Committee shall take action including:

1. Determining no corrective action should be taken and, if the Medical Executive Committee determines there was no credible evidence for the complaint in the first instance, clearly documenting those findings in the member's file;

2. If additional time is needed to complete the investigation or develop corrective action, the Medical Executive Committee may defer action on the request, and it shall so notify the practitioner. A deferral shall be for a specified time period, if no such time is specified, the deferral shall be until the next regularly scheduled meeting of the Medical Executive Committee. At the conclusion of the deferral period, action as described in 13.1-7 (a) shall be taken.

3. Issuing letters of admonition, censure, reprimand or warning, although nothing herein shall be deemed to preclude Department or Committee Chairs from issuing informal written or oral warnings outside of the mechanism for corrective action. In the event such letters are issued, the affected member may make a written response which shall be placed in the member's file;

4. Recommending the imposition of terms of probation or special limitation upon continued Medical Staff membership or exercise of privileges including, without limitation, requirements for co-admissions, mandatory consultation or monitoring

5. Recommending reduction, modification, suspension or revocation of privileges. If suspension is recommended, the terms and duration of the suspension and the conditions that must be met before the suspension is ended shall be stated;

Deleted: DRAFT
Deleted: 2011
Deleted: (a)
Deleted: As soon as practicable
Comment [A370]: The current CHOC bylaws require the MEC to take action within 60 days of the investigation's conclusion. That may be a little limiting, though CHOC can retain the requirement if it wants to.
Comment [A371]: Bylaws Comm. 01/28/14
Deleted: , without limitation
Comment [A372]: Bylaws Comm. 01/28/14
Deleted: al process
Comment [A373]: The CHA model provides only, "Deferring action for a reasonable time." The CHOC provision is more comprehensive and appropriate.
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

6. Recommending reductions of membership status or limitation of any prerogatives directly related to the member's delivery of patient care;

7. Recommending suspension, revocation or probation of Medical Staff membership. If suspension or probation is recommended, the terms and duration of the suspension or probation, if any, and the conditions that must be met before the suspension or probation is ended, if any, shall be stated;

8. Referring the member to the Well-Being Committee for evaluation and follow-up as appropriate; and

9. Taking other actions deemed appropriate under the circumstances.

b. If the Medical Executive Committee makes a determination that the action is medical disciplinary, it shall also determine whether the action is taken for any of the reasons required to be reported to the Medical Board of California pursuant to California Business & Professions Code Section 805.01.

13.1-8 Time Frames

Insofar as feasible under the circumstances, formal and informal investigations should be conducted expeditiously. The Medical Executive Committee shall be kept apprised of the status of the investigation at each meeting. The following provide guidance as to the timeframes to complete investigations; however, the failure to complete an investigation within these timeframes shall in no way be deemed as evidence that the investigation or its motivations were improper, unwarranted, biased, or otherwise flawed:

a. Informal investigations should be completed and the results should be reported within 60 days.

b. Expedited initial reviews should be completed and the results should be reported within 30 days.

c. Other formal investigations should be completed and the results should be reported within 90 days.

13.1-9 Procedural Rights

a. If, after receipt of a request for formal corrective action pursuant to Bylaws, Section 13.1-4, above, the Medical Executive Committee determines that no corrective action is required or only a letter of warning, admonition, reprimand or censure should be issued, the decision shall be transmitted to the Board of Directors. The Board of

Deleted: DRAFT
Deleted: 2011
Comment [A374]: This last sentence is not in the current CHOC bylaws.
Comment [A375R374]: Bylaws Comm. 01/28/14
Comment [A376]: This is not in the CHOC bylaws. We should discuss whether CHOC wants to follow CHA's recommendations regarding "administrative" hearings.
11/8/11 C. Chabot will discuss with the officers.
Comment [A377R376]: Bylaws Comm. 01/28/14
Deleted: <#>If the Medical Executive Committee takes any action that would give rise to a hearing pursuant to Bylaws, Section 14.2, it shall also make a determination whether the action is a "medical disciplinary" action or an "administrative disciplinary" action. A medical disciplinary action is one taken for cause or reason that involves that aspect of a practitioner's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care. All other actions are deemed administrative disciplinary actions. In some cases, the reason may involve both medical disciplinary and administrative disciplinary cause or reason, in which case, the matter shall be deemed medical disciplinary for Bylaws, Article 14, Hearings and Appellate Reviews, hearing purposes
Deleted: <#>.¶
Comment [A378]: To comply with the new reporting requirement.
Comment [A379R378]: Bylaws Comm. 01/28/14
Comment [A380]: Bylaws Comm. 01/28/14
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Directors may affirm, reject or modify the action. The Board of Directors shall give great weight to the Medical Executive Committee's decision and initiate further action only if the failure to act is contrary to the weight of the evidence that is before it, and then only after it has consulted with the Medical Executive Committee and the Medical Executive Committee still has not acted. The decision shall become final if the Board of Directors affirms it or takes no action on it within 70 days after receiving the notice of decision.

b. If the Medical Executive Committee recommends an action that is grounds for a hearing under Bylaws, Section 14.2, the President of Staff shall give the practitioner special notice of the adverse recommendation and of the right to request a hearing. The Board of Directors may be informed of the recommendation, but shall take no action until the member has either waived his or her right to a hearing or completed the hearing.

13.1-10 Initiation by Board of Directors

a. The Medical Staff acknowledges that the Board of Directors must act to protect the quality of medical care provided and the competency of its Medical Staff, and to ensure the responsible governance of the hospital in the event that the Medical Staff fails in any of its substantive duties or responsibilities.

b. Accordingly, if the Medical Executive Committee fails to investigate or take disciplinary action, contrary to the weight of the evidence, the Board of Directors may direct the Medical Executive Committee to initiate an investigation or disciplinary action, but only after consulting with the Medical Executive Committee. If the Medical Executive Committee fails to act in response to that Board of Directors direction, the Board of Directors may, in furtherance of the Board of Directors' ultimate responsibilities and fiduciary duties, initiate corrective action, but must comply with applicable provisions of Bylaws, Article 13, Performance Improvement and Corrective Action, and Article 14, Hearings and Appellate Reviews. The Board of Directors shall inform the Medical Executive Committee in writing of what it has done.

13.2 Summary Restriction or Suspension

13.2-1 Criteria for Initiation

a. Whenever a practitioner's conduct is such that a failure to take action may result in an imminent danger to the health of any individual, the President of Staff, the Medical Executive Committee or the Chief Executive Officer may summarily restrict or suspend the Medical Staff membership or privileges of such member.

Deleted: DRAFT

Deleted: 2011

Comment [A381]: This is not in the current CHOC bylaws. There is value to it, but it may be controversial.

Deleted: a

Comment [A382]: Bylaws Comm. 01/28/14

Comment [A383]: This is a statement of fact, but some Medical Staffs may find it controversial to place it in the Bylaws.

Deleted: s

Comment [A384]: Bylaws Comm. 01/28/14

Deleted: , the Department Chair in which the member holds privileges

Deleted:

Comment [A385]: The CHOC bylaws do not allow the CEO to impose a summary suspension; the CHA model provision is controversial.
11/8/11 C. Chabot will discuss with the officers.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

b. Unless otherwise stated, such summary restriction or suspension (summary action) shall become effective immediately upon imposition, and the person or body responsible shall promptly give special notice to the member and written notice to the Board of Directors, the Medical Executive Committee, and the Chief Executive Officer. The special notice shall fully comply with the requirements of Bylaws, Section 13.2-1.d., below.

c. The summary action may be limited in duration and shall remain in effect for the period stated or, if none, until resolved as set forth herein. Unless otherwise indicated by the terms of the summary action, the member's patients shall be promptly assigned to another member by the Department Chair or by the President of Staff considering, where feasible, the wishes of the patient and the affected practitioner in the choice of a substitute member.

d. Within one working day of imposition of a summary suspension, the affected Medical Staff member shall be provided with verbal notice of such suspension; followed, within three working days of imposition, by written notice of such suspension. This initial written notice shall include a statement of facts demonstrating that the suspension was reasonable and warranted because failure to suspend or restrict the member's privileges summarily could reasonably result in an imminent danger to the health of any individual. The statement of facts provided in this initial notice shall also include a summary of one or more particular incidents giving rise to the assessment of imminent danger. This initial notice shall not substitute for, but is in addition to, the notices required under Bylaws, Article 14. The notices under Article 14 may supplement the initial notice provided under this Section, by including any additional relevant facts supporting the need for summary suspension or other corrective action. The statement of facts shall be summary in nature only, and shall not be deemed to be an inclusive description of all incidents supporting the action. Inclusion of incidents in the notices required under Article 14 that are not included in the initial statement of facts shall not be considered as evidence of failure of the President of Staff, Department Chair, or Medical Executive Committee to appropriately evaluate or investigate the matter before imposing the summary suspension.

e. If a summary action is taken prior to the initiation of an investigation as defined in this Article, then the notice of the summary action given to the Medical Executive Committee shall constitute a request to initiate corrective action and the procedures for investigation set forth in this Article shall be followed.

Deleted: DRAFT

Deleted: 2011

Deleted: (d)

Comment [A386]: This is not in the current CHOC Bylaws. We have modified it somewhat here. Although not required, it is advisable to have provisions that guide the notification of a summary action in an informative and useful manner. However, it does place additional procedural burdens on the Medical Staff, with which it will need to comply.
11/8/11 C. Chabot will discuss with officers.

Deleted: a

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

13.2-2 Medical Executive Committee Action

Within one week after such summary action has been imposed, a meeting of the Medical Executive Committee or a subcommittee appointed by the President of Staff shall be convened to review and consider the action. Upon request of the Medical Executive Committee or the affected member, the member may attend and make a statement concerning the issues under investigation, on such terms and conditions as the Medical Executive Committee may impose, although in no event shall any meeting of the Medical Executive Committee, with or without the member, constitute a "hearing" within the meaning of Bylaws, Article 14, Hearings and Appellate Reviews, nor shall any procedural Rules apply. The Medical Executive Committee may thereafter continue, modify or terminate the terms of the summary action. It shall give the practitioner special notice of its decision, within two working days of the meeting.

Comment [A387]: The current CHOC bylaws has the meeting within 15 days. Because of reporting requirements, we recommend meeting within one week, or at least no more than 10 days.

Deleted: [

Comment [A388]: CHA provides an option to have a meeting of a MEC subcommittee. This may be advisable if it is difficult to get a MEC quorum with short notice. However, many Medical Staffs take the position that summary action should be addressed by the entire MEC.

Deleted:]

Comment [A389]: The current CHOC bylaws provide that failure to attend the meeting if requested by the MEC is a waiver of the member's hearing rights. Such a provision is inconsistent with California law, so we have not included it here.

13.2-3 Procedural Rights

If the summary action constitutes a suspension or restriction of clinical privileges that is required to be reported to the Medical Board of California pursuant to Business & Professions Code Section 805, the member shall be entitled to the procedural rights afforded by Bylaws, Article 14, Hearings and Appellate Reviews.

13.2-4 Initiation by Board of Directors

a. If no one authorized under Bylaws, Section 13.2-1.a, above, to take a summary action is available to summarily restrict or suspend a member's membership or privileges, the Board of Directors (or its designee) may immediately suspend or restrict a member's privileges if a failure to act immediately may result in imminent danger to the health of any individual, provided that the Board of Directors (or its designee) made reasonable attempts to contact the President of Staff and the Chair of the department to which the member is assigned before acting.

Deleted: (a)

b. Such summary action is subject to ratification by the Medical Executive Committee. If the Medical Executive Committee does not ratify such summary action within two working days, excluding weekends and holidays, the summary action shall terminate automatically.

13.3 Automatic Suspension or Limitation

In the following instances, the member's privileges or membership may be revoked, suspended or limited as described:

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

13.3-1 Licensure

a. **Revocation or Suspension.** Whenever a member's license or other legal credential authorizing practice in this state is discovered not to be valid, revoked or suspended, Medical Staff membership and privileges shall be automatically revoked as of the date such action becomes effective.

Comment [A390]: Bylaws Comm. 01/28/14

b. **Expiration**. Whenever a member's license or other legal credential authorizing practice in this State has expired, his or her membership and clinical privileges shall be automatically suspended until evidence of renewal has been provided.

c. **Restriction.** Whenever a member's license or other legal credential authorizing practice in this state is limited or restricted by the applicable licensing or certifying authority, any privileges which are within the scope of such 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.

d. **Probation.** Whenever a member is placed on probation by the applicable licensing or certifying authority, his or her membership status and 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.

13.3-2 Drug Enforcement Administration Certificate

a. **Revocation, Suspension, and Expiration.** Whenever a member's Drug Enforcement Administration certificate is revoked, limited, suspended or expired, the member shall 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 member's Drug Enforcement Administration certificate is subject to probation, the member'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.

13.3-3 Failure to Satisfy Special Appearance Requirement

A member who fails without good cause to appear and satisfy the requirements of Bylaws, Section 11.7-2 shall automatically be suspended from exercising all or such portion of privileges as the Medical Executive Committee specifies.

Deleted: 3

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

13.3-4 Medical Records

Medical Staff members are required to complete medical records within the time prescribed by the Medical Executive Committee. Failure to timely complete medical records shall result in an automatic suspension after notice is given as provided in the Rules. Such suspension shall apply to the Medical Staff member's right to admit, treat or provide services to new patients in the hospital, but shall not affect the right to continue to care for a patient the Medical Staff member has already admitted or is treating; provided, however, members whose privileges have been suspended for delinquent records may admit and treat new patients in life-threatening situations. The suspension shall continue until the medical records are completed. Nothing in the foregoing shall preclude the implementation, by the Medical Executive Committee, of a monetary fine for delinquent medical records.

Comment [A391]: The current CHOC bylaws provide more detail - 14 day requirement and details regarding notice.

Comment [A392]: This automatic resignation provision is not in the current bylaws, but can be useful in incentivising practitioners in completing records.
11/8/11 This is not consistent with CHOC procedures.

Deleted: If after 30 consecutive days of suspension the member remains suspended, the member shall be considered to have voluntarily resigned from the Medical Staff

Deleted: .

13.3-5 Cancellation of Professional Liability Insurance

Failure to maintain professional liability insurance as required by these Bylaws shall be grounds for automatic suspension of a member's privileges. Failure to maintain professional liability insurance for certain procedures shall result in the automatic suspension of privileges to perform those procedures. The suspension shall be effective until appropriate coverage is reinstated, including coverage of any acts or potential liabilities that may have occurred or arisen during the period of any lapse in coverage. A failure to provide evidence of appropriate coverage within 90 days after the date of automatic suspension shall be deemed a voluntary resignation of the member from the Medical Staff.

Deleted: six months

Comment [A393]: Current CHOC bylaws has a 90 day, rather than a six month, limit.
11/8/11 Returned to CHOC provisions.

13.3-6 Education Regarding Confidentiality or Security of Patient Health Information

Comment [A394]: Recommended HIPAA language per 01/29/14 inquiry from Dr. Mungo.

If a practitioner has been informed by the Medical Executive Committee that he/she must complete a mandatory education program in relation to the privacy or security of patient health information, the practitioner's clinical privileges shall be automatically suspended if the practitioner fails to complete such education program within 30 days of receiving notification of the education requirement. If he/she fails to comply with the education requirement for a total of 60 days following receipt of such notification, the practitioner shall be deemed to have voluntarily resigned from the Medical Staff, effective immediately.

13.3-7 Breach of Data Security/Patient Privacy Obligations

If a member fails to comply with any Medical Staff or hospital policies and procedures addressing data security, patient privacy, and/or compliance with the Confidentiality of Medical Information Act or the Health Insurance Portability and Accountability Act ("HIPAA"), he or she will be deemed to

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

have voluntarily resigned from the Medical Staff, effective 60 days from the date the practitioner is notified of the failure to comply. Upon request of the member, the Medical Executive Committee, in its sole discretion, may elect not to accept such resignation and instead provide the member with additional, mandatory education in relation to the privacy or security of patient health information, which must be completed in the time required by the Medical Executive Committee. The Medical Executive Committee, in its sole discretion, also may also refer the matter to corrective action as outlined in this Article. Regardless of any other provision in this Section, the Medical Executive Committee shall, without discretion, accept the voluntary resignation of any practitioner who has received three or more notifications of a failure to comply with the mandated policies.

13.3-8 Felony Conviction

A member who is convicted of a felony shall be automatically suspended. Such suspension shall become effective immediately upon such conviction regardless of whether or not an appeal from the judgment is taken or pending.

13.3-9 Exclusive Contracts

A decision to close or continue closure of a department or service pursuant to an exclusive contract or contracts or to transfer an exclusive contract shall result in the termination of the practitioner's privileges that are covered by the exclusive contract to which the practitioner is not a party or third party beneficiary

13.3-10 Failure to Comply with Government and Other Third Party Payor Requirements

The Medical Executive Committee shall be empowered to determine that compliance with certain specific third party payor, government agency, and professional review organization Rules or policies is essential to hospital and/or Medical Staff operations and that compliance with such requirements can be objectively determined. The Rules may authorize the automatic suspension of a practitioner who fails to comply with such requirements. The suspension shall be effective until the practitioner complies with such requirements.

13.3-11 Automatic Resignation

Unless otherwise provided in this Article, if a practitioner is subject to an automatic suspension for more than six months, his or her membership (or the affected privileges, if the suspension is a partial suspension) shall be automatically resigned. Thereafter, reinstatement to the Medical Staff shall require application and compliance with the appointment procedures applicable to applicants.

Deleted: DRAFT

Deleted: 2011

Comment [A395]: Current CHOC Bylaws provide that three months delinquency is "grounds" for termination; CHA recommends that such termination be automatic, and includes a suspension provision. We recommend that any action be automatic; however, we have added a provision that gives the MEC some discretion.
11/8/11 Because failure to pay dues is not an automatic termination at CHOC, we have removed it from this section. The relevant langauge is found in Section 15.3 of these Bylaws.

Comment [A396]: We have added more detail to CHOC's current provisions that appear to allow the MEC to grant some exceptions to timely payment of dues.
11/8/11 See above comment.

Deleted: <#>**Failure to Pay Dues or Fines**¶
If the member fails to pay required dues or fines within 30 days after written warning of delinquency, a practitioner's Medical Staff membership and privileges shall be automatically suspended and shall remain so suspended until the practitioner pays the delinquent dues. If after 60 consecutive days of suspension the member remains suspended, the member will be considered to have voluntarily resigned from the Medical Staff. The Medical Executive Committee, in its sole discretion and on an individual basis, may make exceptions to the automatic suspension and termination provisions in this subsection if the member demonstrates to the Medical Executive Committee's satisfaction that payment of the dues or fines would result in an extreme financial hardship for the member. Even if an exception to the suspension and termination provisions is granted, the member shall still be responsible for payment of such dues and fines. T ...

Comment [A397]: The CHOC bylaws provide that the member "may" be suspended; however, this section is about automatic suspension, which generally does not have discretion.

Comment [A398]: 01/28/14 – Bylaws Comm requested a comparison with CMA model bylaws. Neither the CMA model bylaws nor the 2014 CH ...

Comment [A399]: CHOC does not have an analogous provision. We would like to discuss imposing an automatic suspension/termination upon exclusion from a federal/state payor program. ...

Deleted: **Termination**

Comment [A400]: Bylaws Comm. 01/28/14

Deleted: terminated

Comment [A401]: Not in CHOC bylaws, but a good provision to have.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

13.3-12 Medical Executive Committee Deliberation and Procedural Rights

a. As soon as practicable after action is taken or warranted as described in this Section 13.3, the Medical Executive Committee 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 commencing in the Bylaws, Section 13.1-6, Formal Investigation. Except as otherwise provided below, the Medical Executive Committee review and any subsequent hearings and reviews shall not address the propriety of the underlying cause for the automatic suspension or termination, but instead shall address what, if any, additional action should be taken by the hospital.

Deleted: at

b. Practitioners whose privileges are automatically suspended and/or who have been deemed to have automatically resigned their Medical Staff membership shall be entitled to a hearing only if the suspension is reportable to the Medical Board of California pursuant to Business and Professions Code Section 805 or the federal National Practitioner Data Bank. When the practitioner is not entitled to a formal hearing, the Medical Executive Committee may provide the practitioner with an opportunity to be heard by the Medical Executive Committee in any forum or manner that the Medical Executive Committee deems appropriate. The issue before the Medical Executive Committee shall be limited solely to the question of whether or not grounds existed for the automatic suspension or limitation described in this Section. The Medical Executive Committee shall immediately terminate any action that was based on a material mistake of fact as to the basis for such action; however, an automatic suspension or limitation based on a material mistake of fact that the Medical Executive Committee later terminates shall not be grounds for a civil action for damages against the hospital, board of members, medical staff, or medical staff members

Comment [A402]: This proposed provision is much more comprehensive than CHOC or CHA; however, it provides a limited review of automatic actions to account for potential mistakes.

Deleted: *[Automatic*

Comment [A403]: These provisions are very controversial and should be discussed carefully before adoption. We will modify the CHA model only after we discuss the underlying issues with you. 11/10/11 The CHA Model Bylaws have provisions that allow medical staffs to take automatic action based solely on the fact that another hospital has taken action. This is a controversial provision that may not be supported in court. Instead, we recommend the language below, which expressly requires the MEC to request information about such action from the practitioner and to evaluate that information. If after such evaluation, the MEC determines action is necessary, it is authorized to take it based solely on the events at the other hospital. This approach has not been addressed by a California court, but we believe it to be defensible. We can discuss the risks and benefits with you further.

13.3-13 Notice of Automatic Suspension or Action

Special notice of an automatic suspension or action shall be given to the affected individual, and regular notice of the suspension shall be given to the Medical Executive Committee, Chief Executive Officer and Board of Directors, but such notice shall not be required for the suspension to become effective. Patients affected by an automatic suspension shall be assigned to another member by the Department Chair or President of Staff. The wishes of the patient and affected practitioner shall be considered, where feasible, in choosing a substitute member.

Deleted: LA/

13.3-14 Action Based upon Actions Taken by Another Peer Review Body after a Hearing

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Upon receiving information that another peer review body (as that term is used in Business & Professions Code Section 809 et seq.) has imposed corrective action against a practitioner who also has membership and/or privileges at CHOC, the Medical Executive Committee or President of Staff shall require the practitioner to provide information that the Medical Executive Committee or President of Staff determines is sufficient for the Medical Staff to adequately evaluate the matter. If the practitioner fails, without good cause as determined by the Medical Executive Committee or President of Staff, to provide the information requested by the deadline provided, the practitioner's privileges shall be automatically suspended until such time as the practitioner provides the requested information.

a. Based on its evaluation of the information received, the Medical Executive Committee may initiate an investigation, initiate corrective action, or take such other action as it determines to be reasonable and warranted under the circumstances. Unless immediate action is necessary to protect any person from imminent danger, the Medical Executive Committee shall review and consider the practitioner's performance at CHOC prior to taking any corrective action. Upon finding that there is a reasonable likelihood that the same or a similar event could occur at CHOC resulting in care that may be detrimental to a patient, the Medical Executive Committee is expressly authorized to impose corrective action based solely on events that occurred at another health care organization, regardless of the practitioner's performance at CHOC. If as a result of the above provisions, the Medical Executive Committee takes or recommends action that would entitle the practitioner to a hearing under these Bylaws, the practitioner shall be provided such hearing. Notwithstanding any other provision in these Bylaws, the Hearing Committee or arbitrator shall deem the findings and conclusions of the other peer review body as proven facts and such facts shall not be subject to challenge by the practitioner at the hearing. "Findings and conclusions" shall include any of the following: (i) those findings and conclusions detailed in a final decision by the other peer review body's hearing committee, arbitrator(s), and/or appeal board, regardless of whether the practitioner is currently challenging those findings and conclusions in court; or (ii) if the practitioner waived his or her hearing right at the other peer review body, the conclusions or charges that formed the basis of the recommended action as formulated by the other peer review body's medical staff executive committee, governing body, or equivalent body. The practitioner shall not be entitled to challenge the findings and conclusions in the other peer review body's peer review decision unless he or she successfully overturns the other peer review action in court. The practitioner may challenge any facts alleged by the Medical Executive Committee that are not based on the final findings and conclusions of the other peer review body.

Deleted: DRAFT

Deleted: 2011

Deleted: J¶

Comment [A404]: We have made this a mandatory, not a discretionary, requirement.

Comment [A405]: 02/04/14 - Bylaws Comm requested counsel revise this section to account for 2012 Supreme Court decision.

Deleted: T

Deleted: ,

Deleted: [The Medical Executive Committee shall be empowered to automatically impose any adverse action that has been taken by another peer review body (as that term is used in the Medical Staff Hearing Law, Business & Professions Code Section 809 et seq.) after a hearing at that other peer review body that meets the requirement of the Medical Staff Hearing Law. Such an adverse action may be any action taken by the other peer review body, including, but not limited to, denying membership and/or privileges, restricting privileges or terminating membership and/or privileges. The action may be taken automatically only if the other peer review body took action based upon standards that were essentially the same as those in effect at this hospital at the time the automatic action will be taken. Also, the action that will be the basis of the automatic action must have become final within the past 36 months. The automatic action may be taken only after the practitioner has completed the hearing and any appeal at that other peer review body; however, it is not necessary to await a final disposition in any judicial proceeding that may be brought challenging that other peer review body's action.]¶

Deleted: [The practitioner shall not be entitled to any hearing or appeal at this hospital unless the Medical Executive Committee takes an action that is more restrictive than the final action taken by the other peer review body. Any hearing and appeal that is requested by the practitioner shall not address the merits of the action taken by the original peer review body, which were already reviewed at the other peer review body's hearing, and shall be limited to only the question of whether the automatic action is more restrictive than the other peer review body's action.

Deleted: automatic

Deleted: action

Deleted:]

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

b. Nothing in this Section shall preclude the Medical Staff or Board of Directors from taking a more restrictive action than another peer review body based upon the same facts or circumstances.

13.4 Interview

Interviews shall neither constitute nor be deemed a hearing as described in Bylaws, Article 14, Hearings and Appellate Reviews, shall be preliminary in nature, and shall not be conducted according to the procedural Rules applicable with respect to hearings. The Medical Executive Committee shall be required, at the practitioner's request, to grant an interview only when so specified in these Bylaws, Article 13. In the event an interview is granted, the practitioner shall be informed of the general nature of the reasons for the recommendation and may present information relevant thereto. A record of the matters discussed and the findings resulting from an interview shall be made.

13.5 Confidentiality

To maintain confidentiality, participants in the corrective action process shall limit their discussion of the matters involved to the formal avenues provided in these Bylaws for peer review and discipline.

13.6 Joint Corrective Action

13.6-1 Notice of Pending Investigations/Joint Investigations

a. The President of Staff and the Chief Executive Officer each shall have the discretion to notify their counterpart officers at CHOC Children's at Mission Hospital whenever a request for corrective action against a practitioner who also is a member or applicant at CHOC Children's at Mission Hospital has been received.

b. In addition, the Medical Executive Committee may authorize a coordinated investigation and may appoint CHOC Children's at Mission Hospital Medical Staff members to assist in the coordinated investigation.

c. The President of Staff and the Chief Executive Officer are authorized to disclose to CHOC Children's at Mission Hospital (or an authorized representative of that body) information from CHOC and Medical Staff records to assist in CHOC Children's at Mission Hospital 's independent or joint investigation of any practitioner who is a member or an applicant at both hospitals.

d. The results of any joint investigation shall be reported to both CHOC's and CHOC Children's at Mission Hospital's medical executive committees for their independent determination of what, if any, corrective action should be taken.

Deleted: DRAFT
Deleted: 2011
Deleted: [
Deleted:]
Deleted: COMMENT: Above noted changes are for clarification purposes only. Hospitals wishing to further streamline their hearing and appeals procedures should consider including a provision for automatic action as above. This provision allows Medical Staffs and hospitals to automatically impose any privilege restriction (including termination of privileges or denial of an application) imposed by another hospital or other "peer review body" after a hearing that complies with the requirements of the Medical Staff Hearing Law, Business & Professions Code Section 809 *et seq*. The automatic action provision has three limits: (1) The action may be automatically taken only if the original hospital took action based upon standards that were essentially the same as those that are in effect at the hospital that ...
Comment [A406]: 11/19/11 The following ...
Deleted: [Systemwide
Deleted:]
Deleted: [
Deleted:]
Deleted: [
Deleted: or other system members
Comment [A407]: Corrected throughout to ...
Deleted: CHOC at Mission
Deleted:]
Deleted: [
Deleted: other system
Deleted: CHOC at members'
Deleted:]
Deleted: [
Deleted: CHOC at Missionanother system ...
Deleted: hospital
Deleted: CHOC at Missionthe other system ...
Deleted:]
Deleted: [
Deleted: each system member's
Deleted: CHOC Children's at Mission ...
Deleted: peer review body
Deleted: its
Deleted:]
Deleted: LA/
Deleted: A¶ ...
Formatted: Footer

13.6-2 Notice of Actions

a. In addition to the discretionary reporting and joint investigation provisions set forth in theBylaws, Section 13.6-1, above, the President of Staff and/or the Chief Executive Officer are authorized to inform his or her counterpart officer at CHOC Children's at Mission Hospital whenever any of the following actions has been taken against a CHOC member who also has or is applying for Medical Staff membership at CHOC Children's at Mission Hospital:]

1. Summary suspension of clinical privileges should be reported promptly upon imposition (other than automatic suspensions for failure to complete medical records or pay dues).

2. Other corrective actions or recommended actions may be reported at any time the President of Staff or Chief Executive Officer determines such a report to be appropriate, and should be reported promptly upon final action by the board.

b. The effect of such action on the involved practitioner's privileges at CHOC Children's at Mission Hospital shall be determined by the Medical Staff Bylaws or other applicable policies of CHOC Children's at Mission Hospital.

c. The President of Staff and Chief Executive Officer are authorized to disclose to CHOC Children's at Mission Hospital information from the hospital and Medical Staff records regarding such a practitioner or Allied Health Professional.

d. The above provisions apply to Allied Heatlh Professionals who are members of, or applicants to, the CHOC AHP staff and the CHOC Children's at Mission Hospital AHP staff.

13.6-3 Effect of Actions Taken by CHOC Children's at Mission Hospital.

Except as provided in Bylaws, Section 13.3-11, whenever the President of Staff or Medical Executive Committee receives information about an action taken by CHOC Children's at Mission Hospital involving a practitioner or Allied Health Professional holding privileges at the hospital, the President of Staff or Medical Executive Committee shall, if time permits, independently assess the facts and circumstances to ascertain whether to take comparable action. However, when the practitioner or Allied Health Professional was summarily suspended or restricted by CHOC Children's at Mission Hospital, any person authorized under Bylaws, Section 13.2-1, Criteria for Initiation, to impose a summary action is authorized to immediately impose a comparable suspension or restriction at this hospital, subject to review by the Medical

Deleted: DRAFT
Deleted: 2011
Deleted: [
Deleted:]
Deleted: [
Deleted: at
Deleted: CHOC at Mission any other system member where the practitioner is known to hold privileges
Deleted: CHOC Children's at Mission HospitalCHOC at MissionCHOC Children's at Mission Hospital
Deleted: [
Deleted:]
Deleted: [
Deleted:]
Deleted: [
Deleted: CHOC at Mission another system member
Deleted: CHOC at Missionthat other system member; or, if there are no applicable Bylaws or policies, the information shall be deemed transmitted for the receiving system member's independent review and action
Deleted:]
Deleted: [
Deleted: CHOC at Missionanother system member's peer review body (or an authorized representative of that body)
Deleted:]
Deleted: CHOC at Mission
Deleted: [
Deleted: Other Entities]
Deleted: [
Deleted: page 103,
Deleted: at another system member
Deleted: CHOC at Mission
Deleted: and
Deleted: at the other system member
Deleted: CHOC Children's at Mission HospitalCHOC at MissionCHOC Children's at Mission Hospital
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

Executive Committee in accordance with the provisions of Bylaws, Section 13.2, Summary Restriction or Suspension.

13.6-4 Upon receipt of an executed peer review sharing agreement and/or a signed release, as applicable, nothing in the foregoing shall limit the Hospital and Medical Staff's ability to share information regarding corrective actions with peer review bodies that are CHOC Children's at Mission Hospital.

Deleted: DRAFT

Deleted: 2011

Deleted:]

Comment [A408]: 02/04/14 – Bylaws Comm requested counsel revise this section as necessary to comply with peer review sharing laws.

Deleted: N

Deleted: **COMMENT:** Correction of cross references. Note: While this provision has some similar features as Bylaws, Section 13.3-11, the issues are somewhat different when the circumstance involves sister hospitals within a system — especially where there is a common Board of Directors. Not only does the above provision include independent review by the second hospital before (or in the case of summary suspension, immediately after) imposition of the action, there is also provision for fair hearing to review the action. Hospitals that deliver telemedicine services among system hospitals should give special consideration to including provisions such as these for reporting and/or effectuating sister-hospital corrective actions.¶

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 14

HEARINGS AND APPELLATE REVIEWS

14.1 General Provisions

14.1-1 Review Philosophy

The intent in adopting these hearing and appellate review procedures is to provide for a fair review of decisions that adversely affect practitioners (as defined below), and at the same time to protect the peer review participants from liability. It is further the intent to establish flexible procedures which do not create burdens that will discourage the Medical Staff and Board of Directors from carrying out peer review.

Accordingly, discretion is granted to the Medical Staff and Board of Directors to create a hearing process which provides for the least burdensome level of formality in the process and yet still provides a fair review and to interpret these Bylaws in that light. The Medical Staff, the Board of Directors, and their officers, committees and agents hereby constitute themselves as peer review bodies under the federal Health Care Quality Improvement Act of 1986 and the California peer review hearing laws and claim all privileges and immunities afforded by the federal and state laws.

Comment [A409]: These sections are unnecessary. If CHOC believes it needs a "mission statement" for its hearing article, we can keep in. 11/10/11 Per C. Chabot, will keep in.

14.1-2 Exhaustion of Remedies

If an adverse action as described in Bylaws, Section 14.2 is taken or recommended, the practitioner must exhaust the remedies afforded by these Bylaws before resorting to legal action.

14.1-3 Intra-Organizational Remedies

The hearing and appeal rights established in the Bylaws are strictly adjudicative rather than legislative in structure and function. The hearing committees have no authority to adopt or modify Rules and standards or to decide questions about the merits or substantive validity of Bylaws, Rules or policies. However, the Board of Directors may, in its discretion, entertain challenges to the merits or substantive validity of Bylaws, Rules or policies and decide those questions. If the only issue in a case is whether a Bylaw, Rule or policy is lawful or meritorious, the practitioner is not entitled to a hearing or appellate review. In such cases, the practitioner must submit his challenges first to the Board of Directors and only thereafter may he or she seek judicial intervention.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

14.1-4 Joint Hearings and Appeals

The Medical Staff and Board of Directors are authorized to participate in joint hearings and appeals in accordance with Bylaws, Section 14.13, of this Article.

14.1-5 Practitioner

Practitioner, as used in this Article, refers to the practitioner who has requested a hearing pursuant to Bylaws, Section 14.3-2 of this Article.

14.1-6 Body Whose Decision Prompted the Hearing

a. The body whose decision prompted the hearing refers to the Medical Executive Committee in all cases where the Medical Executive Committee or authorized Medical Staff officers, members or committees took the action or rendered the decision which resulted in a hearing being requested. It refers to the Board of Directors in all cases where the Board of Directors or its authorized officers, directors or committees took the action or rendered the decision which resulted in a hearing being requested.

b. If the hearing is based upon an adverse action by the Board of Directors, the chair of the Board of Directors shall fulfill the functions assigned in this Section to the President of Staff, and the Board of Directors shall assume the functions assigned to the Medical Executive Committee.

14.1-7 Allied Health Practitioners

Privileged Allied Health Practitioners are not entitled to the hearing rights detailed in this Article, but are entitled to the hearing rights for Allied Health Practitioners detailed in the Rules and Regulations.

14.1-8 Notice requirements

Regardless of other provisions in these Bylaws, no notices required by this Article, unless otherwise agreed to by both parties, shall be delivered electronically. The notice of action, notice of charges, and notice of hearing should, but is not required, to be delivered in a manner where the body whose action prompted the hearing can confirm delivery.

14.1-9 Substantial Compliance

Technical, insignificant or non-prejudicial deviations from the procedures set forth in these Bylaws shall not be grounds for invalidating the action taken.

Deleted: DRAFT
Deleted: 2011
Deleted: [
Deleted:]
Deleted: [
Comment [A410]: A joint hearings and appeals process can provide great efficiency and other benefits. We would like to discuss with you whether it is appropriate for CHOC.
Deleted:]
Deleted: h
Deleted: p
Comment [A411]: Bylaws Comm. 02/04/14
Deleted: [
Deleted: /Article ____ of these Bylaws
Deleted:]
Comment [A412]: Because this is a formal, legal process, we believe it appropriate to required delivery of notices by more traditional methods.
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

14.2 Grounds for Hearing

Except as otherwise specified in these Bylaws, any one or more of the following actions or recommended actions shall be deemed an actual or potential adverse action and constitute grounds for a hearing if such action or recommended action would result in the hospital being required to file a report pursuant to Business and Professions Code Section 805 or to the National Practitioner Data Bank:

14.2-1 Denial of Medical Staff initial applications for membership and/or privileges.

14.2-2 Denial of Medical Staff reappointment and/or renewal of privileges.

14.2-3 Revocation, suspension, restriction, involuntary reduction of Medical Staff membership and/or privileges.

14.2-4 Involuntary imposition of restrictive consultation or restrictive proctoring requirements that cannot be completed prior to the time frame required for reporting the restriction to the Medical Board of California.

Deleted: significant

Deleted: Level III

Deleted: , as described at Bylaws, Section 7.4-4(a)(3),

14.2-5 Summary suspension of Medical Staff membership and/or privileges during the pendency of corrective action and hearings and appeals procedures.

14.2-6 Any other "medical disciplinary" action or recommendation that must be reported to the Medical Board of California under the provisions of California Business & Professions Code Section 805 or to the National Practitioner Data Bank.

Comment [A413]: This provision would need to be modified if CHOC decides not to keep the "Level" descriptions for proctoring. 11/10/11 Have modified accordingly.

Comment [A414]: This list does not include several items that are on the CHOC list. The current CHOC list gives hearing rights for items that do not give a legal right to a hearing. We recommend granting hearings only when legally required.

14.3 Requests for Hearing

14.3-1 Notice of Action or Proposed Action

a. In all cases in which action has been taken or a recommendation made as set forth in Bylaws, Section 14.2, the practitioner shall be given special notice of the recommendation or action and of the right to request a hearing pursuant to Bylaws, Section 14.3-2, below. The notice must state:

1. What action has been proposed against the practitioner;

2. Whether the action, if adopted, must be reported under Business & Professions Code Section 805 or to the National Practitioner Data Bank;

3. A brief indication of the reasons for the action or proposed action;

4. That the practitioner may request a hearing;

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

5. That a hearing must be requested within 15 days; and

6. That the practitioner has the hearing rights described in the Medical Staff Bylaws, including those specified in Bylaws, Section 14.5, Hearing Procedure. A summary of the hearing rights shall be included in the Notice.

b. The notice shall also advise the practitioner that he or she may request mediation of the dispute pursuant to Bylaws, Section 14.4, of these Bylaws and that mediation must be requested, in writing, within 15 days.

14.3-2 Request for Hearing

a. The practitioner shall have 15 days following receipt of special notice of such action to request a hearing. The request shall be in writing addressed to the President of Staff with a copy to the Chief Executive Officer. If the practitioner does not request a hearing within the time and in the manner described, the practitioner shall be deemed to have waived any right to a hearing and accepted the recommendation or action involved. Such final recommendation shall be considered by the Board of Directors within 70 days and shall be given great weight by the Board of Directors, although it is not binding on the Board of Directors.

b. The practitioner shall state, in writing, his or her intentions with respect to attorney representation at the time he or she files the request for a hearing. Notwithstanding the foregoing and regardless of whether the practitioner elects to have attorney representation at the hearing, the parties shall have the right to consult with legal counsel to prepare for a hearing or an appellate review.

14.4 Mediation of Peer Review Disputes

14.4-1 Mediation is a confidential process in which a neutral person facilitates communication between the Medical Executive Committee and a practitioner to assist them in reaching a mutually acceptable resolution of a peer review controversy in a manner that is consistent with the best interests of patient care.

14.4-2 The parties are encouraged to consider mediation whenever it could be productive in resolving the dispute.

14.4-3 In order to obtain consideration of mediation, the practitioner must request mediation in writing, as defined herein, within 15 days of his/her receipt of a notice of action or proposed action that would give rise to a hearing pursuant

Deleted: DRAFT
Deleted: 2011
Deleted: 6
Comment [A415]: Bylaws Comm. 02/04/14
Deleted: 10
Comment [A416]: The CHA model includes mediation provisions. We believe such provisions potentially could result in faster and more efficient resolution of corrective action matters.
Deleted: [
Deleted:]
Comment [A417]: As we can discuss with you, we believe a "potted plant" approach works well in the hearing setting.
Comment [A418]: This is potentially useful, optional provision.
Deleted: <#>Any time attorneys will be allowed to represent the parties at a hearing, the Hearing Officer shall have the discretion to limit the attorneys' role to advising their clients rather than presenting the case.¶
Comment [A419]: Bylaws Comm. 02/04/14
Deleted: 10
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

to Bylaws, Section 14.2; however, the body whose decision prompted the decision can, in its sole discretion, waive the deadline for receipt

14.4-4 If the practitioner and the Medical Executive Committee agree to mediation, all deadlines and time frames relating to the fair hearing process shall be tolled while the mediation is in process, and the practitioner agrees that no damages may accrue as the result of any delays attributable to the mediation.

14.4-5 Mediation cannot be used by either the Medical Staff or the practitioner as a way of unduly delaying the corrective action/fair hearing process. Accordingly, unless both the Medical Staff and the practitioner agree otherwise, mediation must commence within 30 days of the practitioner's request and must conclude within 30 days of its commencement. If the mediation does not resolve the dispute, the fair hearing process will promptly resume upon completion of the mediation.

14.4-6 The parties shall cooperate in the selection of a mediator (or mediators). Mediators should be both familiar with the mediation process and knowledgeable regarding the issues in dispute. The mediator may also serve as the Hearing Officer at any subsequent hearing, subject to the agreement of the parties which may be given prior to the mediation or after, with the parties to decide when they will agree on this issue. The costs of mediation shall be shared two-thirds by the Medical Staff and one third by the practitioner. The inability of the Medical Staff and the practitioner to agree upon a mediator within the required time limits shall result in the termination of the mediation process and the resumption of the fair hearing process unless both parties agree to extend the time for no more than 30 days.

14.4-7 Once selected, the mediator and the parties, working together, shall determine the procedures to be followed during the mediation. Either party has the right to be represented by legal counsel in the mediation process.

14.4-8 All mediation proceedings shall be confidential and the provisions of California Evidence Code Section 1119 shall apply except that communications that confirm that mediation was mutually accepted and pursued may be disclosed as proof that otherwise applicable time frames were tolled or waived. Any such disclosure shall be limited to that which is necessary to confirm mediation was pursued, and shall not include any points that are substantive in nature or address the issues presented. Except as otherwise permitted in this Section, no other evidence of anything said at, or any writing prepared for or as the result of, the mediation shall be used in any subsequent fair hearing process that takes place if the mediation is not successful.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

14.5 Hearing Procedure

14.5-1 Time and Place for Hearing

Upon receipt of a request for hearing, the President of Staff shall schedule a hearing and, within 30 days from the date he or she received the request for a hearing, give special notice to the practitioner of the time, place and date of the hearing. The date of the commencement of the hearing shall be not less than 30 days nor more than 60 days from the date the President of Staff received the request for a hearing.

14.5-2 Notice of Charges

At least 30 days prior to the hearing's commencement, the President of Staff send by special notice to the practitioner a statement in writing that clearly and concisely states the reasons for the adverse proposed action taken or recommended, including the acts or omissions with which the practitioner is charged and a list of the charts in question, where applicable. A supplemental notice that amends or adds to the charges may be issued at any time, provided the practitioner is given sufficient time to prepare to respond.

14.5-3 Hearing Committee

a. When a hearing is requested, the President of Staff shall appoint a Hearing Committee which shall be composed of not less than three members who shall gain no direct financial benefit from the outcome and who have not acted as accuser, investigator, fact finder, initial decision maker or otherwise have not actively participated in the consideration of the matter leading up to the recommendation or action. Knowledge of the matter involved shall not preclude a member of the Medical Staff from serving as a member of the Hearing Committee. In the event that it is not feasible to appoint a Hearing Committee from the Medical Staff, the President of Staff may appoint practitioners who are not Medical Staff members. Such appointment shall include designation of the chair. When feasible, the Hearing Committee shall include at least one member who has the same healing arts licensure as the practitioner and who practices the same specialty as the practitioner; however, the President shall not be required to appoint a practitioner who is not on the medical staff in order to meet this standard. The President of Staff may appoint alternates who meet the standards described above and who can serve if a Hearing Committee member becomes unavailable.

b. At the Medical Executive Committee's sole discretion, it may appoint a Dedicated Hearing Panel to hear the matter in lieu of a Judicial Review Committee or an arbitrator. In such cases, a Hearing Officer, as described in this Article, shall preside over the hearing. The

Deleted: DRAFT

Deleted: 2011

Comment [A420]: CHA Model includes provisions for a preliminary, "bifurcated" hearing in the case of a summary action. For reasons we can discuss, we strongly recommend not adopting such provisions, and have deleted them from this version.

Comment [A421]: The current CHOC bylaws provide that a hearing can start as early as 15 days after receipt of request for hearing; such a timeframe gives little opportunity for the parties to prepare. The CHOC bylaws also provide that hearings to challenge summary suspensions should begin no more than 45 days after the receipt of the request; however, such a shortened time period may be impractical.

Comment [A422]: Current CHOC bylaws require a committee of at least five members; we recommend against this minimum, as finding and coordinating such a large committee (with alternates) is difficult.

Comment [A423]: Current CHOC Bylaws require the committee to be appointed from the active staff, unless that is not feasible. We believe it better to give the President the option to appoint from any staff category as is appropriate on a case-by-case basis.

Comment [A424]: Current CHOC Bylaws have provisions that do not allow direct competitors to serve; this is a difficult standard to define and is better observed on a case-by-case basis. Also, the current bylaws allow JRC members to be absent from hearing sessions; we strongly recommend not including such a provision here.

Comment [A425]: Although we are keeping this as a "may" rather than a "shall," we always advise appointing one or more alternate during a hearing.

Comment [A426]: Bylaws Comm requested dedicated hearing panel language be inserted on 02/04/14.

Deleted: .

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Dedicated Hearing Panel shall carry out all the duties assigned to the Judicial Review Committee. If a Dedicated Hearing Panel is appointed, no separate Judicial Review Committee shall be appointed, and all references in these Bylaws to the Judicial Review Committee duties and responsibilities shall be read as the Dedicated Hearing Panel's duties and responsibilities.

1. Dedicated Hearing Panel members must be willing to commit six (6) or more hours per day on consecutive days, with the exception of weekends and holidays (unless otherwise stipulated by the parties) for the purpose of hearing evidence, engaging in deliberations and reaching a decision.

2. The Dedicated Hearing Panel may be comprised of five (5) physicians but in no event less than three (3) physicians. The panel members may be present or past members of the medical staff, who are or who were in good standing and of good ethics during their staff appointment. Honorary and emeritus staff members are eligible for appointment provided that at the time of appointment no more than two (2) years has elapsed since they were last engaged in clinical, administrative or academic medicine.

3. The Medical Executive Committees, in its sole discretion, may solicit Dedicated Hearing Panel members from other medical staffs, medical societies, national medical boards, external peer review agencies or any other medical organization of good reputation.

4. All potential Dedicated Hearing Panel members shall be subject to voir dire and may be challenged for good cause. The Hearing Officer shall have the discretion to rule on whether a potential panel member may serve on the Dedicated Hearing Panel.

5. In no event shall any physician who is in direct competition with the affected physician be eligible to serve on the panel. Knowledge of the matter shall not automatically disqualify a potential panel member.

6. Dedicated Hearing Panel members may be paid by the hospital, medical staff or their fees split between the parties. In the event that the payment is not split between the parties, the affected physician agrees by virtue or applying for and/or accepting membership and privileges to this medical staff that payment to the Dedicated Hearing Panel members shall not be

Deleted: DRAFT
Deleted: 2011
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

used as a means to argue bias in any later quasi-judicial or judicial challenges.

c. Alternatively, in the Medical Executive Committee's sole discretion, an arbitrator may be used who is selected using a process mutually accepted by the body whose decision prompted the hearing and the practitioner. The arbitrator may be selected using the process detailed below which, by accepting membership and privilege on this medical staff, the Practitioner agrees is acceptable. The arbitrator shall meet the same qualifications as the Hearing Officer. The arbitrator shall carry out all the duties assigned to the Hearing Officer and to the Judicial Review Committee. If an arbitrator is appointed, no separate Judicial Review Committee or Hearing Officer shall be appointed, and all references in these Bylaws to the Judicial Review Committee or Hearing Officer duties, responsibilities, and decisions shall be read as the arbitrator's duties, responsibilities, and decisions.

1. Within 15 days of being notified that the Medical Executive Committee has opted to appoint an arbitrator in lieu of a Judicial Review Committee, the practitioner must send to the Medical Executive Committee a list of at least three attorneys whom he or she would accept as Arbitrator. If the practitioner fails to provide a list, then the Medical Executive Committee shall initiate the Arbitrator selection process as if it had rejected the practitioner's list of nominees as provided below.

2. The Medical Executive Committee may select the Arbitrator from the practitioner's list. If the Medical Executive Committee does not accept any of the Arbitrator nominees identified by the practitioner, the Medical Executive Committee must provide the practitioner a written list of at least three potential Arbitrators within ten days after rejection of the practitioner's list.

3. The practitioner shall have five days from his/her receipt of the Medical Executive Committee's list to select an Arbitrator from the list. If the practitioner fails to select an Arbitrator or to reject all the names on the list within that time, then the Medical Executive Committee may select any person on its list as the Arbitrator.

4. If the practitioner timely rejects the Medical Executive Committee's list, then the practitioner and the Medical Executive Committee shall each designate one name from their respective lists. The persons designated shall, within five days, select an Arbitrator who shall be appointed subject to *voir dire*. If the persons designated fail to select an Arbitrator timely, the

Deleted: DRAFT

Deleted: 2011

Comment [A427]: The current CHOC Bylaws only allow the appointment of an arbitrator if both parties agree to using one, and only if the arbitrator is mutually acceptable to both parties. This is not required by law, and we advise (a) that the MEC have the sole discretion to appoint an arbitrator, and (b) that the process for selection, not the arbitrator him/herself, be mutually acceptable.

Comment [A428]: Bylaws Comm. 02/04/14

Deleted: 10

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

process shall be repeated with other names selected form the parties' respective lists until an Arbitrator is selected.

5. If, for any reason, the person so identified is not available, cannot otherwise serve, or, after *voir dire*, the arbitrator upholds an objection from one party to his or her service as arbitrator or is unacceptable to both the Medical Executive Committee and the practitioner, the same process set forth in this will be followed until an Arbitrator is selected and agrees to serve.

6. If the failure or refusal of the practitioner to agree to an Arbitrator makes it impracticable to commence the hearing within the time frames set forth above, the time for commencement of the hearing shall be extended to thirty (30) days after an Arbitrator is selected.

7. Nothing in the above sections shall be construed as limiting the ability of the practitioner and Medical Executive Committee to select an arbitrator through a different, mutually acceptable process.

d. The Hearing Committee, Dedicated Hearing Panel, or the arbitrator, if one is used, shall have such powers as are necessary to discharge its or his or her responsibilities.

14.5-4 The Hearing Officer

a. If the Medical Executive Committee elects to use a Judicial Review Committee or Dedicated Hearing Panel, then the Medical Executive Committee shall appoint a Hearing Officer to preside at the hearing. The Hearing Officer shall be an attorney at law qualified to preside over a quasi-judicial hearing, but an attorney regularly utilized by the hospital for legal advice regarding its affairs and activities shall not be eligible to serve as Hearing Officer. The Hearing Officer shall gain no direct financial benefit from the outcome and must not act as a prosecuting officer or as an advocate.

b. The Medical Executive Committee will attempt to appoint a Hearing Officer that is acceptable to the member. In the event that the Medical Executive Committee and the member cannot agree on the Hearing Officer, the Medical Executive Committee may unilaterally appoint an individual to serve as Hearing Officer. If the Medical Executive Committee unilaterally appoints a Hearing Officer, it shall not select an individual who has served as a Hearing Officer for the hospital in the preceding three years and shall require the Hearing Officer to agree

Deleted: DRAFT
Deleted: 2011
Comment [A429]: CA law requires that the selection of an arbitrator be through a "mutually acceptable process." This can result in delay, so we have included a process that, by virtue of accepting membership, the member has deemed acceptable. This concept of acceptance has not been tested in court; therefore, we recommend that the medical staff confer with counsel on a case-by-case basis on whether and how to use this provision.
Comment [A430]: Bylaws Comm. 02/04/14
Comment [A431]: Bylaws Comm. 02/04/14
Deleted: h
Deleted: o
Deleted: h
Deleted: o
Deleted: h
Deleted: o
Deleted: h
Deleted: o
Deleted: h
Deleted: o
Deleted: will
Deleted: h
Deleted: o
Deleted: ; however,
Deleted: that individual may not have
Deleted: h
Deleted: o
Deleted: must
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

in writing to terms that the Medical Executive Committee deems appropriate to avoid the appearance of bias.

c. The Hearing Officer shall endeavor to assure that all participants in the hearing have a reasonable opportunity to be heard and to present relevant oral and documentary evidence in an efficient and expeditious manner, and that proper decorum is maintained. The Hearing Officer shall be entitled to determine the order of or procedure for presenting evidence and argument during the hearing and shall have the authority and discretion to make all rulings on questions which pertain to matters of law, procedure or the admissibility of evidence.

d. The Hearing Officer's authority shall include, but not be limited to, making rulings with respect to requests and objections pertaining to the production of documents, requests for continuances, designation and exchange of proposed evidence, evidentiary disputes, witness issues including disputes regarding expert witnesses, and setting reasonable schedules for timing and/or completion of all matters related to the hearing.

e. Upon motion of either party or the Hearing Officer, the Judicial Review Committee may direct the Hearing Officer to terminate the hearing if it finds that either party has (1) exhibited flagrant or repeated noncompliance with this Article in a manner that prejudices the other party or results in repeated delays to the hearing process, or (2) has egregiously interfered with the orderly conduct of the hearing. A finding that the termination results from the practitioner's noncompliance or egregious conduct shall result in a finding that the practitioner has waived his or her right to a hearing. The Hearing Officer shall be permitted to advise the Judicial Review Committee regarding his or her recommendation with regard to the disposition of the motion. Evidence of, or a finding that, a party intended to prejudice the other party, delay the hearing process, or interfere with the orderly conduct of the hearing is not necessary to support or grant the motion to terminate the hearing. The party against whom termination sanctions have been ordered may appeal the terminating order to the hospital Board of Directors. The appeal must be requested within 10 days of the terminating order, and the scope of the appeal shall be limited to reviewing the appropriateness of the terminating order. Assurances of future appropriate conduct vis-à-vis the hearing shall not be relevant to the appeal. The appeal shall be conducted in general accordance with the provisions of Bylaws, Section 14.6. If the Board of Directors determines that the terminating order should not have been issued, the matter will be remanded to the Hearing Committee for completion of the hearing.

Deleted: DRAFT

Deleted: 2011

Deleted: not to accept appointment as a hearing officer for the hospital for at least five years

Comment [A432]: California case law limits the ability of the MEC to appoint a hearing officer over the practitioner's objections. This provision addresses that issue, but has not been tested in court. We do not believe, however, that the involved process suggested by the CHA model is necessary for the appointment of the hearing officer. 11/10/11 We have revised to provide more flexibility.

Deleted: following the conclusion of the hearing and appeal process, unless the parties resolve the matter prior to the first evidentiary hearing session

Deleted: h

Deleted: o

Deleted: 7

Comment [A433]: California case law prohibits hearing officers from unilaterally terminating a hearing; only the JRC has that authority.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

f. Upon adjournment of the evidentiary portion of the hearing, the Hearing Officer shall meet with the members of the hearing committee to assist them with the process for their review of the evidence and preparation of the report of their decision. Upon request from the hearing committee members, the Hearing Officer may remain during the hearing committee's full deliberations. During the deliberative process, the Hearing Officer shall act as legal advisor to the hearing committee, but shall not be entitled to vote.

g. In all matters, the Hearing Officer shall act reasonably under the circumstances and in compliance with applicable legal principles. In making rulings, the Hearing Officer shall endeavor to promote a less formal, rather than more formal, hearing process and also to promote the swiftest possible resolution of the matter, consistent with the standards of fairness set forth in these Bylaws. When no attorney is accompanying any party to the proceedings, the Hearing Officer shall have authority to interpose any objections and to initiate rulings necessary to ensure a fair and efficient process.

14.5-5 Representation

Comment [A434]: 11/10/11 This proposed representation provision is one we regularly recommend to clients. It helps keep "peer review" in the hands of physicians, rather than attorneys. The final paragraph allows the parties to opt for full attorney representation, if they both agree.

The hearings provided for in these Bylaws are for the purpose of intra-professional resolution of matters bearing on professional conduct, professional competency, or character, including failure to comply with the Bylaws or Rules and Regulations of the medical staff. Accordingly, the practitioner is entitled to representation at the hearing as follows:

a. If the practitioner wishes to be accompanied at the hearing by an attorney, he/she shall state the notice of such intent in the written Request for Hearing, as provided for above.

b. The Medical Executive Committee representative shall not be accompanied by an attorney if the practitioner is not accompanied by an attorney. The foregoing shall not be deemed to deprive any party of its right to the assistance of legal counsel for the purpose of preparing for the hearing.

c. Attorneys for either party may accompany their clients in the hearing sessions in order to advise their clients, although any such attorney shall not examine witnesses, shall not address the Judicial Review Committee or Dedicated Hearing Panel, and shall not make any oral statement whatsoever in the hearing.

Comment [A435]: Bylaws Comm. 02/04/14

d. Whether or not attorneys are present in the hearing pursuant to this Article, the practitioner and the Medical Executive Committee may be represented at the hearing by a practitioner licensed to practice medicine in the State of California who is not also an attorney at law.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

e. The Presiding Officer shall not allow the presence of attorneys at the hearing to be disruptive or cause a delay in the hearing process.

f. The practitioner and the Medical Executive Committee may stipulate to allow greater participation by attorneys in the hearing than this Article provides. Otherwise, the above provisions of this Section will control.

14.5-6 Failure to Appear or Proceed

Failure without good cause of the practitioner to personally attend and proceed at a hearing in an efficient and orderly manner shall be deemed to constitute voluntary acceptance of the recommendations or actions involved.

14.5-7 Postponements and Extensions

Once a request for hearing is initiated, postponements and extensions of time beyond the times permitted in these Bylaws may be permitted upon agreement of the parties or by the Hearing Officer upon a showing of good cause.

14.5-8 Discovery

a. **Rights of Inspection and Copying.** The practitioner may inspect and copy (at his or her expense) any documentary information relevant to the charges that the Medical Staff has in its possession or under its control. The body whose decision prompted the hearing may inspect and copy (at its expense) any documentary information relevant to the charges that the practitioner has in his or her possession or under his or her control. The requests for discovery shall be fulfilled as soon as practicable. Failures to comply with reasonable discovery requests at least 30 days prior to the hearing shall be good cause for a continuance of the hearing.

b. **Limits on Discovery.** The Hearing Officer shall rule on discovery disputes the parties cannot resolve. Discovery may be denied when justified to protect peer review or in the interest of fairness and equity. Further, the right to inspect and copy by either party does not extend to confidential information referring to individually identifiable practitioners other than the practitioner under review nor does it create or imply any obligation to modify or create documents in order to satisfy a request for information.

c. **Ruling on Discovery Disputes.** In ruling on discovery disputes, the factors that may be considered include:

1. Whether the information sought may be introduced to support or defend the charges;

Deleted: DRAFT

Deleted: 2011

Comment [A436]: We have recommended a "potted plant" approach to other medical staffs, and can discuss that with you.

Deleted: The practitioner shall have the right, at his or her expense, to attorney representation at the hearing. If the practitioner elects to have attorney representation, the body whose decision prompted the hearing may also have attorney representation. Conversely, if the practitioner elects not to be represented by an attorney in the hearing, then the body whose decision prompted the hearing shall not be represented by an attorney in the hearing. When attorneys are not allowed, the practitioner and the body whose decision prompted the hearing may be represented at the hearing only by a practitioner licensed to practice in the State of California who is not also an attorney.¶

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

2. Whether the information is exculpatory in that it would dispute or cast doubt upon the charges or inculpatory in that it would prove or help support the charges and/or recommendation;

3. The burden on the party of producing the requested information; and

4. What other discovery requests the party has previously made.

d. **Objections to Introduction of Evidence Previously Not Produced for the Medical Staff.** The body whose decision prompted the hearing may object to the introduction of the evidence that was not provided during an appointment, reappointment or privilege application review or during corrective action despite the requests of the peer review body for such information. The information will be barred from the hearing by the Hearing Officer unless the practitioner can prove he or she previously acted diligently and could not have submitted the information.

14.5-9 Pre-Hearing Document Exchange

At the request of either party, the parties must exchange all documents that will be introduced at the hearing. The documents must be exchanged at least 10 days prior to the hearing. A failure to comply with this rule is good cause for the Hearing Officer to grant a continuance. Repeated failures to comply shall be good cause for the Hearing Officer to limit the introduction of any documents not provided to the other side in a timely manner.

14.5-10 Witness Lists

Not less than 10 days prior to the hearing, each party shall furnish to the other a written list of the names of the individuals, so far as is then reasonably known or anticipated, who are expected to give testimony or evidence in support of that party at the hearing. Nothing in the foregoing shall preclude the testimony of additional witnesses whose possible participation was not reasonably anticipated. The parties shall notify each other as soon as they become aware of the possible participation of such additional witnesses. The failure to have provided the name of any witness at least 10 days prior to the hearing date at which the witness is to appear shall constitute good cause for a continuance.

Comment [A437]: Although both the CHOC bylaws and the CHA model include the witnesses' addresses in this list, we believe providing that information can have a chilling effect on witness participation.

14.5-11 Procedural Disputes

a. Both parties shall have a reasonable opportunity to question and challenge the impartiality of hearing committee members and the Hearing Officer. The Hearing Officer shall preside over the voir dire process and may question panel members directly. Challenges to the

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

impartiality of any hearing committee member or the Hearing Officer shall be ruled on by the Hearing Officer.

b. It shall be the duty of the parties to exercise reasonable diligence in notifying the Hearing Officer of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible in order that decisions concerning such matters may be made in advance of the hearing. Objections to any pre-hearing decisions may be succinctly made at the hearing.

c. The parties shall be entitled to file motions as deemed necessary to give full effect to rights established by the Bylaws and to resolve such procedural matters as the Hearing Officer determines may properly be resolved outside the presence of the full Hearing Committee. Such motions shall be in writing and shall specifically state the motion, all relevant factual information, and any supporting authority for the motion. The other party shall have the right to submit a written response to the motion to the Hearing Officer, with a copy to the moving party. The Hearing Officer shall set a reasonable date for the response and shall determine whether to allow oral argument on any such motions. The Hearing Officer's ruling shall be in writing and shall be provided to the parties promptly upon its rendering. All motions, responses and rulings thereon shall be entered into the hearing record by the Hearing Officer.

d. The Hearing Officer has sole discretion in determining whether the Hearing Committee shall be informed of any motions, objections, or rulings. A party's failure to comply with any of the Hearing Officer's rulings, including the Hearing Officer's decision not to share motions, objections, or rulings with the Hearing Committee, shall be grounds for a motion to terminate under Section 14.5-4.e. of these Bylaws.

Deleted: ____

14.5-12 Record of the Hearing

A court reporter shall be present to make a record of the hearing proceedings and the pre-hearing proceedings if deemed appropriate by the Hearing Officer. The cost of attendance of the court reporter shall be borne by the hospital, but the cost of the transcript, if any, shall be borne by the party requesting it. The practitioner is entitled to receive a copy of the transcript upon paying the reasonable cost for preparing the record. The Hearing Officer may, but shall not be required to, order that oral evidence shall be taken only on oath administered by any person lawfully authorized to administer such oath.

14.5-13 Rights of the Parties

Within reasonable limitations, including those detailed elsewhere in these Bylaws, both sides at the hearing may ask the Hearing Committee members

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

and Hearing Officer questions which are directly related to evaluating their qualifications to serve and for challenging such members or the Hearing Officer, call and examine witnesses for relevant testimony, introduce relevant exhibits or other documents, cross-examine or impeach witnesses who shall have testified orally on any matter relevant to the issues, and otherwise rebut evidence, receive all information made available to the Hearing Committee, and to submit a written statement at the close of the hearing, as long as these rights are exercised in an efficient and expeditious manner. The practitioner may be called by the body whose decision prompted the hearing or the Hearing Committee and examined as if under cross-examination. The Hearing Committee may interrogate the witnesses or call additional witnesses if it deems such action appropriate.

14.5-14 Rules of Evidence

a. Judicial Rules of evidence and procedure relating to the conduct of the hearing, examination of witnesses, and presentation of evidence shall not apply to a hearing conducted under these Bylaws, Article 14. Except as provided elsewhere in these Bylaws, relevant evidence, including hearsay, 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.

b. Notwithstanding the above, evidence of mediation, compromise or offers of settlement, as well as any conduct or statements made in negotiation thereof, is inadmissible to prove either parties' opinion regarding the strength or weakness of the actions that provide the grounds for the hearing. The Hearing Officer may make any rulings or instructions necessary to ensure that any evidence of mediation, compromise, or offers of settlement are introduced for appropriate purposes only.

c. Notwithstanding the above, the fact that the notice of changes had been amended or supplemented prior to or during the hearing shall not be considered relevant as to whether the action or recommendation is reasonable and warranted.

14.5-15 Burdens of Presenting Evidence and Proof

a. At the hearing, the body whose decision prompted the hearing shall have the initial duty to present evidence for each case or issue in support of its action or recommendation. The practitioner shall be obligated to present evidence in response.

b. An applicant for membership and/or privileges shall bear the burden of persuading the Hearing Committee, by a preponderance of the

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

evidence, that he or she is qualified for membership and/or the denied privileges. The practitioner must produce information which allows for adequate evaluation and resolution of reasonable doubts concerning his or her current qualifications for membership and privileges.

c. Except as provided above for applicants for membership and/or privileges, throughout the hearing, the body whose decision prompted the hearing shall bear the burden of persuading the Hearing Committee by a preponderance of the evidence, that its action or recommendation is reasonable and warranted.

d. In meeting this burden, the body whose decision prompted the hearing shall not be limited to presenting only that information available to it at the time it imposed or recommended the action, but rather may present all relevant information (within the limits discussed elsewhere in this Article) available to it at the time of the hearing.

e. The body whose decision prompted the hearing is not required to prove each and every charge or issue in front of the Judicial Review Committee in order for its actions and/or recommendation(s) to be found reasonable and warranted.

f. "Reasonable and warranted" means within the range of alternatives reasonably open to the body whose decision prompted the hearing under the circumstances, and not necessarily that the action or recommendation is the only measure or the best measure that can be taken or formulated in the Judicial Review Committee's opinion.

14.5-16 Adjournment and Conclusion

The Hearing Officer may adjourn the hearing and reconvene the same without special notice at such times and intervals as may be reasonable and warranted with due consideration for reaching an expeditious conclusion to the hearing.

14.5-17 Basis for Decision

The decision of the Hearing Committee shall be based on the evidence and written statements introduced at the hearing, including all logical and reasonable inferences from the evidence and the testimony.

14.5-18 Presence of Hearing Committee Members and Vote

Each Hearing Committee member must be present at each session of the hearing and deliberations. If the panel agrees, the hearing can go forward with videographer. The final decision of the Hearing Committee must be sustained by a majority vote of the number of members appointed.

Deleted: DRAFT

Deleted: 2011

Deleted: a

Comment [A438]: "Reasonable and warranted" is the statutorily required standard, but is not defined in the law. We have included a proposed definition that we believe is appropriate and defensible; however, it has not been tested in court.

Deleted: A majority of the

Deleted: throughout

Comment [A439]: Bylaws Comm. 02/04/14

Comment [A440]: This is present in the current CHOC bylaws; however, we highly recommend NOT adopting it. We believe that JRC members should be present for all hearing sessions, and would like to discuss with you the reasons for this and our suggestions for adding that requirement here. 11/11/11 The original CHOC bylaws allowed hearing committee members to be absent from hearing sessions so long as they reviewed the transcript afterwards. Per discussion with C. Chabot and our original comments, we have changed this to require the hearing committee to be present for all hearing sessions.

Deleted: In unusual circumstances when a Hearing Committee member must be absent from any part of the proceedings, he or she shall not be permitted to participate in the deliberations or the decision unless and until he or she has read the entire transcript of the portion of the hearing from which he or she was absent.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

14.5-19 Decision of the Hearing Committee

Within 30 days after final adjournment of the hearing, the Hearing Committee shall render a written decision. Final adjournment shall be when the Hearing Committee has concluded its deliberations. A copy of the decision shall be forwarded to the Chief Executive Officer, the Medical Executive Committee, the Board of Directors, and by special notice to the practitioner. The report shall contain the Hearing Committee's findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached. Both the practitioner and the body whose decision prompted the hearing shall be provided a written explanation of the procedure for appealing the decision. The decision of the Hearing Committee shall be considered final, subject only to such rights of appeal or Board of Directors review as described in these Bylaws.

14.6 Appeal

14.6-1 Time for Appeal

Within 10 days after receiving the decision of the Hearing Committee, either the practitioner or the Medical Executive Committee may request an appellate review. A written request for such review shall be delivered to the President of Staff, the Chief Executive Officer and the other party in the hearing. If appellate review is not requested within such period, that action or recommendation shall thereupon become the final action of the Medical Staff. The Board of Directors shall consider the decision within 70 days, and shall give it great weight.

Comment [A441]: The CHOC bylaws currently provide that the action or recommendation, if not appealed, becomes final. However, the board, not the JRC or MEC, always must take the final action with regard to appointment and termination decisions.

14.6-2 Grounds for Appeal

A written request for an appeal shall include an identification of the grounds for appeal and a clear and concise statement of the facts in support of the appeal. The grounds for appeal from the hearing shall be:

a. substantial non-compliance with the procedures required by these Bylaws or applicable law which has created demonstrable prejudice; or

b. the decision was not supported by the evidence based upon the hearing record or such additional information as may be permitted pursuant to Section 14.6-5.

Comment [A442]: We have deleted the term, "substantial" from this section.

Deleted: 8.5-5

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

14.6-3 Time, Place and Notice

If an appellate review is to be conducted, the Appeal Board shall, within 30 days after receiving a request for appeal, schedule a review date and cause each side to be given notice (with special notice to the practitioner) of the time, place, and date of the appellate review. The appellate review shall

Deleted: DRAFT

Deleted: 2011

commence within 60 days from the date of such notice provided; however, when a request for appellate review concerns a member who is under suspension which is then in effect, the appellate review should commence within 45 days from the date the request for appellate review was received. The time for appellate review may be extended by the Appeal Board for good cause.

14.6-4 Appeal Board

The Board of Directors may sit as the Appeal Board, or it may appoint an Appeal Board which shall be composed of not less than three members of the Board of Directors. Knowledge of the matter involved shall not preclude any person from serving as a member of the Appeal Board, so long as that person did not take part in a prior hearing on the same matter. The Appeal Board may select an attorney to assist it in the proceeding. If an attorney is selected, he or she may act as an appellate Hearing Officer and shall have all of the authority of and carry out all of the duties assigned to a Hearing Officer as described in this Article 14. That attorney shall not be entitled to vote with respect to the appeal. The Appeal Board shall have such powers as are necessary to discharge its responsibilities.

14.6-5 Appeal Procedure

The proceeding by the Appeal Board shall be an appellate hearing based upon the record of the hearing before the Hearing Committee, provided that the Appeal Board may accept additional oral or written evidence, subject to a foundational showing that such evidence could not have been made available in the exercise of reasonable diligence and subject to the same rights of cross-examination or confrontation provided at the hearing; or the Appeal Board may remand the matter to the Hearing Committee for the taking of further evidence and for decision. Each party shall have the right to be represented by legal counsel or any other representative designated by that party in connection with the appeal. The appealing party shall submit a written statement concisely stating the specific grounds for appeal. In addition, each party shall have the right to present a written statement in support of his, her or its position on appeal. The appellate Hearing Officer may establish reasonable time frames for the appealing party to submit a written statement and for the responding party to respond. Each party has the right to personally appear and make oral argument or have an attorney make oral argument on his or her behalf. The Appeal Board may then, at a time convenient to itself, deliberate outside the presence of the parties.

Comment [A443]: This is from the CHA model; we do not recommend a de novo hearing, but can discuss it with you further.
11/11/11 Per discussion with C. Chabot, this has been deleted.

Deleted: , at the discretion of the Appeal Board, either be a de novo hearing or

14.6-6 Decision

a. Within 30 days after the adjournment of the appellate review proceeding, the Appeal Board shall render a final decision in writing.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Final adjournment shall not occur until the Appeal Board has completed its deliberations.

b. The Appeal Board may affirm, modify, reverse the decision or remand the matter for further review by the Hearing Committee or any other body designated by the Appeal Board.

c. The Appeal Board shall give great weight to the Hearing Committee recommendation, and shall not act arbitrarily or capriciously. The Appeal Board shall sustain the factual findings of the Hearing Committee if they are supported by substantial evidence. The Appeal Board may, however, exercise its independent judgment in determining whether a practitioner was afforded a fair hearing, whether the decision is reasonable and warranted in light of the supported findings, and whether any bylaw, rule or policy relied upon by the Hearing Committee is unreasonable or unwarranted. The decision shall specify the reasons for the action taken and provide findings of fact and conclusions articulating the connection between the evidence produced at the hearing and the appeal (if any), and the decision reached, if such reasons, findings and conclusions differ from those of the Hearing Committee.

d. The Appeal Board shall forward copies of the decision to each side involved in the hearing.

e. The Appeal Board may remand the matter to the Hearing Committee or any other body the Appeal Board designates for reconsideration or may refer the matter to the full Board of Directors for review. If the matter is remanded for further review and recommendation, the further review shall be completed within 30 days unless the parties agree otherwise or for good cause as determined by the Appeal Board.

14.7 Administrative Action

If the Hospital administration takes action against a practitioner for an administrative reason that does not involve a medical disciplinary cause or reason, then the Hospital administration may provide the practitioner with such hearing as the Hospital administration deems appropriate. In such cases, the hearing provisions in these Bylaws shall not apply unless the administration and Medical Staff agree to use them.

14.8 Right to One Hearing

No practitioner shall be entitled to more than one evidentiary hearing and one appellate review on any matter which shall have been the subject of adverse action or recommendation.

Deleted: DRAFT

Deleted: 2011

Comment [A444]: Again, we do not recommend de novo review.

Deleted: Unless the Appeal Board elects to conduct a de novo review, t

Comment [A445]: 11/11/11 This provision is not typical in Medical Staff Bylaws; however, it may help avoid confusion between actions taken by administration for non-medical staff reasons.

Comment [A446]: We are not convinced this provision is necessary, but can discuss it with you further.

Deleted: **<#>Administrative Action Hearings¶**
The following modifications to the hearing process apply when the Medical Executive Committee (or Board of Directors) has taken or recommended an action described in Bylaws, Section 14.2 for a non-medical disciplinary cause or reason. Such actions shall be deemed administrative disciplinary actions.¶
<#>Administrative Action Hearing¶
The affected practitioner shall be entitled to an administrative action hearing, conducted in accordance with Bylaws, Section 14.6, except as follows:¶
<#>At the election of the body whose decision prompted the hearing, the hearing shall be conducted by an arbitrator, meeting the qualifications of Bylaws, Section 14.6-4(b), and selected by mutual agreement of the parties, if agreement can be reached within 10 days, failing which the arbitrator shall be selected by the body whose decision prompted the hearing.¶
<#>The arbitrator shall have all of the rights and responsibilities of a Hearing Officer and a Hearing Committee, as described in Bylaws, Section 14.6.¶
<#>At the election of the body whose decision prompted the hearing, both parties shall have the right to be represented by an attorney, whether or not the other party elects to be represented by an attorney. The parties shall be notified of this election at the time the practitioner is notified of his/her right to a hearing. If attorney representation is permitted, the parties shall promptly notify each other of their elections regarding attorney representation, together with the name and contact information of their attorneys.¶
<#>Nonreportability of Administrative Actions¶
Administrative disciplinary actions are not reportable to the Medical Board of California or the National Practitioner Data Bank.¶
<#>Nonwaiver of Protections¶
Notwithstanding the foregoing, it is understood that circumstances precipitating administrative disciplinary actions may nonetheless involve or affect quality of care in the hospital (e.g., conduct that does or may impair the ability of others to render quality care, or that affects patients' ...

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

14.9 Confidentiality

To maintain confidentiality in the performance of peer review, disciplinary and credentialing functions, participants in any stage of the hearing or appellate review process shall limit their discussion of the matters involved to the formal avenues provided in the Medical Staff Bylaws.

14.10 Release

By requesting a hearing or appellate review under these Bylaws, a practitioner reaffirms his or her agreement to be bound by the provisions in the Medical Staff Bylaws relating to immunity from liability for the participants in the hearing process.

14.11 Board of Directors Committees

In the event the Board of Directors should delegate some or all of its responsibilities described in these Bylaws, Article 14 to its committees (including a committee serving as an Appeal Board), the Board of Directors shall nonetheless retain ultimate authority to accept, reject, modify or return for further action or hearing the recommendations of its committee.

14.12 Exceptions to Hearing Rights

14.12-1 Exclusive Use Departments, Hospital Contract Practitioners

Deleted: *[Departments] [Services],*

Formatted: Font color: Auto

Formatted: Font color: Auto

Comment [A447]: This provision is not within the CHOC bylaws, but is advisable.

Formatted: Font color: Auto

Deleted: *[Departments] [Services]*

Formatted: Font color: Auto

a. **Exclusive Use Departments**

The procedural rights of Bylaws, Article 14 do not apply to a practitioner whose application for Medical Staff membership and privileges was denied or whose privileges were terminated on the basis that the privileges he or she seeks are granted only pursuant to an exclusive use policy. Such practitioners shall have the right, however, to request that the Board of Directors review the denial, and the Board of Directors shall have the discretion to determine whether to review such a request and, if it decides to review the request, to determine whether the practitioner may personally appear before and/or submit a statement in support of his or her position to the Board of Directors.

b. **Hospital Contract Practitioners**

The hearing rights of Bylaws, Article 14 do not apply to practitioners who have contracted with the hospital to provide clinical services. Removal of these practitioners from office and of any exclusive privileges (but not their Medical Staff membership) shall instead be governed by the terms of their individual contracts and agreements with the hospital. The hearing rights of Bylaws, Article 14 shall apply if an action is taken which must be reported under Business & Professions Code Section 805 and/or the practitioner's Medical Staff

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

membership status or privileges which are independent of the practitioner's contract are removed or suspended.

14.12-2 Denial of Applications for Failure to Meet the Minimum Qualifications

Practitioners shall not be entitled to any hearing or appellate review rights if their membership, privileges, applications or requests are denied because of their failure to have a current California license to practice medicine, dentistry, clinical psychology or podiatry; to maintain an unrestricted Drug Enforcement Administration certificate (when it is required under these Bylaws or the Rules); to maintain professional liability insurance as required by the Rules; or to meet any of the other basic standards specified in Bylaws, Section 2.2 or to file a complete application.

14.12-3 Automatic Suspension or Limitation of Privileges

a. No hearing is required when a member's license or legal credential to practice has been found to be invalid, revoked or suspended as set forth in Bylaws, Section 13.3-1. In other cases described in Bylaws, Section 13.3-1 and Section 13.3-2, the issues which may be considered at a hearing, if requested, shall not include evidence designed to show that the determination by the licensing or credentialing authority or the Drug Enforcement Administration was unwarranted, but only whether the member may continue to practice in the hospital with those limitations imposed.

b. Practitioners whose privileges are automatically suspended and/or who have resigned their Medical Staff membership for any other reason detailed in Section 13.3 are not entitled under Bylaws, Section 13.3-11 to any hearing or appellate review rights.

14.12-4 Failure to Meet Minimum Activity Requirements

Members shall not be entitled to hearing and appellate review rights if their membership is restricted or terminated or their staff category changed because of failure to meet the minimum activity requirements as set forth in the Point System included in the Medical Staff Rules and Regulations. In such cases, review of activity shall be provided by the Credentials Committee. This committee shall give the member notice of the reasons for the intended termination or change in membership, privileges and/or category and the member shall have 14 days in which to present further evidence of additional activity. Thereafter, the Credentials Committee shall render a written decision to the Medical Executive Committee and the Board of Directors. The Credentials Committee decision shall be final unless it is reversed or modified by the Medical Executive Committee or the Board of Directors.

Deleted: DRAFT

Deleted: 2011

Comment [A448]: This provision will depend on how CHOC wants to address AHPs (Bylaws v. rules and regs.).
11/11/11 Per C. Chabot, will remain in rules.

Deleted: <#>**Allied Health Professionals**¶
[Option 1 (corresponds to Option 2 at Bylaws, Section 6.6-1)]¶
[Allied Health Professional applicants (other than AHPs who are the subject of an action that must be reported under Business & Professions Code Section 805) are not entitled to the hearing rights set forth in this Article. However, Allied Health Professionals whose already-granted privileges are subject to an action that would constitute grounds for a hearing under Bylaws, Section 14.2-2 through Section 14.2-6 shall be entitled to the procedural rights set forth in this Article 14.]¶
[Option 2 (corresponds to Option 3 at Bylaws, Section 6.6-1)]¶
[Allied Health Professionals are not entitled to the hearing rights set forth in this Article unless the action is one that must be reported under Business & Professions Code Section 805. (See Section 6.6-1 for a description of Allied Health Professional hearing rights where no 805 report is required.)]¶

COMMENT: California law now requires 805 reporting for marriage and family therapists and clinical social workers. If these licentiates are credentialed as AHPs, they, too, need to be afforded Article 14 hearing rights.The Medical Staff will need to tailor this Section to correspond with the option selected for Bylaws, Section 6.6-1.¶

Deleted: -2

Comment [A449]: Bylaws Comm. 02/04/14

Deleted: 9

Deleted: except when a suspension for failure to complete medical records will exceed 30 days in any 12-month period, and it must be reported to the Medical Board of California

Comment [A450]: Replaced CHA provisions with CHOC provisions.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

14.13 Joint Hearings and Appeals with CHOC Children's at Mission Hospital

14.13-1 Applicability

a. If (i) CHOC takes corrective action against a member on the same or similar grounds as corrective action undertaken by the medical staff of CHOC Children's at Mission Hospital, and (ii) such corrective action provides grounds for a hearing, as defined in Section 14.2, at CHOC and grounds for a hearing at CHOC Children's at Mission Hospital, then CHOC's Medical Executive Committee, CHOC Children's at Mission Hospital's Medical Executive Committee, and the member may jointly agree to have a single, joint hearing process to address the actions and recommendations at CHOC and CHOC Children's at Mission Hospital ("Joint Hearing Process").

b. Agreeing to have a single, joint hearing is voluntary. Therefore, by agreeing to participate in a single, joint hearing, the practitioner also agrees (i) that such agreement cannot be withdrawn without the concurrence of CHOC and CHOC Children's at Mission Hospital, (ii) that he or she has waived any claim that he or she is entitled to a separate hearing at each hospital, and (iii) that he or she may not challenge the joint hearing process in a later appellate or judicial proceeding on the grounds that he or she was entitled to a separate hearing at each hospitals.

14.13-2 Hearing Provision; Commencement

a. To the extent that any of the hearing provisions, including the Joint Hearing Process provisions, in the CHOC Medical Staff Bylaws and the CHOC Children's at Mission Hospital Medical Staff Bylaws differ, the Medical Executive Committees of CHOC and CHOC Children's at Mission Hospital CHOC Children's at Mission Hospital shall jointly determine which entity's Bylaws' hearing provisions shall govern the Joint Hearing Process. In the event the Medical Executive Committees are unable to agree on which Bylaws' hearing procedures, including the Joint Hearing Process procedures, will apply to the hearing, then no Joint Hearing Process will be held and CHOC and CHOC Children's at Mission Hospital CHOC Children's at Mission Hospital will hold individual hearings pursuant to their own bylaws.

b. If a Joint Hearing Process is held, it shall commence at such time as the parties agree in writing to have a single, joint hearing, and the Medical Executive Committees have jointly determined which entity's Bylaws' hearing provisions shall apply to the conduct of the joint hearing.

Deleted: DRAFT
Deleted: 2011
Comment [A451]: 11/12/11 The CHA Model Bylaws contain provisions allowing for joint hearings with other "system members." We have replaced those provisions with those that we developed, and have it apply to CHOC and CHOC Children's at Mission Hospital. NOTE - the CHA model allows the MECs to unilaterally impose the joint hearing process. This is untested in court; therefore, we recommend that joint hearings be held only when all parties agree.
Deleted: [
Deleted: for System Members
Deleted:
Deleted:
Deleted: LA/
Deleted: A¶ AFDOCS/10732915.1¶ AFDOCS/10488943.2¶ AFDOCS/10488943.2¶
Formatted: Footer

c. Notwithstanding which Bylaws' hearing provision are agreed upon, if a hearing conducted as part of the Joint Hearing Process is held before a Hearing Committee, the Hearing Committee shall have at least one participating and voting member from the medical staff of CHOC and one participating and voting member from the medical staff of CHOC Children's at Mission Hospital.

14.13-3 Independent Rights

a. CHOC and CHOC Children's at Mission Hospital shall be considered separate parties in the Joint Hearing Process and may be separately represented in a manner permitted by the Bylaws' hearing provisions selected for the Joint Hearing.

b. CHOC and CHOC Children's at Mission Hospital each independently shall have the rights and responsibilities granted to parties in these proceedings, including, but not limited to, the rights to voir dire potential panel members and hearing officers, to call and cross examine witnesses, and to make arguments before the finder(s) of fact.

c. CHOC and CHOC Children's at Mission Hospital, in their own discretion, may agree to be jointly represented by a single representative.

14.13-4 Separate Appellate Rights

The Joint Hearing Process does not, and is not intended to, include any appeals or appeal rights relating to any Corrective Action. Notwithstanding, in instances in which a Joint Hearing is agreed to and held, the CHOC and the CHOC Children's at Mission Hospital' governing bodies may elect, in their sole and absolute discretion, to hold any appellate oral arguments in joint session.

14.13-5 Compliance With Applicable Law And Regulation

CHOC and CHOC Children's at Mission Hospital will take appropriate actions to confirm compliance with state and federal laws and regulations governing patient privacy. A Joint Hearing Process as provided herein (and appellate oral arguments held in joint session, if any) shall be deemed to satisfy all procedural requirements pursuant to Business & Professions Code Section 809 *et seq.* for all purposes as to both CHOC and CHOC Children's at Mission Hospital.

Deleted: DRAFT

Deleted: 2011

Comment [A452]: 11/12/11 Because each hospital has a separate governing body, appeals and final decisions should be separate. However, oral arguments (if any) could be held in a joint session.

Deleted: ***<#>[Joint Hearings]***¶
<#>[Whenever a practitioner is entitled to a hearing because a coordinated, cooperative or joint credentialing or corrective action has been taken or recommended pursuant to Bylaws, Section 13.6, a single joint hearing may be conducted in accordance with hearing procedures that have been jointly adopted by the involved entities, provided such procedures are substantially comparable to those set forth in Bylaws, Section 14.5 and further provided at least one member of the Hearing Committee is a member of this hospital's Medical Staff.]¶
<#>[In the event there is such a joint hearing, the recommendation of the Hearing Committee shall be reported to this hospital's Board of Directors for final action.]¶
<#>[Joint Appeals]¶
[The procedures may also call for joint appeal rights, provided such procedures are substantially comparable to those set forth in Bylaws, Section 14.7 and, further, provided that at least one member of the Appeal Board is a representative of this hospital's Board of Directors.]¶
<#>[Effect of Joint Hearings/Appeals]¶
[A joint hearing and/or appeal in accordance with the foregoing shall be deemed to satisfy procedural rights afforded to the practitioner pursuant to Business & Professions Code Section 809 et seq.]¶
<#>[Provision for Separate Hearing]¶
[Notwithstanding the foregoing, if a practitioner can demonstrate to the Medical Executive Committee (in the case of a hearing based on a recommendation of the Medical Executive Committee) or the Board of Directors (in the case of a hearing based on a recommendation of the Board of Directors or in the case of an appeal) prior to the initiation of a joint hearing and/or appeal that the benefits of quasi-judicial economy and efficiency are outweighed by particular burdens or unfairness unique to the individual practitioner's circumstances, the Medical Executive Committee or Board of Directors may, in its sole discretion, order that a separate hearing and/or appeal be conducted solely with respect to privileges at this hospital, in accordance with this hospital's Hearing and Appellate Review Provisions. (Examples of such unique burdens or unfairness would include unavailability of witnesses or documents to the joint proceeding; but the mere fact that the outcome would affect privileges at more than one facility would not ordinarily be deemed sufficient to preclude a joint hearing.)]

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 15

GENERAL PROVISIONS

15.1 Rules and Policies

15.1-1 Overview and Relation to Bylaws

These Bylaws describe the fundamental principles of Medical Staff self-governance and accountability to the Board of Directors. Accordingly, the key standards for Medical Staff membership, appointment, reappointment and privileging are set out in these Bylaws. Additional provisions, including, but not limited to, procedures for implementing the Medical Staff standards may be set out in Medical Staff or Department Rules, or in policies adopted or approved as described below.

15.1-2 General Medical Staff Rules

The Medical Staff shall initiate and adopt such Rules as it may deem necessary and shall periodically review and revise its Rules to comply with current Medical Staff practice. New Rules or changes to the Rules (proposed Rules) may emanate from any responsible committee, department, medical staff officer, or by petition signed by at least 51% of the voting members of the Medical Staff. Additionally, hospital administration may develop and recommend proposed Rules, and in any case should be consulted as to the impact of any proposed Rules on hospital operations and feasibility. Proposed Rules shall be submitted to the Medical Executive Committee for review and action, as follows:

a. Except as provided at Section 15.1-2(d), below, with respect to circumstances requiring urgent action, the Medical Executive Committee shall not act on the proposed Rule until the Medical Staff has had a reasonable opportunity to review and comment on the proposed Rule.

b. Medical Executive Committee approval is required, unless the proposed Rule is one generated by petition of at least 51% of the voting members of the Medical Staff. In this latter circumstance, the proposed Rule shall be forwarded to the Board of Directors for action. The Medical Executive Committee may forward comments to the Board of Directors regarding the reasons it declined to approve the proposed Rule.

c. Following approval by the Medical Executive Committee or a Medical Staff petition as described above, a proposed Rule shall be forwarded to the Board of Directors for approval, which approval shall not be withheld unreasonably. The Rule shall become effective immediately

Comment [A453]: TJC Standard MS.01.01.01 requires a provision allowing the Medical Staff to directly propose rules. We have selected 51% of the staff as the minimum so that it is clear that the proposed rule is supported by a majority of the voting staff, but CHOC can select a different percentage (as long as it is reasonable).

Comment [A454]: Would this proposal work for CHOC?

Comment [A455]: Bylaws Comm. 02/04/14

Deleted: *[This review and comment opportunity may be accomplished by posting proposed Rules on the Medical Staff website at least [thirty] [days prior to the scheduled Medical Executive Committee meeting, together with instructions how interested members may communicate comments. A comment period of at least [15] days shall be afforded, and all comments shall be summarized and provided to the Medical Executive Committee prior to Medical Executive Committee action on the proposed Rule*

Deleted: *.]*

Comment [A456]: TJC Standard MS.01.01.01 requires a provision to allow the Medical Staff to propose rules even without MEC approval. Again, we have proposed a petition of at least 51% of the voting staff, but another reasonable number may be selected.

Comment [A457]: If CHOC chooses a percentage of less than 51%, then we recommend including CHA's conflict resolution and voting mechanism provisions, rather than submitting directly to the Board. Otherwise, a minority of the unelected Medical Staff will get to dictate which proposed rules go to the Board.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

following approval of the Board of Directors or automatically within 60 days if no action is taken by the Board of Directors.

d. Where urgent action is required to comply with law or regulation, the Medical Executive Committee is authorized to provisionally adopt a Rule and forward it to the Board of Directors for approval and immediate implementation, subject to the following. If the Medical Staff did not receive prior notice of the proposed Rule (as described at Section 15.1-2(a)) the Medical Staff shall be notified of the provisionally-adopted and approved Rule, and may, by petition signed by at least 30% of the voting members of the Medical Staff require the Rule to be submitted for possible recall; provided, however, the approved Rule shall remain effective until such time as a superseding Rule meeting the requirements of the law or regulation that precipitated the initial urgency has been approved pursuant to any applicable provision of this Section 15.1-2.

Comment [A458]: We can discuss an appropriate percent.

Deleted: *[insert number or percent]*

If there is a conflict between the Bylaws and the Rules, the Bylaws shall prevail.

15.1-3 Department Rules

Subject to the approval of the Medical Executive Committee and Board of Directors, each department shall formulate its own Rules for conducting its affairs and discharging its responsibilities. Additionally, hospital administration may develop and recommend proposed department Rules, and in any case should be consulted as to the impact of any proposed department Rules on hospital operations and feasibility. Such Rules shall not be inconsistent with the Medical Staff or hospital Bylaws, Rules or other policies.

Comment [A459]: See new optional provision regarding hospital administration.

15.1-4 Section Rules

Comment [A460]: The current CHOC bylaws do not address Section rules. If the sections do not have their own rules and regulations, this provision can be deleted.

Subject to the approval of the committee of the department that oversees the section, the Medical Executive Committee and the Board of Directors, each section may formulate its own Rules for conducting its affairs and discharging its responsibilities. Additionally, hospital administration may develop and recommend proposed section Rules, and in any case should be consulted as to the impact of any proposed section Rules on hospital operations and feasibility. Such Rules shall not be inconsistent with the Medical Staff or hospital Bylaws, Rules, or policies.

Comment [A461]: See new optional provision regarding hospital administration.

15.1-5 Medical Staff Policies

Comment [A462]: Not in current CHOC bylaws.

Deleted: LA/

a. Policies shall be developed as necessary to implement more specifically the general principles found within these Bylaws and the Medical Staff Rules. New or revised policies (proposed policies) may

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

emanate from any responsible committee, department, medical staff officer, or by petition signed by at least 30% of the voting members of the Medical Staff. Proposed policies shall not be inconsistent with the Medical Staff or hospital Bylaws, Rules or other policies, and upon adoption shall have the force and effect of Medical Staff Bylaws.

b. Medical Executive Committee approval is required, unless the proposed policy is one generated by petition of at least 30% of the voting members of the Medical Staff. In this latter circumstance, if the Medical Executive Committee fails to approve the proposed policy, it shall notify the Medical Staff. The Medical Executive Committee and the Medical Staff each has the option of invoking or waiving the conflict management provisions of Section 15.1-6.

1. If conflict management is not invoked within 30 days it shall be deemed waived. In this circumstance, the Medical Staff's proposed policy shall be submitted for vote, and if approved by the Medical Staff pursuant to Section 15.1-5.b.3, the proposed policy shall be forwarded to the Board of Directors for action. The Medical Executive Committee may forward comments to the Board of Directors regarding the reasons it declined to approve the proposed policy.

2. If conflict management is invoked, the proposed policy shall not be voted upon or forwarded to the Board of Directors until the conflict management process has been completed, and the results of the conflict management process shall be communicated to the Medical Staff and the Board of Directors.

3. Approval of the Medical Staff shall require the affirmative vote of a majority of the Medical Staff members voting on the matter by mailed secret ballot, provided at least 14 days' advance written notice, accompanied by the proposed policy, has been given and at least 50% of return ballots votes have been cast.

c. Following approval by the Medical Executive Committee or the voting Medical Staff as described above, a proposed policy shall be forwarded to the Board of Directors for approval, which approval shall not be withheld unreasonably. The policy shall become effective immediately following approval of the Board of Directors or automatically within 60 days if no action is taken by the Board of Directors.

d. The Medical Staff shall be notified of the approved policy, and may, by petition signed by at least 30% of the voting members of the Medical Staff require the policy to be submitted for possible recall;

Deleted: DRAFT
Deleted: 2011
Deleted: *[insert minimum number or percent]*
Comment [A463]: As with proposing Rules, if the Medical Staff requires a petition of at least 51% of voting members, then the subsequent voting provisions become unnecessary.
Deleted: *[insert minimum number or percent]*
Deleted: *[30]*
Deleted: (b)(3)
Deleted: Rule
Deleted: Rule
Deleted: *[insert minimum number or percent of return votes required]*
Deleted: Rule
Deleted: *[60]*
Deleted: *[insert number or percent]*
Deleted: LA/
Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶
Formatted: Footer

Deleted: DRAFT

Deleted: 2011

provided, however, the approved policy shall remain effective until such time as it is repealed or amended pursuant to any applicable provision of this Section 15.1-5.

15.1-6 Conflict Management

Comment [A464]: TJC MS.01.01.01 requires conflict management provisions. These are proposed by CHA.

In the event of conflict between the Medical Executive Committee and the Medical Staff (as represented by written petition signed by at least 51% of the voting members of the Medical Staff) regarding a proposed or adopted Rule or policy, or other issue of significance to the Medical Staff, the President of the Medical Staff shall convene a meeting with the petitioners' representative(s). The foregoing petition shall include a designation of up to three members of the voting Medical Staff who shall serve as the petitioners' representative(s). The Medical Executive Committee shall be represented by an equal number of Medical Executive Committee members. The Medical Executive Committee's and the petitioners' representative(s) shall exchange information relevant to the conflict and shall work in good faith to resolve differences in a manner that respects the positions of the Medical Staff, the leadership responsibilities of the Medical Executive Committee, and the safety and quality of patient care at the hospital. Resolution at this level requires a majority vote of the Medical Executive Committee's representatives at the meeting and a majority vote of the petitioner's representatives. Unresolved differences shall be submitted to the Board of Directors for its consideration in making its final decision with respect to the proposed Rule, policy, or issue.

Deleted: *[insert number or percent]*

Deleted: *[five]*

15.2 Forms

Application forms and any other prescribed forms required by these Bylaws for use in connection with Medical Staff appointments, reappointments, delineation of privileges, corrective action, notices, recommendations, reports and other matters shall be approved by the Medical Executive Committee and the Board of Directors. Upon adoption, they shall be deemed part of the Medical Staff Rules. They may be amended by notice to the Medical Staff and approval of the Medical Executive Committee and the Board of Directors.

Deleted: submitted for notice and comment to the Medical Staff pursuant to Section ____, and

15.3 Dues

All staff members, except honorary and retired shall be required to pay dues at the appropriate appointment/reappointment time period, in amounts recommended by the Medical Executive Committee and approved by the Medical Staff. A delinquency of three (3) months or more in the payment of dues shall be deemed to be voluntary resignation of Medical Staff membership, as recommended by the Medical Executive Committee, provided that the staff member in arrears has no explanation satisfactory to the Medical Executive Committee for the delinquency of the dues. The Medical Executive Committee shall have the power to determine the manner of expenditure of such funds received. However, such expenditures must be appropriate to the purposes of the Medical Staff and shall not jeopardize the nonprofit tax-exempt status of the hospital.

Deleted: grounds for termination

Comment [A465]: Bylaws Comm. 02/04/14

Deleted: The Medical Executive Committee shall recommend for the approval of the voting members of the Medical Staff the amount of dues, if any, for each category of Medical Staff membership, which shall be paid upon reappointment. A delinquency of three (3) months of more in the payment of dues may be grounds for corrective action, including automatic suspension.

Comment [A466]: This provision is an amalgomation of the CHOC and CHA provisions. 11/12/11 Have revised to include the language in Section 7.3-6 of the current CHOC Bylaws.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

15.3-1

15.4 Legal Counsel

Exclusively upon the authorization of the Medical Executive Committee, the Medical Staff may, at its expense, retain and be represented by independent legal counsel. No legal counsel shall be deemed to represent the Medical Staff unless so authorized by the Medical Executive Committee.

15.5 Authority to Act

Any member who acts in the name of this Medical Staff without proper authority shall be subject to such disciplinary action as the Medical Executive Committee may deem appropriate.

15.6 Division of Fees

Any division of fees by members of the Medical Staff is forbidden and such division of fees shall be cause for exclusion or expulsion from the Medical Staff.

15.7 Notices

Except where specific notice provisions are otherwise provided in these Bylaws, any and all notices, demands, requests required or permitted shall be in writing and sent in a manner defined as a "notice" earlier in these bylaws. Notice to the Medical Staff or officers of committees thereof, shall be addressed as follows:

Name and proper title of addressee, if known or applicable
Name of department, or committee
(c/o Medical Staff Director, President of Staff) CHOC Children's Hospital
1201 W. La Veta Avenue
Orange, CA 92868

15.8 Nominations for Medical Staff Representatives

Candidates for positions as Medical Staff representatives to local, state, and national hospital medical staff sections should be filled by such selection process as the Medical Staff may determine.

15.9 Disputes with the Board of Directors

In the event of a dispute between the Medical Staff and the Board of Directors relating to the independent rights of the Medical Staff, as further described in California Business & Professions Code Section 2282.5, the following procedures shall apply.

a. **Invoking the Dispute Resolution Process**

Deleted: DRAFT

Deleted: 2011

Comment [A467]: EMTALA requires that the medical staff identify the categories of persons who may perform medical screening examinations in either the Bylaws or the Rules.
ACCORDING TO CYNDI, THEY HAVE IT IN THE RULES.

Comment [A468]: These are categories proposed by CHA which may not reflect CHOC's special circumstances. We should discuss.

Deleted: <#>**Medical Screening Exams**¶
<#>All patients who present to the hospital, including but not limited to the Emergency Department, and who request examination and treatment for an emergency medical condition or active labor, shall be evaluated for the existence of an emergency medical condition or, where applicable, active labor. This screening examination may be performed by the following persons:¶
<#>**In the Emergency Department:** by a registered nurse who has been determined by the ER Nurse Manager to be qualified and experienced in emergency nursing and who is required to follow standardized procedures approved by the Medical Staff.¶
<#>**In the Labor and Delivery Unit:** by a registered nurse who has been determined by the Labor and Delivery Nurse Manager to be qualified and experienced in obstetrical nursing and who is required to follow standardized procedures approved by the Medical Staff.¶
<#>**In all circumstances:** in the event the registered nurse performing the screening examination is uncertain about the nature of the patient's condition or the existence of an emergency or active labor, a physician from either the Emergency Department or Labor and Delivery shall be required to examine the patient and make the determination of the existence of an emergency or active labor.¶ ...

Deleted: U

Comment [A469]: CA law requires a provision allowing the medical staff to retain legal counsel; we recommend that this only be done with MEC authorization.

Comment [A470]: Notice is defined earlier in the Bylaws; here, we only include how to send notice to the Medical Staff.

Deleted: of Orange County

Comment [A471]: Bylaws Comm. 02/04/14

Deleted: 455 S Main Street

Comment [A472]: This is not in the CHA model, and should only be included if CHOC does have representatives to such organizations.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

1. The Medical Executive Committee may invoke formal dispute resolution, upon its own initiative, or upon written request of 25 percent of the members of the active staff.

2. In the event the Medical Executive Committee declines to invoke formal dispute resolution, such process shall be invoked upon written petition of 50 percent of the members of the active staff.

b. **Dispute Resolution Forum**

1. Ordinarily, the initial forum for dispute resolution shall be the Joint Conference Committee, which shall meet and confer as further described in Bylaws, Section 9.3-2.

Deleted: 2(b)

2. However, upon request of at least 2/3 of the members of the Medical Executive Committee, the meet and confer will be conducted by a meeting of the full Medical Executive Committee and the full Board of Directors. A neutral mediator acceptable to both the Board of Directors and the Medical Executive Committee may be engaged to further assist in dispute resolution upon request of:

i. At least a majority of the Medical Executive Committee plus two members of the Board of Directors; or

ii. At least a majority of the Board of Directors plus two members of the Medical Executive Committee.

c. The parties' representatives shall convene, as soon as reasonable, shall gather and share relevant information, and shall work in good faith to manage and, if possible, resolve the conflict. If the parties are unable to resolve the dispute the Board of Directors shall make its final determination giving great weight to the actions and recommendations of the Medical Executive Committee. Further, the Board of Directors determination shall not be arbitrary or capricious, and shall be in keeping with its legal responsibilities to act to protect the quality of medical care provided and the competency of the Medical Staff, and to ensure the responsible governance of the hospital.

Comment [A473]: Bylaws Comm. 02/04/14

Deleted: as early as possible

15.10 No Retaliation

Neither the Medical Staff, its members, committees or department heads, the Board of Directors, its chief administrative officer, or any other employee or agent of the hospital or Medical Staff, shall discriminate or retaliate, in any manner, against any patient, hospital employee, member of the Medical Staff, or any other health care worker of the health facility because that person has done either of the following:

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

a. Presented a grievance, complaint, or report to the facility, to an entity or agency responsible for accrediting or evaluating the facility, or the Medical Staff of the facility, or to any other governmental entity.

b. Has initiated, participated, or cooperated in an investigation or administrative proceeding related to, the quality of care, services, or conditions at the facility that is carried out by an entity or agency responsible for accrediting or evaluating the facility or its Medical Staff, or governmental entity.

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Deleted: DRAFT

Deleted: 2011

ARTICLE 16

ADOPTION AND AMENDMENT OF BYLAWS

16.1 Medical Staff Responsibility and Authority

16.1-1 The Medical Staff shall have the initial responsibility and delegated authority to formulate, adopt and recommend Medical Staff Bylaws and amendments which shall be effective when approved by the Board of Directors, which approval shall not be unreasonably withheld. Such responsibility and authority shall be exercised in good faith and in a reasonable, timely and responsible manner, reflecting the interests of providing patient care of the generally recognized level of quality and efficiency, and maintaining a harmony of purpose and effort with the Board of Directors. Additionally, hospital administration may develop and recommend proposed Bylaws, and in any case should be consulted as to the impact of any proposed Bylaws on hospital operations and feasibility.

16.1-2 Amendments to these Bylaws shall be submitted for vote upon the request of the Medical Executive Committee or upon receipt of a petition signed by at least 30% of the voting Medical Staff members. Amendments submitted upon petition of the voting Medical Staff members shall be provided to the Medical Executive Committee.

16.2 Methodology

16.2-1 Medical Staff Bylaws may be adopted, amended or repealed by the following combined actions:

a. The affirmative vote of a majority of the Medical Staff members voting on the matter by mailed or electronic secret ballot, provided at least 14 days advance written notice, accompanied by the proposed Bylaws and/or alterations, has been given; and

b. The approval of the Board of Directors, which shall not be unreasonably withheld. If approval is withheld, the reasons for doing so shall be specified by the Board of Directors in writing, and shall be forwarded to the President of Staff, the Medical Executive Committee and the Bylaws Committee.

16.3 Technical and Editorial Corrections

The Medical Executive Committee shall have the power to approve technical corrections, such as reorganization or renumbering of the Bylaws, or to correct punctuation, spelling or other errors of grammar expression or inaccurate cross-references. No substantive amendments are permitted pursuant to this Section. Corrections may be effected by motion and acted upon in the same manner as any other motion before the Medical

Comment [A474]: The CHA provisions are much more detailed than the CHOC provisions. We recommend a "hybrid" approach that we can discuss with you.

Comment [A475]: This is a CHA recommendation that can be controversial. 11/19/11 Removed per conversation with C. Chabot.

Deleted: <#>Proposed amendments shall be submitted to the Board of Directors for comments at least 30 days before they are distributed to the Medical Staff for a vote. The Board of Directors has the right to have its comments regarding the proposed amendments circulated with the proposed amendments at the time they are distributed to the Medical Staff for a vote.¶

Deleted: *[insert minimum number or percent]*

Deleted: at least 30 days before they are submitted to the Board of Directors for review and comment as described in Section 16.1-3. The Medical Executive Committee has the right to have its comments regarding the proposed amendments circulated to the Board of Directors when the proposed amendments are submitted to the Board of Directors for comments; and to have its comments circulated to the Medical Staff with the proposed amendments at the time they are distributed to the Medical Staff for a vote.

Comment [A476]: Preserves this as an option.

Comment [A477]: This is a controversial provision that makes operational sense, but does raise some concerns. If adopted, the authority granted the Board of Directors here should be exercised rarely and only in extreme instances. 11/11/11 Removed per discussion with C. Chabot.

Comment [A478]: Although this allows corrections in very limited circumstances, it is possible that TJC could find that this provision conflicts with the prohibition against unilateral amendment. Even so, we recommend keeping it.

Deleted: <#>In recognition of the ultimate legal and fiduciary responsibility of the Board of Directors, the organized Medical Staff acknowledges, in the event the Medical Staff has unreasonably failed to exercise its responsibility and after notice from the Board of Directors to such effect, including a reasonable period of time for response, the Board of Directors may impose conditions on the Medical Staff that are required for continued state licensure, approval by accrediting bodies, or to comply with law or a court order. In such event, Medical Staff recommendations and views shall be carefully considered by the Board of Directors in its actions.¶

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer

Executive Committee. After approval, such corrections shall be communicated to the Medical Staff and to the Board of Directors. Such corrections are effective upon adoption by the Medical Executive Committee; provided however, they may be rescinded by vote of the Medical Staff or the Board of Directors within 120 days of the date of adoption by the Medical Executive Committee. (For purposes of this Section, "vote of the Medical Staff" shall mean a majority of the votes cast by those eligible to vote for Bylaws amendments, provided at least 25 percent of the voting members of the Medical Staff cast ballots.)

Deleted: DRAFT

Deleted: 2011

Comment [A479]: Bylaws Comm. 02/04/14

Deleted: in writing

Deleted:

Deleted: LA/

Deleted: A¶
AFDOCS/10732915.1¶
AFDOCS/10488943.2¶
AFDOCS/10488943.2¶

Formatted: Footer